# SENATE—*Wednesday, March 14, 1973*

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

PRAYER

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

Almighty God, infinite and eternal, we bow in this hallowed moment not to escape from our burdens but to gain strength to carry them, not to avoid hard thinking but to ask for sharpened minds with which to think, not to seek the easy way but the right way. In these days of Lent, turn our minds to Him who went about doing good, who for our sakes became poor that we through his poverty might become rich—rich not in things or in the coin of the realm but in character, in life with depth and meaning. Give us again the vision of a cross and the spent life and the everlasting truth that whoever loses his life in selfless service shall find it again in the splendor of a new birth and a new manhood, through Him who died for man's redemption and in whose name we pray. Amen.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Allen, one of its reading clerks, announced that the House had passed the bill (S. 50) to strengthen and improve the Older Americans Act of 1965, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 13, 1973, be dispensed with.

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

## COMMITTEE MEETINGS DURING SENATE SESSION

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

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

## THANKS TO THE SENATE FROM LADY BIRD JOHNSON

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to our distinguished Vice President, Mr. AGNEW, from Lady Bird Johnson.

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

STONEWALL, TEX.,
*March 2, 1973.*

DEAR VICE PRESIDENT AGNEW: Please extend our grateful appreciation to dear friends and members of the Senate for their beautiful and lovely floral tribute to Lyndon. He had a special warmth, affection and understanding for all who serve in the Senate and he would have been proud and honored by the thoughtfulness and heartwarming remembrance of those he respected and admired.

Thank you so very much.

Sincerely,

LADY BIRD JOHNSON.

## DEATH OF ALEXANDER WARDEN, NEWSPAPER PUBLISHER

Mr. MANSFIELD. Mr. President, a week ago a great Montanan and a good personal friend of mine, Alexander Warden, died in California where he was recuperating from a recent heart attack. Alex Warden is best known as the former owner and publisher of Montana's daily newspaper, the Great Falls Tribune. He was not only active in the newspaper business but was widely known throughout the Nation because of his numerous positions of public service and association with corporate interest active in Montana.

I knew Alex Warden for many years and I considered him one of my very close confidants in matters of politics and issues of importance to the Big Sky Country. While his activities have been somewhat limited in recent years because of his health, he will be sorely missed because his contributions have been many and I wish to take this inadequate means of paying tribute to Alex Warden. Mrs. Mansfield joins me in expressing our bereavement to his widow, Hebe, and his family, many of whom are still active in Montana affairs.

Mr. President, I ask unanimous consent that an article and editorial appearing in the March 8 and 9 issues of the Great Falls Tribune be printed in the RECORD.

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

FORMER TRIBUNE OWNER, ALEXANDER WARDEN, DIES

Alexander Warden, a former owner and publisher of the Great Falls Tribune and a key figure in Montana and national affairs, died Wednesday afternoon in a Palm Springs, Calif., hospital. He was 77.

He and his wife, Hebe, had been vacationing in Palm Desert, Calif., since Feb. 13. Warden had been hospitalized since he suffered a heart attack there 10 days ago. He had been in poor health several years. The family home is at 417 Riverview Court.

Funeral services will be held in Great Falls.

Among numerous positions of public service Warden held was membership on the U.S. Citizens' Commission to NATO (North Atlantic Treaty Organization). He was appointed by Lyndon B. Johnson, then vice president, and attended the NATO Commission meeting in Paris in 1961.

On his return he commented, "If you are sleeping well, you might in your prayers give a slight vote of thanks to NATO, which is largely responsible for the fact we are not now in a world shooting war."

For 17 years Warden was on the board of the State Fair, which his father had helped to originate here.

Warden served at various times as director of the First National Bank, the Federal Reserve Bank of Minneapolis, Great Falls Chamber of Commerce, Rotary Club, Great Falls Concert Association and Meadow Lark Country Club. He also was a member of Sigma Delta Chi, Shrine Club and the Elks.

He had been a director of Western Airlines, Northwest Bancorporation, Buttrey Foods Inc., advisory board of Mountain States Telephone and Telegraph Co., the Salvation Army advisory board, the C. M. Russell Gallery and the College of Great Falls.

He was a life member of the Montana Press Association, served as a member of the University of Montana, advisory Council of 50 in emeritus capacity, and was named in 1968 to the Western Fair Panel.

He was the son of the late Oliver S. Warden and Etta Scott Warden and was born in Great Falls Feb. 7, 1896. His father was owner or co-owner of the Great Falls Tribune from 1895 to his death, except for a brief period when he was business manager and the paper was owned by William A. Clark, Butte mining tycoon.

Warden became publisher on his father's death in 1951 and remained publisher until April, 1965, when the Tribune and Leader were purchased by the Minneapolis Star and Tribune Co. A new corporation, the Great Falls Tribune Co., then was formed to operate the newspapers.

He was graduated from Great Falls High School in 1914, Phillips Exeter Academy in 1915 and received an A.B. degree at Dartmouth College in 1919. In World War I he served as an ensign in the Navy with the Atlantic Fleet.

On his return from Navy service, he became a reporter on the Tribune and was in the sports department when he covered the Dempsey-Gibbons fight at Shelby July 4, 1923. He became Tribune advertising manager in 1929 and when his father died became president and publisher of the Tribune and Leader.

Warden was married to Hebe F. Leggat of Butte Feb. 20, 1923. He is survived by his widow; a son, Scott A. Warden, Helena; daughters, Mrs. Noel (Ashby) Hardy, Tucson, Ariz., and Nancy Kateen, Sacramento, Calif.; a brother, Robert D. Warden, Great Falls; sisters, Mrs. G. A. (Gertrude) Hansen, Great Falls, and Virginia Morell, Boston; a half-brother, Jock Warden, Great Falls, and 10 grandchildren.

ALEXANDER WARDEN

Alexander Warden, publisher of the Tribune and Leader from 1951 until May 1, 1965, played a significant role in the development of Great Falls and Montana.

His contributions to Great Falls and to the state extended far beyond his newspaper responsibilities.

He served with distinction on numerous financial, commercial, civic and cultural boards.

A man with a first-rate mind and a delightful sense of humor, Warden frowned on pomp and pretense. He preferred to be called "Alex." He loved to listen to a well-told joke and was a master story teller.

Alex Warden was a credit to the community and to the state.

Our deepest sympathy goes to his family.

And, as he said in his farewell Tribune editorial April 30, 1965, we say now to Alex Warden, "L'Envoi."

## THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate pro-



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ceed to the consideration of calendar Nos. 64 and 65.

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

## COMMEMORATION OF THE 100TH ANNIVERSARY OF THE CABLE CAR IN SAN FRANCISCO

The bill (S. 776) to authorize the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 776

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in commemoration of the one hundredth anniversary of the invention of the cable car, the Secretary of the Treasury shall strike and deliver to the San Francisco Cable Car Centennial Committee not more than one hundred and fifty thousand medals with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury after consultation with the committee. The medals, which may be disposed of by the committee at a premium, shall be delivered at such times as may be required by the committee in quantities of not less than two thousand, but no medals shall be struck after December 31, 1974. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 2. The Secretary of the Treasury shall cause such medals to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.

SEC. 3. The medals authorized to be struck and delivered under this Act shall be of such size or sizes and of such various metals as shall be determined by the Secretary of the Treasury in consultation with the committee.

## FEDERAL FINANCIAL ASSISTANCE TO THE CHILD NUTRITION PROGRAMS

The Senate proceeded to consider the bill, H.R. 4278, to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973 which had been reported from the Committee on Agriculture and Forestry with an amendment on page 2, line 14, after the word "section", insert a comma and "section 416 of the Agricultural Act of 1949,".

Mr. HUMPHREY. Mr. President, H.R. 4278, as amended by the Senate Committee on Agriculture and Forestry is designed to provide for this fiscal year cash donations in lieu of agricultural commodity donations for school food service programs if the value of commodity donations is less than 90 percent of the value of deliveries initially programed for fiscal year 1973. The amount of cash donation provided under this bill would be that amount representing the difference between such estimated deliveries and 100 percent of such programed deliveries. Such payments would be apportioned among the States on the basis of the number of lunches and breakfasts served in fiscal 1972, appropriately adjusted between public and nonprofit schools where necessary.

The source of funding for the purchase of donated commodities by USDA include section 6 of the National School Lunch Act; section 32, which is the customs receipts fund established by the August 24, 1935 Act; and section 416 of the Agricultural Act of 1949. The amount of funds programed for these purposes by USDA for fiscal 1973 was initially $313.7 million, later revised to $307.6 million. The total amount programed was designed to provide approximately 7 cents per lunch, a target level established by Congress and accepted by USDA.

H.R. 4278, as passed by the House failed to include in the determination of the shortfall of agricultural commodities, the commodities delivered under the authority of section 416 of the Agricultural Act of 1949. The Senate committee amendment merely adds that source of commodities in order to meet the objectives of the bill. By adding Section 416 authority, an estimated $50 million in unexpended funds would be made available along the unexpended section 6 and section 32 funds for the balance of this fiscal year for these purposes. As to exactly how much of these funds would be available in the form of cash grants in lieu of donated commodities is to be determined by the Secretary of Agriculture based upon his estimated value of commodity deliveries for the balance of this year as of March 15.

It is the intent of both the committee and the Congress that the Secretary's estimate as of March 15 reflect the full amount of donated commodity shortfall so that each State receives a total amount of commodity assistance it expects for this year based on a national average value level of at least 7 cents per lunch.

To insure that the Secretary's March 15 estimate reflects this intent I am requesting that the Secretary submit a report to the Congress showing the total value of commodities delivered to the schools as of March 15 and the total value of commodities that will be delivered to the schools from the period March 15 to the end of this school year. I am requesting this report to show both national totals and a State-by-State breakdown.

Mr. President, on February 5, 1973, Miss Josephine Martin, chairman of the legislative committee of the American School Food Service Association testified before our committee concerning the reduction in donated foods to our Nation's schools and the impact that such reductions is having on the operation of our school feeding programs. I would like to request unanimous consent that her testimony be printed at this point in the RECORD.

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

STATEMENT OF JOSEPHINE MARTIN

Mr. Chairman and Members of the Committee:

I am Josephine Martin, Administrator of the School Food Service Program in the Georgia Department of Education. I appear today in behalf of the American School Food Service Association, a 50,000 member professional organization of school food service personnel whose purpose is committed to improving school food service for America's children.

I wish to thank you and each member of this committee for the leadership and support you have given child nutrition programs. I especially note the progress made in school food service legislation in the past four years. Without your leadership in the enactment of legislation that specifies minimum levels of assistance for meal payments, I shudder to think where school food service would be today in light of impoundments and cutbacks. There are 2 areas of federal funding which are creating great concern for school food service administrators.

The first is the donated foods program. The second is the level of funds for equipment. Although the child nutrition programs have not been faced with impoundments or cutbacks, in the traditional manner, during 1973 fiscal year school food service has suffered a serious reduction in the value of USDA foods delivered to the schools during the 1972–73 school year.

This commodity reduction has made it difficult for schools to operate without (1) operating a deficit program, (2) increasing sale price to children, or (3) requesting higher rates of reimbursement for free meals. In many instances where the meal cost exceeds 48¢, an increase in reimbursement is not possible as the school does not meet criteria for "especially needy" schools. When a school selects the alternative of sale price increases, many children stop buying lunches and therefore *"less* federal money is expended."

According to USDA figures, participation in the school lunch program has dropped 400,000 in November, 1972 as compared to November, 1971. The actual number of pupils eating in October, 1972 was 22,325,249. Either an increase in sale price or a decrease in quantity of food to stay within the budget would have a definite depressing effect on participation.

You are probably wondering just how much the commodities have been reduced. For several years the commodity program has provided an average food value of 7¢ per lunch. Normally many of the foods arrive in September and October. In 1971 basic commodities were allocated by USDA on August 26. Schools in Georgia and in many states prepare all breads, cakes and cookies from donated flour. In 1972–73 year, the schools experienced delays in receiving basic commodities that are supposed to be available in unlimited supply. The basic allocation was made October 2, 1972. Some of these commodities were flour, butter, non-fat dry milk, rice, etc. Consequently, schools had to go to the open market for purchase of these foods, and regardless of quantities of these foods delivered later, the schools cannot recoup losses. Purchased bread averages 3¢ per serving; school baked bread using donated foods averages ½¢ per serving. USDA indicated that mills failed to fulfill contractual requirements. In the meantime, schools suffered serious financial losses.

COMPARISON OF FOODS DELIVERED TO SCHOOLS IN GEORGIA

Through September 30, 1971, 12.8 million pounds; through November 30, 1971, 18.1 million pounds.

Through September 30, 1972, 7.5 million pounds; through November 30, 1972, 14.4 million pounds.

The most serious reduction is the reduction in quantities of meat and cheese available to schools. Because of the market situation, it does not appear that schools will receive beef or cheese this year.

The meal standards prescribed by USDA specifies that schools shall serve 2 ounces of meat or meat alternate in elementary schools and 3 ounces in high schools each day. With local schools paying 81¢ in South Georgia for ground beef, the meat alone costs at least 13.5¢ per serving in an elementary school and 20.2¢ in a secondary school. The schools must serve meat or meat alternate to meet the nutritional needs of children. The meat must be purchased either by USDA or by the local school. The same quantity and quality is needed irregardless of who makes the purchase. USDA purchases at a lower price than local systems.

USDA recently submitted bids for ground beef. The offers came in around 72¢ per pound. USDA did not purchase because the price was too high. During the same period some Georgia schools, on competitive bid, were paying 81¢ per pound in South Georgia; 74¢ on competitive bid in Jonesboro.

Securing accurate figures on foods delivered is very difficult; however, I have secured some statistics which will be of interest. In 1971–72, USDA purchased $68,000,000 of beef and pork for school use. To date, in 1972–73, there has been no beef, no cheese; the department has purchased approximately 357 servings of pork which has not been delivered in many parts of the state as of February 1.

The following chart shows a comparison of foods delivered through November 30 of 1971 and through November 30 of 1972:

| | 1971 | 1972 |
|---|---|---|
| Number of pounds received through Nov. 30 | 18,149,942 | 14,404,810 |
| Dollar value received through Nov. 30 | $5,637,560 | $3,550,717 |
| | Pounds | Pounds |
| Frozen chicken | 863,880 | 700,860 |
| Canned boned poultry | 0 | 409,683 |
| Frozen turkey | 1,225,698 | 664,875 |
| Frozen pork | 308,000 | 0 |
| Frozen beef (bulk) | 770,000 | 0 |
| Frozen beef (patties) | 37,500 | 0 |
| Cheese | 795,150 | 0 |
| Canned apricots | 922,680 | 0 |
| Canned peaches | 442,720 | 1,105,000 |
| Canned green beans | 579,994 | 0 |
| Canned corn (brine and vacuum pack) | 411,623 | 17,166 |
| Canned green peas | 459,640 | 0 |
| Fresh cranberries | 187,550 | 0 |
| Fresh pears | 767,205 | 0 |
| Raisins | 279,900 | 0 |
| Canned pineapple | 74,520 | 834,748 |
| Canned pears | 722,040 | 0 |
| Canned tomatoes | 56,495 | 0 |

USDA has purchased pork which will be reflected on January and February reports. There appears to be no hope for purchasing beef and cheese. The cost of foods on a per meal basis in Chatham County, Georgia has increased from 25¢ for the first 5 months in 1971 to 29.7¢ per meal for a corresponding period in 1972, or an increase of 4.7¢ per lunch. This increase reflects the decrease in commodities, as well as increased cost of purchased food. The total value of commodities received in Chatham County through January, 1973 is $69,000 less than the corresponding period in 1972.

Dougherty County, Albany calculates a commodity value of approximately 2.8¢ less per meal in 1972 than 1971.

The reduction in foods came without any warning to systems as USDA had announced its intention in June to supply foods at the 7¢ level.

As a dietitian, I find it very difficult to plan effectively to maximize resources when one financial resource is as variable as commodities, both in quantity and delivery. Schools need an assurance that foods will be delivered or where it is not practical, for USDA to purchase foods because of the total market situation, at a certain point such as February 1, that a cash payment will be made in lieu of foods. Stabilization of this large amount of assistance is needed if schools are to manage resources effectively and provide nutritionally adequate lunches to children. One final note on donated foods. The President's 1974 budget includes an increase of $6.1 million in Section 32 funds for purchase of foods. Since it has not been possible for USDA to spend funds for foods in 1973, the question is will they be used in 1974, or will schools be faced with making up this deficit from children's payments? The reduction in commodities is indeed one of the *greatest* financial crises to be faced!

My second area of concern is the inadequacy of funds for nonfood assistance or equipment. The Congress, the President, the National Advisory Council on Child Nutrition and the Department have each placed in high priority the belief that school food service should be expanded to be available to all needy children. PL 92–433 increased the authorization of funds for equipment to $40,000,000 which was a recognition of need for funds to expand programs. In changing the authorization, the formula was changed. The change in formula without a subsequent increase in appropriations meant for a number of states a decrease in allocation for this year. The states that generally experienced the decrease were states that have made an effort to get some kind of food service to the maximum number of children.

For many schools an increase in participation is impossible because facilities are inadequate. According to USDA statistics only 81.1% of the children eligible for free or reduced lunches are having lunch at school in spite of congressional mandate. As long as schools lack facilities, or have inadequate facilities, there is no way to reach the goal of "putting an end to hunger in America's classrooms." For each year of delay in providing adequate funds for equipment, the amount needed for this purpose will increase as more and more facilities become inadequate or obsolete each year. It is distressing that USDA has not requested additional funds for equipment in 1973 fiscal year, and it is even more distressing that the 1974 budget proposes a standstill of $16.1 million for equipment.

School food service personnel are concerned with the state of the economy. We do, however, seriously face the Congressional mandate of providing nutritionally adequate lunches to all economically needy children, and making available low cost lunches to all children who do not qualify for free or reduced lunches. Unless school administrators have sustained federal assistance in carrying out this mandate, it will not be met. We therefore ask you to give consideration to:

(1) Providing legislation to make it possible and to authorize USDA to make up for short falls in commodities by a cash payment to states.

(2) Provide legislation to use Section 32 funds this year to increase nonfood assistance levels to full authorization.

(3) Fund equipment programs in 1974 at level authorized.

Thank you for the privilege of appearing today to state needs and concerns. The dynamic aggressive leadership of this committee has made it possible.

Although the outlook is bleak today, we are fully confident that your sustained efforts will alleviate the current roadblocks to future progress.

COMPARISON OF DOLLAR VALUE OF COMMODITIES RECEIVED

SEP. 1–DEC. 1, 1971 SEP. 1–DEC. 1, 1972

| | 1971 | 1972 |
|---|---|---|
| Alabama | $4,921,852 | $1,880,241 |
| Georgia | 5,600,000 | 3,500,000 |
| Iowa | 4,258,006 | 3,190,405 |
| Kansas | 1,440,000 | 765,000 |
| Kentucky | 8,440,997 | 7,600,898 |
| Minnesota | 2,725,000 | 2,453,000 |
| Mississippi | 3,256,993 | 2,049,427 |
| Nebraska | 1,010,778 | 835,387 |
| North Carolina | 15,094,380 | 4,423,841 |
| Oklahoma | 3,353,427 | 2,416,192 |
| South Dakota | (1) | (1) |
| Vermont | 355,520 | 135,484 |
| Wyoming | 428,858 | 296,056 |

[1] Not available.

Source: Survey by ASFSA of State School Food Service Directors.

Mr. HUMPHREY. Miss Martin states:

This commodity reduction has made it difficult for schools to operate without (1) operating a deficit program, (2) increasing sale price to children, or (3) requesting higher rates of reimbursement for free meals.

Last year, at about this time USDA had purchased over 86 percent of the amount of commodities it had programed for the school year, whereas this year, it has thus far purchased only about 67 percent of its programed level. In that it is the judgment of our committee that USDA will not be able to procure the full amount of commodities that it has budgeted to meet its commitments for the balance of this school year, the committee supports the speedy enactment of this bill.

I should like to stress at this point, that this bill is in no way designed to fault USDA. The committee realizes that recent marketplace conditions regarding agricultural commodities has been highly unusual and that these conditions have made it difficult for USDA to carry out its normal purchase and donation of these commodities. However, the committee feels rather strongly that it cannot permit our Nation's school feeding programs to suffer as a result of these unusual conditions. It is for these reasons that the Senate committee, along with the Members of the House, are supporting enactment of this bill.

Mr. TALMADGE. Mr. President, I rise in support of the committee bill, H.R. 4278, which is designed to provide cash in lieu of commodity donations for the national school lunch program. This bill will compensate school districts around the country for a severe shortfall in the delivery of agriculture commodities by the USDA.

The shortfall of agriculture commodities has been especially severe in my own State of Georgia. Because of the numerous complaints that I received from school administrators in my State, I have written to the Secretary of Agriculture

repeatedly to request that the delivery of commodities be increased. As a result of my requests, the Secretary did take action to improve commodity deliveries and to buy some commodities which had not previously been purchased. However, the improvement has not been great enough. School districts are still far short of the commodity deliveries that they had been promised. This has placed them in a severe financial squeeze. Hopefully, the passage of H.R. 4278 will provide immediate relief from this financial crisis.

Mr. President, I ask unanimous consent that my correspondence with Secretary Butz be printed at this point in my remarks. Included in this correspondence are tables showing the delivery of agricultural commodities to schools this year as compared with the last school year. These tables show that the situation has been severe in many States and that it has been much worse in some States than others.

I am glad that the Committee on Agriculture and Forestry was able to act so promptly on this emergency legislation and I hope that the Senate will approve it unanimously today.

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

NOVEMBER 6, 1972.

Hon. EARL L. BUTZ,
*Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C.*

DEAR MR. SECRETARY: As you know, this year the Congress passed Child Nutrition legislation which became Public Law 92–433. One feature of this law is a guarantee of a state-wide average reimbursement of eight cents for lunches served under the National School Lunch Program. And last year Congress approved and the President signed legislation requiring a special reimbursement of 40 cents for free and reduced price lunches.

It was necessary for the Congress to increase the guaranteed reimbursement rate this year for the school lunch program because schools around the nation were having great difficulty in making ends meet. Because of increased food costs and rapidly rising labor costs, they could not continue to operate a sound school lunch program without either raising the price of school lunches or receiving a greater Federal or State reimbursement.

Cash assistance is only one form of Federal assistance that is provided for the School Lunch Program. In addition, the USDA donates agricultural commodities to the schools. During the 1971–72 school year, the USDA's contribution of donated commodities were valued at about seven cents per lunch. One of the witnesses who testified before the Subcommittee on Agricultural Research and General Legislation expressed alarm that the USDA contribution of donated commodities might be reduced for the 1972–73 school year. The Chairman of the Subcommittee, Senator James B. Allen, wrote to the Secretary of Agriculture and asked what level of commodities the USDA intended to maintain for the coming school year. Philip C. Olsson, Acting Assistant Secretary, responded that the USDA believed that it would provide a continued seven cents level of donated commodity support. In its Committee Report on the Child Nutrition Act of 1972, the Committee emphasized its desire to see the level of donated commodity support maintained:

"The Committee wishes to make clear that it intends that the level of donated commodities not be reduced from that level provided during the 1971–72 school year, which was about seven cents. The Committee intends that the seven cents be combined with the eight cents cash reimbursement for a total of 15 cents reimbursement for section 4 lunches."

Since Mr. Olsson expressed the position of the Department that a seven-cent level of donated commodity support would be maintained, I was amazed to find out what is happening in my own State of Georgia. After receiving numerous complaints about the failure of Georgia schools to receive their accustomed deliveries of USDA commodities, I asked for the latest available figures of commodities delivered compared with commodities delivered over the same period of time last year. I was shocked to see that deliveries of basic agricultural commodities have been cut back so severely. Attached is a table which shows dramatically how you have slashed commodity deliveries to Georgia.

Never in the memory of school lunch administrators have Georgia schools been without such basic commodities as dry milk, butter and peanut butter. However, they are currently without these commodities.

I am concerned about the failure of the USDA to purchase and deliver to our schools a number of products which are produced in great quantity in Georgia. The list of these includes poultry, beef, pork, grits, canned vegetables and cornmeal. However, it is extremely distressing to me to find that the USDA is not purchasing sufficient quantities of peanut butter. I have received reports from leaders among the peanut growers in my State that USDA officials are saying that it will be necessary to cut back on the peanut program next year because of the increasing productivity of our farmers. However, I believe that if you would use sufficient quantities of these peanuts in our Child Nutrition Programs and in the PL 480 Program, our excess production would rapidly be utilized.

I have obtained figures showing delivery of commodities to Georgia schools for the period July through September. I would like data showing deliveries through October, not only for Georgia, but for other States. In addition, I would like to know whether the USDA intends to increase its level of commodity deliveries so as to meet its commitment to the Agriculture Committee and its responsibility to American school children.

With every good wish, I am,

Sincerely,

HERMAN E. TALMADGE,
*Chairman.*

DELIVERY OF COMMODITIES TO GEORGIA SCHOOLS

| Commodities | Delivered during July through September 1971 | Delivered during July through September 1972 | Decrease 1972 |
|---|---|---|---|
| Beef, pork, poultry, and cheese (pounds) | 1,345,867 | 228,937 | 1,116,930 |
| Canned goods: | | | |
| Fruits, vegetables, and peanut butter (cases) | 22,895 | 2,493 | 20,402 |
| Flour, dry beans, cornmeal, rice, grits, oatmeal and dry milk (pounds) | 3,339,080 | 1,807,900 | 1,531,180 |

Note: Some other items are: shortening 5,078 pounds less this year; salad oil 8,696 cases less this year; butter 163,712 pounds less this year; fruit and vegetable juice 1,095 cases less this year.

NOVEMBER 14, 1972.

Hon. HERMAN E. TALMADGE,
*Chairman, Committee on Agriculture and Forestry, U.S. Senate.*

DEAR MR. CHAIRMAN: Secretary Butz has asked me to thank you for your letter of November 6 regarding the donated foods which the Department supplies for schools.

Deputy Assistant Secretary Philip Olsson defined the Department's policy in his letter of July 28, 1972 to Senator Allen, in which he stated, "Over the past several years the Department has been able to consistently provide a level of commodity support at about seven cents per lunch. The actual purchase of these commodities, especially those purchased with Section 32 funds is dependent on supply and other market conditions. The Section 32 funds expended on these commodities serve two purposes—agricultural stabilization and school lunch support. Since it is impossible to predict market conditions with complete precision, the Department's budget for commodity purchase is our best educated estimate." Under the circumstances prevailing in recent months, we have been faced with unusual problems in this respect. Our procurement of red meats and cheese has, of course, been particularly affected. At the same time, unfavorable crop harvests have cut back our purchases of vegetables.

We should add, however, that a three months' supply of nonfat dry milk was generally available in Georgia schools before the beginning of the school year. Similarly, we have been able to fill the State's orders for butter and are assured that there is, indeed, a sufficient inventory of that product on hand in the State. The State ordered 136,000 pounds of grits for October shipment. More than half this amount has been received; the remainder is enroute. While the State did not ask for cornmeal for October, it did receive the amount it requested for schools in September. Georgia has received a greater allocation of poultry for schools this year than previously.

Late deliveries of flour for all our programs constitute an endemic problem we have faced over the years, but the specific problem in Georgia is largely the result of late deliveries by a flour mill in Macon. We have every reason to believe that this situation will be remedied promptly.

Peanut butter is available for unrestricted school distribution. Although shipments this year were delayed somewhat because of a requested change in funding from Section 416 to Section 32, we have been attempting to increase the use of peanut butter on a rather broad front. Here the thrust of our efforts has been to encourage the industry to work directly with schools to promote the consumption of peanut butter. We have also authorized the distribution of peanut butter in 500-pound drums for the convenience of bakers who hold processing contracts with schools. The November-December issue of the *School Food Service Journal* will describe ways in which peanut butter use can be increased in schools through processing contracts. We will make sure that a copy of this publication is forwarded for your personal attention.

Additionally, the Department has initiated a test of granular peanuts in Florida schools which promises favorable results nationally. We believe that our continuing efforts to enhance the versatility of this food will prove rewarding.

The data which you requested with regard to commodity deliveries is being compiled for each State represented by members of your committee. It will be provided promptly to the degree that we have received October reports here in Washington.

Sincerely,

RICHARD LYNG,
*Assistant Secretary.*

COMMODITIES DISTRIBUTED TO SCHOOLS JULY-OCTOBER 1971 AND 1972

[Thousands of pounds]

| Food | Alabama | | Florida | | Georgia | | Iowa | | Kansas | | Louisiana | | Minnesota | | Mississippi | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 |
| Apples, fresh | | | | | 10 | 34 | | | | | | | | | | |
| Applesauce | | | | | | | | | | 206 | | 12 | | 59 | | |
| Apricots | 647 | | 917 | | 923 | | | | 319 | | 439 | | | | 503 | |
| Beans, canned | | | 64 | | 176 | | | | | | | | 286 | | | |
| Beans, dry | | | 103 | 52 | 507 | | 40 | | 100 | 59 | 10 | 191 | 155 | 36 | 317 | 294 |
| Beef, frozen | 423 | | 963 | | 732 | | | | | | 413 | | 655 | (1) | 308 | |
| Bulgur | | 76 | | | | | | | | 35 | | | 40 | 59 | 6 | |
| Butter | | 480 | 1,580 | 1,037 | 970 | 820 | 874 | 868 | 556 | 563 | 1,007 | 913 | 905 | 843 | 412 | 576 |
| Cheese | 506 | 8 | 731 | 1 | 681 | | 201 | | 134 | 60 | 214 | 3 | 370 | | 347 | |
| Chickens, frozen | 432 | 288 | 612 | 288 | 576 | 254 | | 186 | | (1) | 441 | 595 | 303 | 302 | 288 | 432 |
| Corn, canned | | | | | 38 | | | | | | 17 | | | | | |
| Cornmeal | 651 | | 171 | 131 | 427 | 553 | 1 | 10 | | 63 | 437 | 343 | 51 | 45 | 462 | 416 |
| Flour | 3,070 | 2,323 | 3,530 | 2,564 | 2,706 | 3,035 | 1,333 | 1,726 | 1,788 | 2,179 | 2,760 | 3,257 | 1,403 | 1,217 | 1,590 | 2,111 |
| Grits | 217 | 224 | 3 | 18 | 3 | | | | | | | 2 | | | 25 | |
| Milk, N.F.D. | 25 | | 346 | 315 | 1,306 | | 272 | 355 | 270 | 201 | 411 | 347 | 177 | 210 | 364 | 320 |
| Oats, rolled | 174 | 146 | 123 | 74 | 136 | | 120 | 138 | 34 | 41 | | 57 | 64 | 95 | 13 | |
| Orange juice, frozen | | | | | 33 | | (1) | | 3 | | 417 | | | | | |
| Peaches, canned | 576 | 423 | 82 | 304 | 239 | 582 | | 121 | | | | | 412 | 905 | 354 | 74 |
| Peanut butter | | 112 | 202 | 102 | 107 | 204 | | 388 | | 101 | 73 | 287 | 112 | 159 | 12 | 225 |
| Pears, canned | 506 | | | | | | | | | | 105 | | 110 | | 458 | |
| Pears, fresh | | | | | 404 | | | | 218 | | 484 | | 198 | | | |
| Peas, canned | | | | | 193 | | | | | | 130 | | 310 | | 237 | |
| Peas, dry, split | | 76 | | | | | | | | | | | 24 | 53 | | |
| Pineapple, canned | | 534 | | 62 | | 308 | | (2) | | | | 24 | | 17 | | 453 |
| Plums, canned | | | | | | | | | | | | | | | | |
| Pork, canned | | | | 150 | | | | (1) | | 70 | | 139 | | | | |
| Pork, frozen | | | | | 193 | | | | | 214 | 39 | 260 | | | 193 | |
| Potatoes, dehydrated | | | | | | | | (1) | | 180 | | | | (1) | | |
| Potatoes, french fried | | | | | | | | | | 300 | | 2 | | (1) | | |
| Poultry, canned | | 148 | | | | 179 | | 517 | | 286 | | 609 | | 354 | | |
| Prunes, canned | | | | | | | | | | | | | | 1 | | |
| Prunes, dry | | | | | | | | | | | | | (1) | | | |
| Raisins | | | 102 | 2 | 36 | | | 1 | | | 48 | | 7 | 23 | 152 | |
| Rice | | | 491 | 272 | 546 | 424 | 151 | 11 | 43 | 48 | 1,130 | 1,092 | 90 | 93 | 487 | 326 |
| Salad oil | | 276 | 260 | 155 | 611 | 67 | 193 | 150 | 64 | 64 | 233 | 188 | 96 | 98 | | |
| Shortening | 374 | 232 | 217 | 351 | 478 | 662 | 240 | 162 | 177 | 165 | 458 | 423 | 166 | 157 | 431 | 393 |
| Tomatoes, canned | | | | | | | | | | | 11 | (1) | (1) | | | |
| Turkey, frozen | 421 | 455 | | 773 | 805 | 385 | 71 | 145 | | (1) | 652 | 545 | 351 | | 561 | 281 |
| Wheat, rolled | | | | | | | 103 | (1) | 19 | 9 | 38 | 6 | 27 | 29 | 12 | |
| Sweetpotatoes, dehydrated | | | | | | | | | | | | | | 1 | | |
| Total | 8,026 | 6,201 | 10,497 | 6,651 | 12,836 | 7,507 | 3,559 | 4,849 | 3,725 | 4,844 | 10,367 | 9,295 | 6,342 | 4,716 | 7,532 | 5,401 |

1 Less than 50,000 pounds.

COMMODITIES DISTRIBUTED TO SCHOOLS JULY-OCTOBER 1971 AND 1972

| Food | Nebraska | | North Carolina | | North Dakota | | Oklahoma | | South Dakota | | Vermont | | Total, 1971 | Total, 1972 | Grand total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | 1971 | 1972 | | | |
| Apples, fresh | | | | | | | | | | | | | 10 | 34 | 44 |
| Applesauce | | 71 | | 2 | | 35 | | 44 | | 77 | | 2 | | 508 | 508 |
| Apricots | 163 | | 1,059 | | 90 | | (1) | | | | 28 | | 5,488 | | 5,488 |
| Beans, canned | | | 451 | | 2 | | | | | | | | 176 | 808 | 984 |
| Beans, dry | (1) | 8 | 302 | 449 | 31 | 15 | 122 | 71 | (1) | 4 | 1 | 1 | 1,644 | 1,220 | 2,868 |
| Beef, frozen | 64 | | 693 | | 39 | | 157 | | 75 | (1) | 64 | (1) | 4,586 | | 4,586 |
| Bulgur | | | | 97 | 10 | | 31 | 30 | 9 | 7 | | | 96 | 284 | 380 |
| Butter | 314 | 309 | 1,484 | 1,279 | 160 | 150 | 722 | 892 | 142 | 159 | 94 | 90 | 9,220 | 4,979 | 18,199 |
| Cheese | 249 | | 770 | | 59 | | 206 | | 43 | | 22 | | 4,533 | 72 | 4,605 |
| Chickens, frozen | 12 | | 644 | 324 | | 72 | 147 | 162 | 71 | | 36 | 66 | 3,562 | 2,969 | 6,531 |
| Corn, canned | | (1) | | | | | | | | | | | 55 | | 55 |
| Cornmeal | | | 340 | 392 | 7 | 5 | 203 | 190 | 2 | 2 | | 10 | 2,752 | 2,160 | 4,912 |
| Flour | 440 | 674 | 2,694 | 3,404 | 257 | 345 | 2,431 | 2,342 | 367 | 416 | 190 | 199 | 24,959 | 25,792 | 50,751 |
| Grits | | | 33 | 35 | | | | | | | 1 | | 282 | 279 | 561 |
| Milk, non-fat dry | 125 | 71 | | 505 | 27 | 26 | 301 | 261 | 40 | 41 | 3 | 26 | 3,667 | 2,678 | 6,345 |
| Oats, rolled | 48 | 32 | 77 | 68 | 9 | 8 | 117 | 104 | 23 | 2 | 2 | 11 | 944 | 776 | 1,720 |
| Orange juice, frozen | 214 | | 396 | | | | 17 | (1) | | | 4 | | 6,084 | | 1,084 |
| Peaches, canned | 2 | | 250 | 1,464 | 74 | 144 | | 1 | (1) | | | 2 | 2,019 | 4,420 | 6,439 |
| Peanut butter | 12 | 45 | 29 | 305 | 42 | 47 | 47 | 94 | (1) | 22 | 1 | | 636 | 2,091 | 2,727 |
| Pears, canned | | | | | 92 | | | | | (1) | | | 1,271 | | 1,271 |
| Pears, fresh | 77 | | 579 | | 85 | | 64 | | 41 | | 5 | | 2,162 | | 2,162 |
| Peas, canned | | | 89 | | | | | | | | | | 959 | | 959 |
| Peas, dry split | | | | | 2 | | 7 | | | 2 | 3 | (1) | 36 | 111 | 147 |
| Pineapple, canned | | | | 391 | | | | (1) | | | | | | 1,820 | 1,820 |
| Plums, canned | 2 | | | | | | | | | | | | 2 | | 2 |
| Pork, canned | | 139 | | | | 69 | | 211 | | 56 | | | | 834 | 834 |
| Pork, frozen | 67 | 70 | 68 | 27 | 39 | | | | | 1 | 3 | 1 | 602 | 573 | 1,175 |
| Potatoes, dehydrated | | 17 | | 33 | | 4 | | 3 | | (1) | | 10 | | 247 | 247 |
| Potatoes, french fried | | 49 | | | | | | 105 | | (1) | | | | 456 | 456 |
| Poultry, canned | | 206 | | 734 | | 1 | | 227 | | 67 | | | 3,328 | | 3,328 |
| Prunes, canned | | | | | | | | | | | | | | 1 | 1 |
| Prunes, dry | 8 | | | | | | | | | | (1) | | 8 | | 8 |
| Raisins | | | 222 | 25 | | | 5 | | | | | | 572 | 51 | 625 |
| Rice | 51 | 25 | 345 | 357 | 24 | 20 | 95 | 61 | 23 | 10 | 14 | 12 | 3,490 | 2,751 | 6,241 |
| Salad oil | 102 | 52 | 311 | 298 | 18 | 21 | 227 | 398 | 44 | 19 | 19 | 20 | 2,148 | 1,806 | 3,954 |
| Shortening | | 75 | 504 | 546 | 17 | 22 | 393 | 474 | 45 | 51 | 26 | 28 | 3,526 | 3,741 | 7,267 |
| Tomatoes, canned | 5 | | | | | | | | | 1 | (1) | | 16 | 1 | 17 |
| Turkey, frozen | 132 | | 945 | 911 | 106 | 70 | 143 | 202 | 68 | | | | 4,255 | 3,767 | 6,022 |
| Wheat, rolled | | | 6 | 29 | 6 | 3 | | | | | | | 211 | 76 | 287 |
| Sweet potatoes, dehydrated | 12 | 30 | | | 3 | 7 | | | 5 | 3 | | | 41 | 20 | 61 |
| Total | 2,499 | 1,873 | 12,296 | 11,675 | 1,199 | 1,064 | 5,435 | 5,872 | 975 | 940 | 516 | 478 | 85,016 | 72,453 | 157,669 |

1 Less than 50,000 pounds.

NOVEMBER 17, 1972.

Hon. EARL L. BUTZ,
*Secretary, U.S. Department of Agriculture, Washington, D.C.*

DEAR MR. SECRETARY: I am quite disappointed in the letter I received from Secretary Lyng on November 15 in response to my letter to you regarding the failure of the Department of Agriculture to deliver commodities for the School Lunch Program. As I read Secretary Lyng's letter, the USDA is backing down on its responsibility to provide a seven-cent level of donated commodity support for lunches served under the School Lunch Program. Also, I understand there is no hope that schools will get any red meat and cheese during this school year.

In view of the Committee's dialogue with your office and in view of its strong position as stated in the Committee Report on the Child Nutrition Act of 1972, I am dismayed by your present position. I am enclosing a copy of this report with the relevant portions marked for your attention.

As you know, school administrators around the country originally wanted more than eight-cents as a level of reimbursement for the regular school lunch program. They argued that in view of increasing food costs and rising labor costs 10 cents was needed. However, they agreed to accept as a compromise an eight-cent level of guaranteed reimbursement with the understanding that the USDA would continue to provide a seven-cent level of donated commodity support. Therefore, your present position will be regarded as a breach of faith on your part.

I can understand your reluctance to go into the market and buy commodities which are in short supply, for you fear reaction from the nation's consumers. However, children are just as important as any other consumers. They need protein foods even more than adult Americans. I do not believe that the American public will stand for a policy in which we deny meat to our children even though the price is not cheap.

As you know, the eight-cent level of reimbursement for the regular school lunch program and the 40-cent level of reimbursement for the free and reduced price lunch program are guaranteed minimums. You have full authority to provide a greater rate of reimbursements. If you do not intend to increase your deliveries of commodities to an extent which will provide schools with a yearly average value of seven cents per lunch, then I believe you have a responsibility to increase the cash reimbursement to make up the difference.

I have not made my correspondence to you available to the press, for I have hoped that we can work this problem out without creating a public furor. Although you were not then Secretary of Agriculture, I am sure you are familiar with the fight over school lunch funding in 1971. Because of the refusal of the Administration to provide an adequate level of funding for free and reduced price lunches, it was necessary for Congress to pass PL 92-153, which mandated a fixed level of reimbursement both for free and reduced price lunches and for paying lunches.

Although I initiated this legislation, I did so only because there was no other way to save the National School Lunch Program. I feel that whenever the Department of Agriculture comes under public criticism because of its failure to properly administer the School Lunch Program, added ammunition is given to those who cry for the transfer of all feeding programs out of the Department of Agriculture. As you know, there is no stronger foe to efforts to dismantle the Department of Agriculture than I. I believe that any transfer of functions from the USDA will make it that much easier to completely dismantle and eliminate the USDA as a Cabinet level department.

I hope that you will take a personal interest in solving this problem on commodity deliveries and that I will receive a favorable response in the near future. School lunch administrators in my State are desperate for help and I believe that public opinion in this country will force you to take the appropriate action sooner or later.

With every good wish, I am,

Sincerely,

HERMAN E. TALMADGE,
*Chairman.*

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DECEMBER 12, 1972.

Hon. HERMAN E. TALMADGE,
*Chairman, Committee on Agriculture and Forestry, U.S. Senate.*

DEAR MR. CHAIRMAN: I have reviewed your correspondence with Assistant Secretary Lyng regarding the volume of commodities we have been delivering for the School Lunch Program.

I think you will be pleased to know that we are, today, requesting bids for the delivery of ground beef and ground pork for the School Lunch Program. These purchases will be made with Section 6 funds. A copy of the press release announcing that purchase is enclosed.

I am of the opinion, Mr. Chairman, that with a few exceptions our deliveries of commodities to the schools will total not much less than normal. While it is true that we are not acquiring cheese under the support program and therefore will not be providing the allotments of cheese that many schools would like, and while it is also true that this year there has been bad weather in many parts of the nation which has affected the supply of such things as raisins, prunes, and canned fruit, it is also true that we have been buying much larger quantities this year of frozen turkey, broilers, and canned boned fowl.

We are supplying the schools all that is requested of butter, peanut butter, flour, rice, and a number of other commodities.

Unfortunately, we had some problems with late delivery early in the season which have now been corrected. I have asked the staff of the Agricultural Marketing Service, the Agricultural Stabilization and Conservation Service, and the Food and Nutrition Service, to monitor closely the procurement and shipment of commodities for schools. We are as much concerned as you are, Mr. Chairman, that this valuable program be carried on as effectively as possible.

Sincerely,

EARL L. BUTZ,
*Secretary.*

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USDA ANNOUNCES PLANS TO BUY GROUND BEEF AND GROUND PORK

WASHINGTON, December 12.—The U.S. Department of Agriculture today announced plans to purchase frozen ground beef and frozen ground pork. The commodities will be distributed to schools taking part in the National School Lunch Program.

USDA's Agricultural Marketing Service said purchases will be made only from packers or processors operating under federal inspection so that the products may be shipped in interstate commerce. Vendors also must comply with provisions of the Humane Slaughter Act of 1958. The commodities must be prepared from domestically slaughtered and processed meat. Funds for the programs are provided under Section 6 of the National School Lunch Act.

Specifications for the beef product are in Schedule AA and in Schedule GP for the pork item. Offers of both products must be made in units of 38,500 pounds, net weight.

First offers will be due by 3 p.m. (EST) Tuesday, Dec. 26. USDA will make acceptances by midnight Friday, Dec. 29. Offers and acceptances will be made weekly thereafter until further notice. Depending upon offers and program needs, freight costs may be considered in evaluating offers. The eligible delivery period for the first offer date will be the week beginning Jan. 28, 1973.

Program details will be mailed to the industry this week. Inquiries should be addressed to the Contracting Officer, Livestock Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

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JANUARY 25, 1973.

Hon. EARL L. BUTZ,
*Secretary, U.S. Department of Agriculture, Washington, D.C.*

DEAR MR. SECRETARY: I was heartened and encouraged by your letter of December 12 in response to my repeated pleas for improved deliveries of agricultural commodities for the School Lunch Program.

You indicated in this letter that you were requesting bids for the delivery of ground beef and ground pork for the School Lunch Program. Although I know you have purchased some pork, I understand that you have not accepted any bids for delivery of ground beef.

Also, you stated in your letter of December 12 "that with a few exceptions our deliveries of commodities to the schools will total not much less than normal." Unfortunately, schools in my own State of Georgia are not receiving the increase in commodity deliveries that I had anticipated as a result of your letter. Because your initial delivery of commodities for the schools this year was so low, many Georgia school systems were placed in a severe financial predicament. Unfortunately, you have not increased commodity deliveries sufficiently to provide them with significant relief.

I have asked the Administrator of School Food Services to provide me with the latest figures that she has on commodity deliveries. The following is a comparison of the donated foods received in 1971 as compared to 1972:

| | 1971 | 1972 |
|---|---|---|
| Number of pounds received through Nov. 30 | 18,149,942 | 14,404,810 |
| Dollar value received through Nov. 30 | $5,637,560 | $3,550,717 |

The Committee on Agriculture and Forestry will hear at least one witness on the problem of commodity deliveries during our hearings on program cutbacks and terminations which begin on February 1st. Therefore, I am requesting that you supply the Committee with a breakdown of commodities distributed to schools in the period July through December in 1972 as compared with the corresponding figures for the same period in 1971. Since I know it will be difficult to provide these figures for all states, you may use the same states and the same format that you used in your previous report covering the period July through October. The Committee will need this information by the time that the hearings begin on February 1st.

With every good wish, I am,

Sincerely,

HERMAN E. TALMADGE,
*Chairman.*

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Hon. HERMAN E. TALMADGE,
*Chairman, Committee on Agriculture and Forestry, U.S. Senate.*

DEAR MR. CHAIRMAN: Thank you for your letter of January 25 regarding the purchase of Agricultural commodities for the National School Lunch Program.

As I indicated in my letter of December 12, 1972, we requested bids for delivery of ground beef and ground pork to be purchased under Section 6 of the National School Lunch Act. The bids to deliver ground pork were much more favorable than those to deliver ground beef. Therefore, in the past 6 weeks we have accepted bids for 10,318,000 pounds of ground pork at a cost of $6,895,981. This will begin reaching the schools shortly.

We have been disappointed at the response to some of our recent requests for bids. For example, we have requested bids for red tart cherries and for green beans for the School Lunch Program. In neither case were sufficient quantities offered to make a full distribution to schools and therefore we made no purchase of these commodities.

Attached is the data that you requested regarding delivery to several schools in certain states. As you will see the amount of commodities delivered varies from state to state.

Sincerely,

EARL L. BUTZ.

AMOUNT OF COMMODITIES DELIVERED

| Food | Pounds distributed July to December 1971 | Pounds distributed July to December 1972 |
|---|---|---|
| **NORTH CAROLINA SCHOOLS** | | |
| Applesauce | 1,725,381 | 67,068 |
| Apricots, canned | 829,920 | |
| Beans, dry | 540,842 | 480,138 |
| Beans, canned green | 752,324 | |
| Beef, frozen ground | 576,620 | |
| Bulgur | 117,024 | 112,512 |
| Butter | 1,717,568 | 1,671,136 |
| Chicken, frozen | 1,367,790 | 1,151,670 |
| Corn, canned | 512,338 | 193,940 |
| Cornmeal | 639,250 | 695,600 |
| Cranberries | 150,000 | |
| Flour | 5,447,700 | 5,555,950 |
| Grits | 117,552 | 68,400 |
| Milk, nonfat dry | 647,568 | 517,860 |
| Oats, rolled | 149,724 | 104,364 |
| Peaches, canned | 1,819,320 | 1,478,320 |
| Peanut butter | 428,448 | 424,280 |
| Peas, canned | 705,040 | |
| Pineapple, canned | 803,988 | 915,395 |
| Pork, frozen ground | 691,955 | 26,260 |
| Potatoes, dehydrated | | 35,400 |
| Potatoes, sweet dehydrated | 125,550 | |
| Potatoes, sweet syrup | 410,766 | |
| Poultry, canned boned | | 737,998 |
| Prunes, canned dried | 863,865 | |
| Raisins | 56,736 | 25,500 |
| Rice | 615,590 | 614,162 |
| Salad oil | 400,831 | 490,366 |
| Shortening, vegetable | 1,042,845 | 1,012,220 |
| Tomato paste | 282,975 | |
| Tomatoes canned | 1,169,570 | 48,457 |
| Turkeys, frozen | 1,509,261 | |
| Turkey rolls frozen | | 1,225,183 |
| Wheat, rolled | 93,348 | 47,880 |
| Total | 26,311,689 | 17,700,059 |
| **KANSAS** | | |
| Applesauce | 676,755 | 206,388 |
| Apricots, canned | 260,760 | |
| Beans, dry | 238,650 | 142,525 |
| Beans, canned | 228,494 | |
| Beef, frozen | 236,362 | |
| Bulgur | 59,184 | 51,168 |
| Butter | 979,808 | 1,022,080 |
| Chicken, frozen | 360,090 | 304,500 |
| Corn, canned | 132,361 | |
| Corn meal | 112,100 | 98,150 |
| Flour | 3,186,250 | 3,528,500 |
| Milk, nonfat dry | 373,734 | 339,714 |
| Oats, rolled | 70,452 | 76,896 |
| Peaches, canned | 552,160 | 479,280 |
| Peanut butter | 166,444 | 100,609 |
| Peas, canned | 230,960 | |
| Pineapple, canned | 251,712 | 304,456 |
| Pork, canned | | 69,556 |
| Pork, frozen ground | 231,000 | 354,640 |
| Poultry, canned | | 485,504 |
| Potatoes, dehydrated | | 179,970 |
| Potatoes, frozen, french fries | | 300,000 |
| Prunes, dried (canned) | 240,930 | |
| Raisins | 22,530 | |
| Rice | 85,536 | 75,216 |
| Salad oil | 55,255 | 130,654 |
| Shortening, vegetable | 330,108 | 297,828 |
| Turkeys, frozen | 318,280 | 245,974 |
| Wheat, rolled | 93,456 | 8,676 |
| Total | 9,493,371 | 8,802,284 |
| **NORTH DAKOTA** | | |
| Applesauce | 233,119 | 35,114 |
| Apricots, canned | 92,560 | |
| Beans, dry | 87,550 | 29,375 |
| Beans, canned | 81,776 | |
| Beef, frozen | 77,000 | |
| Bulgur | 8,880 | |
| Butter | 231,360 | 240,416 |
| Chicken, frozen | 177,750 | 143,970 |
| Corn, canned | 75,803 | |
| Corn meal | 6,150 | 5,000 |
| Flour | 423,800 | 453,000 |
| Milk, nonfat dry | 464,562 | 490,104 |
| Oats, rolled | 172,764 | 204,984 |
| Orange juice, frozen | 62,190 | 420 |
| Peaches, canned | 33,240 | 600,600 |
| Peanut butter | 198,577 | 178,486 |
| Peas, canned | 12,480 | |
| Peas, dry split | | 29,100 |
| Pineapple, canned | 13,869 | 305,076 |
| Pork, canned | | 210,974 |
| Pork, frozen ground | | |
| Potatoes, dehydrated | | 3,000 |
| Potatoes, frozen, french fries | | 74,880 |
| Potatoes, sweet syrup | 11,858 | |
| Poultry, canned | | 227,549 |
| Prunes, canned dried | 15,120 | |
| Raisins | 53,370 | |
| Rice | 123,800 | 123,150 |
| Salad oil | 295,911 | 500,809 |
| Shortening, vegetable | 714,950 | 667,700 |
| Tomato paste, canned | | |
| Tomato, canned | 20,923 | |
| Turkeys, frozen heat, rolled | 312,695 | 384,763 |
| Total | 9,308,684 | 10,927,432 |
| **KENTUCKY** | | |
| Applesauce | 670,518 | 391,879 |
| Apricots, canned | 553,480 | |
| Beans, dry | 671,450 | 684,750 |
| Beans, canned green | 478,800 | |
| Beef, canned with natural juice | 16,182 | |
| Beef, frozen ground | 269,500 | |
| Butter | 1,080,768 | 1,122,752 |
| Chicken, canned boned | 5,438 | |
| Chicken, frozen cut | 863,580 | 749,940 |
| Corn, canned | 344,791 | 108,716 |
| Cornmeal | 589,050 | 549,850 |
| Farina | | 2,856 |
| Flour | 1,671,050 | 2,195,850 |
| Meat, canned chopped | 27,585 | 11,835 |
| Milk, nonfat dry | 76,734 | 513,702 |
| Oats, rolled | 255,852 | 247,968 |
| Peaches, canned | 1,064,080 | 975,160 |
| Peanut butter | 408,199 | 405,299 |
| Peas, canned | 418,880 | |
| Pineapple, canned | 536,047 | 612,471 |
| Poultry, canned boned | 24,317 | 44,326 |
| Pork, canned with natural juices | 15,747 | 8,482 |
| Pork, frozen ground | 616,000 | |
| Potatoes, frozen french fries | | 300,000 |
| Potatoes, sweet syrup | 141,181 | |
| Prunes, canned dried | 423,675 | |
| Raisins | 240 | |
| Rice | 84,250 | 156,100 |
| Salad oil | 273,134 | 283,390 |
| Shortening, vegetable | 463,125 | 501,822 |
| Tomatoes, canned | 727,324 | 191,365 |
| Turkeys, frozen | 628,694 | 1,116,888 |
| Wheat, rolled | 114,768 | 139,500 |
| Total | 13,514,439 | 13,314,901 |
| **SOUTH DAKOTA** | | |
| Applesauce, canned | 80,676 | 78,164 |
| Apricots, canned | 76,360 | |
| Beans, dry | 52,650 | 35,559 |
| Bulgur | 11,808 | 15,840 |
| Butter | 251,872 | 303,008 |
| Chicken, canned boned | | 66,642 |
| Chicken, frozen cut-up | 66,270 | 143,100 |
| Corn, canned | 318 | 40 |
| Corn meal | | 19,850 |
| Flour | 613,700 | 698,750 |
| Grits, corn | 2,064 | |
| Lentils | 360 | |
| Milk, nonfat dry | 67,176 | 63,450 |
| Oats, rolled | 34,920 | 22,968 |
| Orange juice, frozen concentrate | 1,700 | |
| Pears, canned | | 80 |
| Peaches, canned | 149,480 | 138,600 |
| Peanut butter | 51,107 | 57,495 |
| Peas, canned | 64,520 | |
| Peas, dry, split | 2,520 | 3,168 |
| Potatoes, sweet dehydrated | | 2,581 |
| Pineapple, canned | 75,224 | 87,685 |
| Pork, canned with natural juice | | 56,419 |
| Pork, frozen ground | 69,300 | 605 |
| Potatoes, dehydrated | | 45 |
| Potatoes, frozen french fries | | 390 |
| Potatoes, sweet dehydrated | | 93 |
| Poultry, canned | | 1,827 |
| Prunes, canned dried | 68,040 | |
| Raisins | 96 | |
| Rice | 42,506 | 34,676 |
| Salad oil | 15,431 | 30,261 |
| Shortening, vegetable | 70,064 | 84,886 |
| Tomato, paste canned | 333 | |
| Tomatoes, canned | 5,814 | 727 |
| Turkey rolls | | 36,363 |
| Turkey, frozen | 63,446 | 69,553 |
| Wheat, rolled | 11,016 | |
| Total | 1,948,771 | 2,052,825 |
| **ALABAMA** | | |
| Applesauce, canned | 1,522,598 | 353,686 |
| Apricots, canned | 489,320 | |
| Beans, dry | | 284,075 |
| Beans, canned, green | 478,648 | |
| Bulgur | 141,360 | 75,900 |
| Butter | 1,452,544 | 1,259,998 |
| Chicken, frozen cut | 935,730 | 899,910 |
| Corn, canned | | 286,955 |
| Corn meal | 564,800 | 538,900 |
| Cranberries, fresh | 93,475 | |
| Flour | 2,226,650 | 3,740,850 |
| Grits, corn | 298,512 | 250,300 |
| Milk, nonfat dry | 450,468 | 278,262 |
| Oats rolled | 369,792 | 229,284 |
| Peaches, canned | 1,116,240 | 960,040 |
| Peanut butter | 375,210 | 144,499 |
| Peas, canned | 431,760 | |
| Pineapple | 522,054 | 261,606 |
| Peas, dry split | | 76,100 |
| Pork, forzen ground | 1,000,285 | |
| Prunes, canned dried | 503,955 | |
| Poultry, canned | | 221,894 |
| Rice | 468,300 | 333,800 |
| Salad oil | 1,665,556 | 579,671 |
| Shortening, vegetable | | 510,740 |
| Tomato, canned | 757,350 | 745,990 |
| Turkeys, frozen | 944,956 | 979,344 |
| Wheat rolled | 122,040 | 182,232 |
| Total | 16,931,603 | 13,194,036 |
| **VERMONT** | | |
| Applesauce, canned | 36,086 | 2,025 |
| Apricots, canned | 35,000 | |
| Beans, dry | 31,600 | 19,150 |
| Beans, canned green | 19,623 | |
| Beef, frozen ground | | 220 |
| Butter | 89,888 | 97,088 |
| Chicken, frozen cut-up | 70,950 | 71,940 |
| Corn meal | 10,200 | 12,700 |
| Cranberries, fresh | 21,900 | |
| Flour | 204,550 | 217,600 |
| Grits, corn | 1,920 | |
| Meat, canned chopped | 18,990 | 25,830 |
| Milk, nonfat dry | 28,944 | 28,404 |
| Oats, rolled | 1,656 | 13,752 |
| Orange juice, frozen concentrated | 1,500 | |
| Peaches, canned | 69,800 | 36,419 |
| Peanut butter | 23,379 | 20,295 |
| Peas, canned | 32,000 | |
| Peas, dry split | 3,864 | |
| Pineapple, canned | 35,687 | 36,142 |
| Potatoes, frozen french fries | | 6,300 |
| Potatoes dehydrated | | 11,265 |
| Pork, frozen ground | 113,520 | 2,688 |
| Prunes, canned dried | 37,305 | |
| Raisins | 540 | |
| Rice | 21,300 | 14,600 |
| Salad oil | 21,852 | 20,883 |
| Shortening, vegetable | 25,988 | 29,268 |
| Turkeys, frozen | 66,680 | |
| Turkey rolls, frozen | | 10,975 |
| Total | 1,024,722 | 677,544 |
| **OKLAHOMA** | | |
| Applesauce | 334,975 | 44,104 |
| Apricots | 265,880 | |
| Beans, dry | 564,224 | 436,500 |
| Beans, canned green | 14,212 | |
| Beef (frozen, ground) | 154,055 | |
| Bulgur | 56,650 | 64,600 |
| Butter | 1,181,184 | 1,358,592 |
| Chicken, frozen, cut | 216,000 | 357,390 |
| Corn, canned | 7,845 | 80 |
| Cornmeal | 317,050 | 368,450 |
| Flour | 3,690,300 | 4,285,600 |
| Farina | | 10,521 |

AMOUNT OF COMMODITIES DELIVERED—Continued

| Food | Pounds distributed July to December 1971 | Pounds distributed July to December 1972 |
|---|---|---|
| **IOWA** | | |
| Applesauce, canned | 440,234 | |
| Apricots, canned | 415,680 | |
| Beans, dry | 287,100 | 156,925 |
| Beans, canned green | 366,700 | |
| Beef, frozen ground | 192,390 | |
| Bulgur | | |
| Butter | 1,721,152 | 1,513,792 |
| Cheese | | |
| Chicken, frozen cut | 467,880 | 647,970 |
| Corn, canned | 324,757 | 7,300 |
| Corn meal | 88,800 | 61,900 |
| Cranberries, fresh | 103,125 | |
| Flour | 2,222,100 | 2,861,550 |
| Milk, nonfat dry | 275,346 | 427,788 |
| Oats, rolled | 129,348 | 175,464 |
| Orange juice frozen concentrated | 9,360 | |
| Peaches, canned | 881,640 | 388,880 |
| Peanut butter | 211,654 | 538,311 |
| Peas, canned | | 323,800 |
| Pineapple, canned | 362,240 | 295,637 |
| Pork, canned | 405,596 | 740 |
| Pork, frozen ground | 500,390 | |
| Potatoes, dehydrated | | 390 |
| Potatoes, sweet, canned | | |
| Poultry, canned | | 517,650 |
| Prunes, canned dried | 356,220 | |
| Raisins | 12,420 | 1,050 |
| Rice | 158,350 | 91,600 |
| Salad oil | 150,057 | 156,663 |
| Shortening, vegetable | 302,550 | 170,250 |
| Tomato paste, canned | 3,579 | |
| Turkeys, frozen | 591,826 | 690,593 |
| Wheat, rolled | 95,472 | 1,872 |
| Total | 11,075,966 | 9,030,125 |
| **MISSISSIPPI** | | |
| Applesauce | 1,093,863 | |
| Apricots | 349,920 | |
| Beans, dry | 413,032 | 319,825 |
| Beans, canned, green | 340,480 | |
| Beef, frozen, ground | 307,395 | |
| Bulgur | 6,048 | 6,336 |
| Butter | 767,040 | 803,668 |
| Chicken, frozen | 683,580 | 398,160 |
| Corn, canned | 251,339 | 151,686 |
| Corn meal | 607,100 | 608,350 |
| Cranberries | 100,000 | |
| Flour | 2,514,950 | 2,783,400 |
| Grits | 24,816 | 30,384 |
| Milk, nonfat dry | 446,040 | 363,598 |
| Oats, rolled | 13,104 | 14,292 |
| Peaches, canned | 889,960 | 665,960 |
| Peanut butter | 312,216 | 238,740 |
| Peas, canned | 359,960 | |
| Pineapple, canned | 369,412 | 316,751 |
| Pork, frozen, ground | 692,560 | |
| Potatoes, sweet, syrup | 192,780 | |
| Prunes | 359,685 | |
| Raisins | 13,152 | |
| Rice | 471,012 | 467,842 |
| Shortening | 429,742 | 438,346 |
| Tomatoes, canned | 405,372 | 601,847 |
| Turkey, frozen | 699,642 | 945,441 |
| Wheat, rolled | 12,672 | 12,492 |
| Total | 13,136,874 | 9,167,118 |
| **MINNESOTA** | | |
| Applesauce | 1,156,032 | 58,725 |
| Apricots | 506,080 | |
| Beans, dry | 153,100 | 128,000 |
| Beans, canned green | 440,116 | |
| Beef, frozen ground | 206,635 | 165 |
| Bulgur | 33,100 | 66,500 |
| Butter | 1,272,896 | 1,410,336 |
| Chicken, frozen | 597,660 | 860,670 |
| Corn, canned | 337,477 | 19,875 |
| Corn meal | 44,900 | 78,500 |
| Cranberries, fresh | 29,975 | |
| Flour | 1,791,500 | 2,568,138 |
| Milk, nonfat dry | 200,278 | 339,226 |
| Oats, rolled | 61,668 | 117,478 |
| Peaches, canned | 997,000 | 906,091 |
| Peanut butter | 198,618 | 302,569 |
| Peas, canned | 449,320 | |
| Peas, dry split | 23,200 | 42,142 |
| Pineapple, canned | 489,803 | 16,684 |
| Plums, canned | 41 | |
| Pork, canned | | |
| Pork, frozen ground | 614,900 | 2,090 |
| Potatoes, sweet dehydrated | 48,058 | 29,985 |
| Potatoes, canned sweet | | 956 |
| Potatoes, french fries | | 300 |
| Poultry, canned | | 354,220 |
| Prunes, canned dried | 483,120 | 630 |
| Raisins | 80,520 | 32,910 |
| Rice | 181,950 | 201,300 |
| Salad oil | 68,330 | 167,475 |
| Tomatoes, canned | 568,930 | 262,194 |
| Shortening, vegetable | 241,375 | [1] 229,844 |
| Tomato paste | 11,945 | |
| Turkey, frozen ground | | |
| Turkeys, frozen | 689,333 | 461,912 |
| Wheat rolled | 35,676 | 49,068 |
| Total | 12,013,536 | 8,707,983 |
| **NEBRASKA** | | |
| Applesauce, canned | 312,174 | 79,785 |
| Apricots, canned | 162,120 | |
| Beans, dry | 350 | 65,325 |
| Beans, canned, green | 96,064 | |
| Bulgur | | 37,872 |
| Beef, frozen ground | 153,010 | |
| Butter | 428,768 | 417,920 |
| Chicken, frozen cut-up | 114,660 | 194,790 |
| Corn, canned | 77,553 | 80 |
| Corn meal | 26,200 | 17,950 |
| Cranberries, fresh | 30,000 | |
| Flour | 1,718,900 | 1,141,391 |
| Grits, corn | | |
| Milk, nonfat dry | 113,724 | 135,864 |
| Oats, rolled | 32,652 | 57,204 |
| Orange juice, frozen, concentrated | 102,810 | |
| Peaches, canned | 416,000 | 333,600 |
| Peanut butter | 42,900 | 72,146 |
| Peas, canned | 100,560 | |
| Peas, dry, split | 6,600 | |
| Pineapple, canned | 134,385 | 221,531 |
| Plums, canned | 17,263 | |
| Pork, canned, with natural juice | | 138,636 |
| Pork, frozen, ground | 92,455 | 111,980 |
| Potatoes, dehydrated | | 16,845 |
| Potatoes, sweet dehydrated | 19,344 | |
| Potatoes, canned sweet | | 29,796 |
| Potatoes, frozen french fries | | 48,780 |
| Poultry, canned | | 206,408 |
| Prunes, canned, dried | 99,720 | |
| Raisins | | |
| Rice | 15,550 | 47,600 |
| Salad oil | 92 | 96,189 |
| Shortening, vegetable | 105,739 | 123,840 |
| Tomato paste, canned | 92,022 | |
| Tomatoes, canned | 45,097 | |
| Turkeys, frozen | 260,018 | 242,528 |
| Wheat, rolled | | |
| Total | 4,816,730 | 3,838,060 |
| **GEORGIA** | | |
| Appleasauce | 1,213,259 | 109,998 |
| Apples, fresh | | 33,500 |
| Apricots, canned | 757,200 | |
| Beans, dry | 571,500 | 684,550 |
| Beans, canned green | 640,452 | |
| Beef, frozen ground | 423,455 | 37,500 |
| Butter | 2,168,960 | 1,310,336 |
| Chicken, frozen cut-up | 1,187,910 | 1,309,650 |
| Corn, canned | 474,934 | 71,232 |
| Corn meal | 701,650 | 725,400 |
| Cranberries, fresh | 12,500 | |
| Flour | 4,633,900 | 5,247,350 |
| Grits | 1,200 | 44,940 |
| Milk, nonfat dry | 1,257,714 | 525,800 |
| Oats, rolled | 360 | 206,950 |
| Peaches, canned | 1,306,560 | 1,105,000 |
| Peanut butter | 440,674 | 560,134 |
| Peas, canned | 607,400 | |
| Pineapple, canned | 777,409 | 886,250 |
| Pork, frozen ground | 462,000 | |
| Poultry, canned boned | | 437,524 |
| Potatoes, sweet syrup | 566,903 | |
| Prunes, canned, dried | 864,000 | |
| Rice | 766,838 | 581,450 |
| Salad oil | 60,060 | 124,601 |
| Shortening, vegetable | 1,121,650 | 776,650 |
| Tomatoes, canned | 1,000,352 | 70,763 |
| Turkeys, frozen | 1,191,660 | 1,013,648 |
| Total | 23,210,490 | 15,863,226 |

[1] Figures through November.

Mr. ALLEN. Mr. President, I rise in support of H.R. 4278, a bill that is designed to compensate schools for the shortfall in the delivery of USDA commodities for their school lunch program. This bill would require the Department of Agriculture to honor a commitment made to the Committee on Agriculture and Forestry in 1972. As chairman of the Subcommittee on Agricultural Research and General Legislation, I held hearings last year on H.R. 14896, a bill which made important changes in our child nutrition programs. One of the changes made by this legislation, which became Public Law 92-433, was to provide States with an average reimbursement rate of not less than 8 cents per meal for the regular school lunch program. The representatives of schools had originally wanted a guarantee of more than 8 cents. They had wanted a guarantee of 10 cents per meal for the regular school lunch program. However, they agreed to an 8-cent average reimbursement rate with the understanding that they would recieve the same level of commodity donations from the U.S. Department of Agriculture as in previous years, approximately 7 cents per meal.

During the hearings, however, the chief of the school food service section of the Iowa Department of Public Instruction, expressed concern as to whether this 7-cent level of donated commodity support would be maintained. He pointed out that the administration's budget for commodity donations did not provide an increase sufficient to maintain an average value of donated commodities of 7 cents. Therefore, I wrote to Secretary Butz to inquire as to whether the 7-cent level of commodity donations would be maintained and where the money would come from. I received a response from the Acting Assistant Secretary in which he stated the intention of the Department of Agriculture to provide a continued 7-cent level of donated commodity support. This exchange of correspondence is included in the committee report on page 3.

During the committee's consideration of H.R. 14896 last year, I brought to the committee's attention my concern about whether the 7-cent level of commodity support would be maintained. At my suggestion, the committee stated in its report on H.R. 14896 its intention that the level of donated commodities not be reduced. The committee stated its intention that "the 7 cents be combined with the 8-cent cash reimbursement for a total of 15-cent reimbursement for section 4 lunches."

Testimony received by the Senate Committee on Agriculture and Forestry during its hearings on program cutbacks and terminations, as well as complaints that committee members have received from school lunch administrators, indicate very strongly that the 7-cent level of donated commodity support has not been provided.

All of us realize that the USDA has had some problems in purchasing commodities for the school lunch program this year. Certain commodities which are normally in substantial surplus are this year in short supply. However, the fact that the USDA has problems does not justify neglect of our school lunch program.

School lunch administrators around the country often operate on a hand to mouth basis. They have an extremely difficult time providing nutritious meals for schoolchildren with the money that they receive from Federal donations and

from pupil payments. Failure of the USDA to deliver commodities which the schools had been led to expect has created a severe financial crisis for many school districts.

Mr. President, H.R. 4278 will reaffirm the intention of the Committee on Agriculture and Forestry and the intention of Congress. I hope that its early passage will alleviate the financial crisis in which our schools have been placed.

Mr. CLARK. Mr. President. I want to register my wholehearted support for H.R. 4278. In light of the many cutbacks we are currently witnessing in human resource programs, I believe it is important to pass this legislation, which would make it possible during the remainder of this school year to supply or purchase food for those children who participate in the school lunch program. Accordingly, I would like to take this opportunity to call my colleagues' attention to the testimony of Mr. Vern Carpenter, chief of the Iowa School Food Services Section, as presented to the Senate Committee on Agriculture and Forestry. In addition, Mr. Carpenter has provided an excellent analysis of the impact of the Department of Agriculture's budget on child feeding programs in Iowa. I ask that these documents be printed in the RECORD at this point.

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

STATEMENT OF VERN CARPENTER, CHIEF SCHOOL FOOD SERVICES SECTION, IOWA DEPARTMENT OF PUBLIC INSTRUCTION

My name is Vern Carpenter and I am state director of school food service programs for the Iowa Department of Public Instruction. I am here today on behalf of the American School Food Service Association and the state school lunch directors.

I wish to thank the committee for the opportunity to testify concerning the cutback of government commodities for child feeding programs.

We are also especially appreciative of the 8 cents minimum payment under section 4 which during last fiscal year was only 6 cents. This 2-cent increase will mean about $1.4 million extra for Iowa's public school feeding programs. More than that, this increase has become all the more vital because so far during this current school year we states just have not been receiving government commodities at the same rate as they were received last school year.

During a hearing of the Subcommittee of Agricultural Research and General Legislation chaired by Senator James B. Allen last July, 1972, the USDA assured the committee that they had budgeted ample funds to provide 7 cents worth of commodities per lunch and that they had taken into consideration the projected growth of the lunch program, breakfast program, and the Special Food Service Program for Children.

At this point in time, the supply of government donated commodities is fully 33 percent below the amount furnished when compared to the same period a year ago. I refer you to Attachment No. 1 for details. Also, Attachment No. 2 shows figures for five other states. Time did not permit gathering up-to-date figures for all states.

For Iowa's figures we used the same procedure for computing this value of commodities for both periods. Without going into detail I point out that prices have risen on some foods during this current school year which often results in a higher dollar figure but a smaller quantity of food received.

Since daily participation has increased this school year, the few commodities we have received have had to be spread even thinner. Obiously, the growth factor has not been provided for.

The school year is one-half completed; we have started the second semester.

It is getting late in the school year to provide adequate time for the USDA to go through bidding procedures, deliver commodities to the States, and for States to distribute these commodities to schools in time to be of maximum benefit to programs during the present school year.

Commodities delivered late in the school year may have to be carried over during summer months. Storing commodities during summer months results in increased storage costs. Also, when commodities are either not delivered or delivered too late for use during the present school year, foods must be purchased which results in cash outgo and lower cash balances.

Attachment No. 3 shows the relative condition of school lunch cash balances in Iowa. I call your attention to the fact that cash balances on December 31, 1972, are lower. There are fewer cash balances above two months, the number of districts having one-month's cash balances is about the same, the number below one-month's cash balance decreased but the number showing a deficit balance sharply increased from 2.37% to 13.31%.

A year ago the Iowa Legislature passed certain measures limiting public school district spending. To make a long detailed legal explanation very short, I can say that for most school districts the well has run dry. We can no longer expect or hope that school district funds will bail out the lunch fund at the end of the school year if the lunch program fails to make ends meet.

Food costs are up. Higher food costs, far fewer government commodities, more cash outgo, lower cash balances, and increased lunch prices to children form a destructive pattern in child feeding programs.

May I present one more set of figures pertaining to Iowa:

COMPARISON—CHILDREN AND ADULT LUNCHES

(The value of government commodities is not included)

| | School year 1971–72 (in cents) | School period July to December 1972 (in cents) | Cents increase or decrease | Percent increase or decrease |
|---|---|---|---|---|
| Food | 24.14 | 26.42 | +2.28 | +9.44 |
| Labor | 17.25 | [1] 16.79 | −.46 | −2.67 |
| Other | 3.59 | 3.92 | +.33 | +9.19 |
| Total | 44.98 | 47.13 | +2.15 | +4.78 |
| Noncash expenditures | 10.69 | 12.64 | +1.95 | +18.24 |
| Total | 55.67 | 59.77 | +4.10 | +7.36 |

[1] Some labor costs are paid from school district general funds and later repaid by the lunch fund.

Note. Federal and State reimbursements in Iowa presently is:
Type A lunch, 8.36 cents.
Free lunch, 8.36+41.81=50.17 cents.
Reduced-price lunch, 8.36+20.91=29.27 cents.

Schools cannot break even financially when serving free lunches that cost 59.77 cents to prepare and serve (without commodities) and receive only 50.17 cents reimbursement. These government commodities are sorely needed.

In the opinion of many who work in child feeding, the USDA should either furnish the commodities as budgeted or distribute any unexpended funds to schools on a performance basis. This should be done before the current school year ends.

It must be remembered that child feeding programs deal in pennies. Mr. Chairman, our child feeding programs cannot absorb the loss of one, two, or three cents per lunch.

Thank you for the privilege of testifying before your committee today. I will be happy to respond to your questions.

GOVERNMENT COMMODITIES RECEIVED IN IOWA

1971–72 school year ..... $7,510,777

(USDA figure of 7 cents equals Iowa's figure of 9.78 cents commodities per lunch)

| Period and amount | Period and amount | Decrease | Percent decrease |
|---|---|---|---|
| July 1 to Oct. 31, 1971—$3,505,622 | July 1 to Oct. 31, 1972—$3,034,336 | −$471,286 | −13.44 |
| July 1 to Nov. 31, 1971—$4,258,006 | July 1 to Nov. 31, 1972—$3,190,405 | −1,067,601 | −25.07 |
| July 1 to Dec. 31, 1971—$4,983,815 | July 1 to Dec. 31, 1972—$3,713,576 | −1,270,239 | −25.49 |
| July 1, 1971 to Jan. 1, 1972—$6,626,257 | July 1, 1972 to Jan. 31, 1973—$4,404,594 | −2,221,663 | −33.53 |

Note: Cost=5.46 cents per lunch. Commodity values per unit in Iowa are based on local wholesale prices. Summary for Iowa: 1971–72, 9.78 cents per lunch; July 1, 1972 through Jan. 1, 1973, only 5.46 cents per lunch.

GOVERNMENT COMMODITIES RECEIVED BY FIVE STATES

| Period and amount | Period and amount | Decrease | Percent decrease |
|---|---|---|---|
| HAWAII | | | |
| July 1 to Oct. 31, 1971—$1,282,994 | July 1 to Oct. 31, 1972—$1,030,698 | −$252,296 | −19.66 |
| INDIANA (MEAT, FRUIT, VEGETABLES) | | | |
| July 1 to Oct. 31, 1971—$2,640,890 | July 1 to Oct. 31, 1972—$1,778,993 | −861,897 | −32.64 |

Footnotes at end of table.

| Period and amount | Period and amount | Decrease | Percent decrease |
|---|---|---|---|
| MISSOURI | | | |
| July 1 to Oct. 31, 1971—$6,186,289 | July 1 to Oct. 31, 1972—$4,266,697 | —1,919,592 | —31.03 |
| NEBRASKA | | | |
| July 1 to Oct. 31, 1971—$671,050 | July 1 to Oct. 31, 1972—$480,176 | —190,874 | —28.44 |
| WISCONSIN | | | |
| July 1 to Nov. 30, 1971—$2,024,336 | July 1 to Nov. 30, 1972—$1,653,266 | —371,070 | —18.33 |

Note: The remaining Midwestern States (6) were unable to furnish figures.

NUMBER OF MONTHS' CASH BALANCE ON HAND IN IOWA'S SCHOOL LUNCH PROGRAMS

| Year | Total districts | Percent having 2 months' or more | Percent having 1 month or more | Percent having 0 to 1 month | Percent having deficit |
|---|---|---|---|---|---|
| 1968-69 | 466 | 4.29 | 27.90 | 57.51 | 14.59 |
| 1969-70 | 477 | 4.61 | 20.34 | 60.17 | 14.88 |
| 1970-71 | 473 | 4.65 | 13.95 | 56.03 | 25.37 |
| 1971-72 | 465 | 10.97 | 28.82 | 57.84 | 2.37 |
| July 1 through Dec. 31, 1972 | 466 | 7.51 | 30.47 | 48.71 | 13.31 |

Summary: Effective Dec. 31, 1972, 62 percent of Iowa's public school districts had a cash balance in their lunch fund equal to less than 1-month's operating costs; 13.31 percent showed a deficit balance.

HOW THE U.S. DEPARTMENT OF AGRICULTURE'S BUDGET FOR FOOD ASSISTANCE PROGRAMS AFFECTS IOWA'S CHILD FEEDING PROGRAMS

(By Vern Carpenter)

I. FISCAL YEAR 1973

Total commodities reflected in budget line item A.2. "Commodities to States" was $313,700,000 for the nation or an increase reported to be $2,075,000 above fiscal year 1972.

In July, 1972, this slight increase, which the USDA assured would cover growth in all child feeding programs, was called to the attention of the U.S. Senate Subcommittee of Agricultural Research and General Legislation by Iowa's School Lunch Director, Vern Carpenter, during a hearing.

Mr. Carpenter pointed out that the USDA had stated this sum provided for an increase of 360 million lunches to make a total of 4.470 million lunches. 360 million lunches times the USDA rate of 7 cents per lunch for commodities equaled $2.52 million which is somewhat above $2.075 million.

The question was asked whether the USDA had provided funds for the breakfast program, special food service program, summer camps, Head Start programs, for use in home economics classes as well as for the growth in these programs, particularly the breakfast and special food service program since these programs are also eligible for commodities under Sections 6, 32, and 416.

The chairman of the Subcommittee, Senator James B. Allen, asked the USDA for an explanation of this. The USDA replied that the total sum requested of $313.7 million was adequate because of reserve stocks of commodities on hand.

Rather than repeat all details concerning the present cutback in commodities by the USDA during this current fiscal year, please refer to testimony given by Vern Carpenter before the U.S. Senate Committee on Agriculture and Forestry on February 5, 1973.

In summary, the value of commodities delivered states during this current fiscal year is far less than the value delivered during corresponding period a year ago. At the end of January, 1973, Iowa's supply of commodities was 33% less than that of a year ago.

Thirteen percent of the operating cash balances in Iowa's school lunch programs are deficit balances. Food costs are up. Cash outgo is up. The total cost of preparing and serving the meal is up.

By mandate, we are to "end hunger for all time" and get lunch programs started in all schools not having a program.

This goal will be even more difficult during this second semester of school. It will be increasingly difficult to convince school administrators that they should start new programs when they cannot be assured the new program will not operate at a deficit.

When the USDA recently submitted their FY 74 budget they showed current estimates for FY 73 commodity expenditures as $307,645,000. This represents a decrease of $6,055,000 below the appropriation rather than an increase of $2,075,000 as the approved FY 73 budget called for. Is it little wonder we states are being cut back on commodities this current year.

Based on what must be the current rate of spending to cause the current cutback in commodities furnished states, the total expended for FY 73 might well be far below their current estimate of $311,625,000.

It appears that the increase in federal reimbursement from 6¢ to 8¢ authorized by the Congress will be more than offset by the USDA through cutbacks in government commodities.

Instead of receiving 8 cents reimbursement plus 7 cents worth of commodities for a total of 15 cents per meal, it appears more likely that it will be 8 cents reimbursement plus 4 cents worth of commodities for a total of 12 cents per meal. This would represent a loss of 3 cents per meal which Iowa's lunch programs cannot absorb.

Based on the premise that schools would receive 7 cents worth of commodities, the American School Food Service Association legislative committee had decided to ask for 10 cents reimbursement per lunch for FY 74. Based on the current commodity picture perhaps this should be raised to 12 cents on the assumption that the USDA will furnish only 3 cents worth of commodities for FY 74. Other factors such as higher commodity prices and supply and demand would substantiate such an asking of 12 cents cash reimbursement.

II. FISCAL YEAR 1974

1. Line item A.1. (d) Nonfood Assistance:

During the last session of the Congress the authorization for nonfood assistance was raised to $40 million. This was based on the need for funds for no-program schools and for program schools having grossly inadequate equipment.

It was pointed out to the Congress that such existing equipment in school lunch kitchens is old and needs to be replaced. Much of this equipment was used when purchased years ago.

It was understood that the USDA would cause a survey of equipment needs to be taken in all states during this current school year. This has not been done.

It was further understood that the results of this survey would be presented to the Congress so that the Congress would be able to determine how much funds were needed for equipment and how much money they should appropriate for this purpose.

Notwithstanding all of these circumstances, the USDA left this budget line item at $16,110,000—exactly the same figure as for fiscal year 1973.

2. Line item A. 1 (e) State Administrative Expenses:

This line item pertains to funds provided states to supplement their staff in order to effectively instigate and administer child feeding programs.

The request for fiscal year 1973 was $3.5 million; the request for fiscal year 1974 is $3.5 million.

Let us now compare this budget line item with line item A. 4. "Federal Operating Expenses." For federal operating expenses to administer these programs the USDA requested an increase of $385,000 for themselves, but requested no increase for states for administrative expenses.

This appears clearly to be a prime example of "taking care of No. 1 first." It is an example of "I need it but you can do without it."

An explanation is given that the USDA budget for fiscal year 1974 for state administrative expenses "provides for the same level of support as 1973 despite major legislative changes that increased the workload for State personnel."

However, it is also explained that the USDA budget for Federal operating expenses "provides for annualization and the addition of six employees."

States are faced with added indirect costs as per A-87. Some state employees may receive small salary increases. Matching provisions for FICA have been raised. And for most states—not all—the amount received for state administrative expenses has been totally inadequate during past years.

Based upon a distribution formula that is quite obscure, a few states receive the lion's share. We are not proposing that these states receive too much; we are saying that:

(a) the existing formula for distribution needs to be changed, and

(b) the budget asking needs to be increased, and

(c) many of us States receive too little.

Further, if the USDA has experienced a growth in child feeding program operations that would justify additional administrative expense funds, it follows that States would have the same growth and the same need.

This entire SAE funding situation is unfair to many states (opinion), and we Midwest State Directors believe we have collected facts to substantiate our belief.

3. Line item A. 2. Commodities to States:

The USDA FY 74 budget calls for a reported increase of $6,055,000 over their current estimate of FY 73 spending of $307,645,000.

As pointed out in Section I above, it seems doubtful whether the USDA's current rate of spending for FY 73 will reach their current estimate of $307,645,000. For certain, this amount of $307,645,000 is less than the $313,700,000 appropriated by the Congress for 1973. Instead, it represents a decrease of $6,055,000.

In fact, the FY 74 budget asking for $313,700,000, which the USDA reflects as an increase of $6,055,000 over FY 73, is not an increase at all—it turns out to be identical to the FY 73 budget asking as well as to the amount appropriated by the Congress of $313,700,000 for FY 73.

Further, there is no more assurance that the USDA will spend the $313,700,000 requested for FY 74 for commodities than the $313,700,000 appropriated for FY 73.

Let's examine the supposed increase of $6,055,000 requested for FY 1974, which, as pointed out above, does not reflect an actual budget increase.

The $313.7 million is to "represent food purchase levels—actual distribution rate will be 7 cents per lunch; 3 cents per breakfast." States have been instructed to distribute commodities to breakfast programs on the same basis as to lunch programs. We states have not heard about this 3-cent rate for breakfasts nor has the USDA provided a 3-cent commodity distribution chart.

Even so, USDA figures cannot be reconciled. Their budget calls for 4.350 billion lunches and 342 million breakfasts. 4.350 billion lunches times 7 cents plus 342 million breakfasts times 3 cents equals $314,760,000 which is $1,060,000 more than their asking of $313.7 million.

In addition, this sum does not provide any funds for commodities for the Special Food Service Program, Summer Camps, for home economics training, for Head Start programs, nor for disaster feeding.

There is no apparent way to justify the USDA's budget asking of $313.7 million for commodities as either being adequate or above last year's budget.

A form has been designed and mailed to the USDA asking for a breakdown by child feeding program by cents-per-meal per program. If a reply is received, it may shed some light.

It is doubtful whether the USDA can reply at this time and say that commodities for the Special Food Service Program, Summer Camps, etc., can be supplied from their surplus reserve on hand. If they have surplus reserves on hand they should be distributing them to States during this current school year and not hoarding them.

4. Line item B. Special Milk Program:

This calls for a decrease of $72,115,000 which presumably would make milk available for "schools without food service, in child-care centers and in summer camps."

If memory serves correctly, this is at least the fourth time this particular cut has been proposed.

This cut will not provide the special milk program to economically needy children receiving free or reduced-price meals when served midmorning or midafternoon.

Neither will it provide special milk for children bringing sack lunches.

5. Education Special Revenue Sharing:

In a special analyses of the budget for fiscal year 1974, it is stated "It is proposed that the basic school lunch program be folded into education special revenue sharing, and therefore the separate estimates for child nutrition programs declines in 1974 to $1.3 billion.

Does this mean FY 74 or 75?

This is not understood.

Rumor has it that this would apply to Section 4 and possibly state administrative expenses and nonfood assistance, but this is only rumor.

In any event, it is difficult to arrive at the $1.3 billion figure because $1,493,235,000 less Section 4 funds alone of $348,000,000 would leave only $1,145,235,000 and not $1.3 billion.

Mr. SYMINGTON. Mr. President, Missouri school districts are running up deficits of nearly $1.6 million for this school year because they are receiving Federal commodity foods for school lunches which are valued at less than half those received last year.

Mr. Earl Langkop, director of school food services for the Missouri Department of Education, and one of the most knowledgeable people on school food assistance programs, has advised us that the value of federally donated foods for school lunches and breakfasts has been scheduled to provide an average of 7 cents per meal. Because of food market conditions, however, the average amount of commodities available is estimated at only 5 cents or less per meal.

Legislation which already has passed the House would assure that there is funding for these food assistance programs at the level which was budgeted for fiscal 1973. H.R. 4278 would correct this problem by providing the State educational agencies with funds equivalent to the value of the commodities they have not received—or about 2 cents a meal. To assure that the various affected States receive assistance before the end of the schoolyear, the bill provides for cash payments before April 15, 1973.

Knowing of the importance of the school assistance program to Missouri schoolchildren, it is with great pleasure that I support this important legislation.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

## ORDER OF BUSINESS

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

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

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Oklahoma (Mr. BARTLETT) is now recognized for not to exceed 15 minutes.

## FEES FOR RECREATIONAL USE OF FEDERAL LAND

Mr. BARTLETT. Mr. President, I want to discuss the proposal by the Corps of Engineers to charge fees for the recreational use of the Federal land around corps reservoirs.

Traditionally, the Corps of Engineers has not charged the public for the recreational use of any of its facilities. However, on July 11, 1972, Public Law 92-347 was enacted. Among other things, the law provides the following:

Section 4(B). Special recreation use fees. Each Federal agency developing, administering, or providing specialized sites, facilities, equipment or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense.

(1) Daily use fees for overnight occupancy within areas specially developed for such use shall be determined on the basis of the value of the capital improvements offered. The cost of the services furnished, and other pertinent factors. Any person bearing a valid Golden Age Passport issued pursuant to paragraph (4) of subsection (A) of the section shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of fifty per centum of the established daily use fee.

(2) Special recreation permits for uses such as group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses may be issued in accordance with procedures and at fees established by the agency involved.

The purpose of this part of Public Law 92-347 was to require persons using highly developed campsite facilities to pay for the use of facilities. Some campsites including showers, sewers, electricity, security, et cetera, can cost hundreds of thousands and are expensive to maintain and to supervise. It is not unrealistic to require the camper to pay for their use. The proposed corps regulations establish fees for the use of overnight camping facilities. This is in keeping with Public Law 92-347. The proposed corps regulations also establish fees for special recreation permits for group activities, recreation events, et cetera. This is in keeping with the law.

However, the Corps of Engineers has elected to go far beyond the intent and purpose of the law.

The corps intends to charge for the day use of facilities which clearly was not provided by the law nor intended in its legislative history. Somehow, out of Public Law 92-347, the corps has come up with what they describe as the "integrated area" concept. Under the "integrated area" approach, the corps plans to charge a picnicker or a boater or a swimmer even if he does not use the camping facilities. In other words, the "integrated area" approach allows the corps to require general user fees for day use of relatively undeveloped facilities which do not require extensive investment or supervision simply because of the proximity of these facilities to a camping area.

The corps argues that the integrated area is composed of highly specialized facilities which required extensive investment and continual supervision and maintenance—justifying a user fee for entrance. As a matter of fact, we do not have any highly developed facilities in Oklahoma. We do have camping grounds and the law clearly authorizes fees for use of these facilities, but grouping together a number of facilities such as roads, overlooks, boat ramps, picnic areas, toilet facilities, drinking fountains, trails, and so forth, with a camping area should not qualify the facilities

for user fees. Incidentally, neither Public Law 92-347, nor its history, make any reference to an "integrated area" concept.

The corps is trying to mix oil and water. A person who indulges in any one of the following activities—parking a car in a parking lot, launching a rowboat, lunching at a picnic table, swimming off a beach—fishing from a lake bank—would be forced to pay a fee because the parking lot, the ramp, the picnic table, the beach, and the lake bank are adjacent to or are in the same integrated area in which a camping ground is located.

In fact, the charge is levied even though the activities of one who pays the user fee may not even be related to the so-called developed facilities situated in an integrated area. It makes no sense to make a picnicker pay a fee to use a picnic table simply because it is in the same area as shower facilities, an oarsman to pay a fee to use a boat ramp next to a sewage disposal facility, a Sunday driver contemplating a stroll along the shoreline to pay a fee to park his car in a lot adjacent to facilities for overnight camping. Obviously, what the corps is doing is charging an admission fee.

Pertaining to admission fees, the act provides as follows:

Section 4 (a) Admission fees—Entrance or admission fees shall be charged only at designated units of the National Park System administered by the Department of the Interior and National Recreation Areas administered by the Department of Agriculture. No admission fees of any kind shall be charged or imposed for entrance into any other Federally owned areas used for outdoor recreation purposes.

Obviously, admission fees for Corps of Engineers recreational areas are strictly prohibited.

Public Law 92-347 is somewhat ambiguous as to what fees can legally be charged. However, the mere ambiguity should be sufficient to negate charging day user fees. Under accepted standards of legislative interpretation of taxation provisions—which is what this amounts to—ambiguities are to be strictly interpreted in favor of the taxpayer—not against him.

Mr. President, whatever ambiguity is present in the law is dispelled by looking at its legislative history. It is obvious that Congress did not intend to require people to pay for swimming, picnicking, hiking, automobile driving, boating, drinking water, toilet facilities, and those basic recreational facilities which are commonly associated with an outdoor area, or Federal reservoirs.

In Senate Report 92-490 at page 4, the Senate Interior Committee said:

Fees shall not be collected for entrance or access to or use of water areas, undeveloped or lightly developed shore land, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided.

Similarly, in House Report No. 92-972 at page 8, the House Interior Committee said:

During both the subcommittee and Full Committee deliberations, it was emphasized that specialized facilities do not include the basic recreational facilities which are commonly associated with or incidental to day use of an outdoor area. No special charge is intended to be imposed under this provision of the bill for the use of roads, trails, overlooks, visitors' centers, wayside exhibits, lightly developed or back country campgrounds, or for picnic areas. Practically all visitors could be expected to use all or most of the facilities on a given visit. Admission—particularly free admission—would be meaningless if a charge is to be imposed for the use of these relatively modest facilities.

And Representative TAYLOR, the floor manager of the House bill, said in the CONGRESSIONAL RECORD on February 7, 1972, pertaining to its interpretation:

No special charge is to be imposed for the use of facilities which are basic or incidental to the day use of an outdoor area. Charging a fee for the use of a picnic table is too petty, too hard to enforce and causes people to picnic along roadsides and pullovers producing traffic and litter problems. We feel that these are facilities which almost all of the visiting public can be expected to use or where the collection of a special fee would be impractical.

In the Conference Report No. 92-1164 at page 7, the conference reiterated that no fees would be charged for the use of facilities which virtually all visitors might reasonably be expected to utilize.

On February 22, Senator BELLMON and I wrote Senator JACKSON, chairman of the Senate Interior Committee, and asked him to give his opinion as to the legality of the proposed corps fees. In response, the Interior staff prepared a brief of the law with the conclusion as follows:

Counsel believes that at least one proposed fee (day user fee) is in contravention of the law in that it would be levied for the use of the exempted facilities, not just the use of facilities for which Congress intended user charges to be collected. It would in effect be an entrance or admission fee which is clearly prohibited by the law.

Mr. President, the Corps of Engineers is fully aware of the legislative history of Public Law 92-347. Yet I have in my hand its proposed fee schedule which would require a user to pay to picnic, to swim, to drink water, or even to use the bathroom at a designated corps facility.

I ask unanimous consent to have the proposed fee schedule printed at this point in the RECORD.

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

CORPS OF ENGINEERS—FEE AREAS

| Name of area: Type of facility [1] | Rest-rooms | Drinking water | Showers | Sanitary disposal station | Parking area | Tables | Fireplaces grills | Refuse containers | Access roads (unimproved) | Access roads (paved) | Tent or trailer space | Visitor protection control | Courtesy docks | Fish cleaning station | Play ground | Swimming beach | Shelter house | Open play areas | Fee [2] | Period fee collected |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ALPHA LAKE | | | | | | | | | | | | | | | | | | | | |
| Cove Creek: | | | | | | | | | | | | | | | | | | | | |
| 1 | √ | √ | | | | | | √ | √ | | | | | | | | | | $1.00 | June 1–Sept. 7. |
| 3 | √ | √ | | √ | √ | | | √ | | √ | | | √ | √ | √ | √ | | | 1.50 | June 1–Oct. 1. |
| Devils Fork: | | | | | | | | | | | | | | | | | | | | |
| 1 | √ | √ | | | | √ | √ | √ | √ | | √ | | | | | | | | 2.00 | Year round. |
| Sugar Loaf: | | | | | | | | | | | | | | | | | | | | |
| 1 | √ | √ | √ | √ | | √ | √ | √ | | √ | √ | √ | | | | | | | 4.00 | May 1–Sept. 7. |
| 2 | √ | √ | | | √ | | √ | √ | | √ | | | | | | | √ | √ | 8.00 | June 1–Sept. 7. |
| 3 | √ | √ | | | √ | | | √ | | √ | | | | | √ | √ | | | 1.00 | May 1–Sept. 7. |

[1] 1—Family unit campsite; 2—Group use area; 3—Highly developed day use area.

[2] Fees by type of facilities: 1—Per campsite; 2—Per group; 3—Per car.

Mr. BARTLETT. Remember, by "corps facility," I do not mean new facilities. I mean facilities our people have been using free for years—some built and paid for by the taxpayers almost 30 years ago.

General Morris may be correct in asserting that the Corps of Engineers needs additional funds to maintain adequate recreation facilities. But I suggest to General Morris that there are prescribed methods for Federal agencies to receive appropriations, and contravention of public law and congressional intent is not one of them.

The people of Oklahoma and users of Corps of Engineers lakes throughout the United States are naturally upset and frustrated by the corps interpretation of the law. The proposed fees may not seem large to a lot of people, but to fixed, low-income families, any further expenses can be serious. In my home State there are many families who go to the corps lakes throughout the year primary because they cannot afford other types of recreation. The lake areas are a wholesome place for families to enjoy picnicking, swimming, or hiking and yet not incur any expense. This has been one of

the nice things that Government has furnished for people.

To picnic or hike or launch a boat just once a week in a particular "integrated area" could cost a family as much as $200 per year according to the proposed regulation on fees. According to the corps proposal, to fish from the bank in a particular integrated area 5 days a week throughout the year would cost a retired man $390.

Surely, it was not the intention of Congress to further burden the poor and those of moderate means.

The Corps of Engineers has been proceeding in a hasty and questionable manner. Senator BELLMON and I said in a letter to Maj. Gen. J. W. Morris, Director of Civil Works, Headquarters, Department of Army, dated February 21, 1973, that:

It has come to our attention that the protest period relating to the notice of proposed regulations, Public Law 92-347 was unusually short and did not allow time for meaningful expression of opinions by the public.

In the Tulsa, Oklahoma, area for instance, no public release of the proposed regulations or the protest period was made until two days before the protest period ended.

We strongly urge you to reopen the protest period for thirty days to allow adequately citizens the right to comment before the final regulations are published.

The protest period was extended only 1 week.

In a letter dated February 22, 1973, to Major General Morris from Senator BELLMON and me, we pointed out that the fee criteria of the proposed regulations are inconsistent with the intent of the act and asked—

In order that Congress might have an opportunity to review the proposed user fees and, if necessary, clarify its intent, we respectfully request that implementation of the charges be postponed indefinitely.

At a meeting shortly afterward, our request was denied and we were informed by General Morris that he would within 9 days announce the new corps regulations in Tulsa, Okla., tomorrow, Thursday, March 15. He was not willing to extend the date of finalizing the regulations beyond March 15—making it most difficult to determine the true legislative intent of Public Law 92-347.

Why the big hurry?

Why is there no genuine desire to determine the legislative intent of the act?

Why is the corps taking an action that will prove to be a tremendous burden to the poor and those on low fixed income when it is clear that this was not the intent of Congress? Could it be that the corps' mind is made up and they do not want to be confused with the facts?

I anticipate that some interested persons will see fit to challenge the proposed fees in the courts. I wish them well. However, in the meantime, Senator BELLMON and I are having the Interior Committee staff prepare legislation which even the Corps of Engineers will clearly understand: legislation which will guarantee that our people can enjoy the outdoors without having to pay for day use. I believe our Government can afford this little luxury. Congressman TAYLOR quite appropriately labeled what the corps is preparing to do as petty. A country which spends $269 billion on its budget surely can afford free picnic tables or a free drink of water.

I hope the Corps of Engineers will decide to amend its regulations to eliminate day user fees which are clearly not called for in Public Law 92-347 and which are also tantamount to admission fees which are clearly prohibited.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish time?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished senior Senator from Virginia such time as he may require out of the time allotted to me under the order.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

## FREEDOM OF THE PRESS

Mr. HARRY F. BYRD, JR. Mr. President, there is a great deal of debate these days over freedom of the press. Legislation has been introduced to grant special immunity to newsmen.

The news media itself has varying views as to whether there should be a so-called shield law, and whether such a shield law should be absolute or impartial.

I think one of the best editorials I have read on this subject is an editorial that was published in a small weekly newspaper in the Shenandoah Valley of Virginia. The editorial was published on March 7, 1973, in the Shenandoah Herald in the town of Woodstock, Va. The editor of the Shenandoah Herald is Robert P. Thompson, and the president of the newspaper is D. Lathan Mims, an outstanding newspaperman who is also editor and general manager of the Daily News Record of Harrisonburg, Va.

This editorial by Editor Thompson ends with this statement:

The press is doing very well fighting its own battles—its freedom never has been greater. We should leave well enough alone.

Mr. President, basically that is the view, as I understand it, of Clark Mollenhoff, chief of the Des Moines Register's Washington bureau. I have a page from Editor & Publisher, the trade publication, for March 10, 1973, in which it has a statement relating to this matter.

Mr. Mollenhoff was testifying before a congressional committee and he said he had been an investigative reporter for 30 years, had been called before grand juries and always protected his sources, but he thought the first amendment provided all the protection needed and that "eventually an absolute shield law would would hurt the press because it would promote irresponsibility and lack of accountability."

Mr. President, I am inclined to that view. I am also inclined to the view expressed by the Shenandoah Herald; namely, that the press is doing very well fighting its own battles that its freedom never has been greater and that we should leave well enough alone.

I probably will support any reasonable proposal brought forward by the distinguished Senator from North Carolina (Mr. ERVIN), but I am inclined to the views expressed by the Shenandoah Herald and by Mr. Mollenhoff.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial entitled "Free Press Can Protect Itself," which was published in the Shenandoah Herald.

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

FREE PRESS CAN PROTECT ITSELF

Debate over freedom of the press never has been sedate in the United States of America and, considering the mass of the colliding forces, should we ever expect it to be.

Currrent debate in Congress over whether there should be a national law protecting the right of news media to gather and publish information without revealing its exact source is not an exception from the rule.

It was, however, inevitable that the issue of confidentiality of news sources should reach Congress. Defending or attacking the press is both a popular and a legitimate issue for congressmen—although it also is ironic to reflect on the great number of its own activities that Congress deliberately keeps secret from the public.

The immediate preoccupation of Congress is to determine which of the several "shield laws" before it is most appropriate. These are laws that literally would "shield" sources of news. The subject is critical. There can be no doubt that if a reporter cannot keep his sources confidential the unique free press as we know it cannot survive. If he is forced to expose his informants, either to the government or to a professional press council, the press could soon become a tool of the state. Nevertheless, how best to protect the independence and vitality of the press is a troublesome question.

We believe that the answer can be found in the beliefs of the Founding Fathers, who so often are quoted in the free press debate. Although they may have differed in detail, the men who framed the Bill of Rights agreed in principle. James Madison, who is considered the father of the Bill of Rights, believed in the most liberal protections possible for the press, but not to the extent that deliberate falsehoods would go unpunished. Thomas Jefferson wrote similar beliefs into the Virginia constitution and advocated them for the federal one. William Cushing and John Adams, two of the four drafters of the First Amendment, also averred that "false information about the government should be punished."

All told, the consensus of the Founding Fathers, synthesized by James Wilson, who also helped draft the First Amendment, was that the federal government had no business at all writing laws relating to the press, whether the laws abridged freedom or whether they did not. The press, they believed, should stand on its own feet, like all other citizens.

That is a fair guideline for Congress and the news media today. If we concede at the outset, as we must, that no right in the United States is absolute, any law that Congress considers would sooner or later, and, to some extent, "abridge the freedom of the

press." Even if Congress should try to write some sort of absolute shield law, which is unlikely, the media could still look forward to amendment, alteration and interpretive tempering. Once the federal legalistic camel got his nose into our tent, more of the animal soon would follow.

The press is doing very well fighting its own battles—its freedom never has been greater. We should leave well enough alone.

## TV ANCHORMEN ASSESS WHITE HOUSE POLICY TOWARD NETWORK NEWS

Mr. HARRY F. BYRD, JR. Mr. President, the New York Times on Monday showed a great deal of enterprise in bringing together the four top TV anchormen for a discussion with its editors. The questions and answers were published in the New York Times on Monday. The four TV anchormen were Mr. John Chancellor, Mr. Walter Cronkite, Mr. Harry Reasoner, and Mr. Howard K. Smith. One of the questions propounded by the editors of the New York Times was:

Starting with Vice President Agnew, have the attacks by the administration affected TV coverage in any way?

Reading the replies, one finds that these television commentators feel there has been little, if any, effect adversely on television news casting. For example, Mr. Chancellor's reply to that question as to whether Vice President AGNEW's attacks and other attacks by the administration have affected their television coverage in any way, said:

I don't personally, in my own work and in the network's work, see that there have been any serious changes of any kind.

Harry K. Smith said:

It has no effect whatever. If it does make people think three times instead of twice, I think that's good. In fact, I think five times before I say something.

Mr. Cronkite said:

I think that probably these attacks have helped us pull up our boots a little bit and practice our profession with a little more expertise than we applied before, perhaps. And I think that's probably a good effect.

I think that the greater the power of the news media the greater the need for objectivity. Certainly, the network newscasters have great power to sway and mold public opinion. I think they have a great responsibility to the public to present an objective news picture.

I was impressed with the comments of Mr. Smith and his colleagues that the attacks made on the television commentators by Mr. AGNEW and other persons in the administration had little adverse effect on news reporting.

I think that trained newsmen are well aware of the need to present an objective news report. I think also, however, that newscasters, just as Senators, Congressmen, and Governors, should be subject to criticism in the handling of their responsibilities. They should not be immune from attack by public officials—any more than public officials shall be immune from attack by broadcasters. All of us, I fear, whether in communications or in Congress tend to be prima donnas.

I have been a newspaperman all my life, and I know there is a natural antagonism—maybe too strong a word, but that a word similar to that is appropriate—between the press on the one hand—and by the press, I mean all the media of communication—and public officials on the other.

Each has a different function, so I think it is natural that there would be differences of viewpoint between the two professions, if we can call public life a profession.

Vice President AGNEW made a speech the other day, February 23, 1973, before the Minnesota Newspaper Association at Minneapolis, Minn., which was captioned "The Press and the Presidency." Excerpts from this speech were published in "Human Events" in its issue of March 17.

I ask unanimous consent to insert at this point in the RECORD those excerpts from the speech by Vice President AGNEW, and following that I ask unanimous consent to have inserted in the RECORD the question and answer discussion between the editors of the New York Times and the four newscasters for the national networks.

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

THE PRESS AND THE PRESIDENCY

(By Vice President SPIRO T. AGNEW)

"Washington reporters, with their accurate sense of contemporaneity, always believe that each new administration is plotting an assault on the freedom of the press with a determination and malignity never before seen in the Republic; the iniquities of past Presidents fade quickly in retrospect."

The words just expressed are not my own. Nor are they the words of any other member of the Nixon Administration. They were written in 1965 by a member of the Kennedy Administration, Arthur Schlesinger. In his book, *A Thousand Days*, Schlesinger went on to describe the prevailing circumstances of White House-press relations a decade ago:

"So for a time in 1962," wrote the Kennedy Administration's house historian, "they [Washington reporters] proclaimed a deep sense of grievance over the 'hypersensitivity' in the President and the Administration. For its part," continued Schlesinger, "the Administration used to wonder about the hypersensitivity of reporters, who seemed to feel that, if a government official dared disagree with a news story, it was an attempt to 'manage' news.

"When *Look* came out with a piece detailing the indignities which newspapermen were suffering under the reign of terror," wrote Schlesinger, "Kennedy laughed and remarked, 'this is the best example of paranoia I have seen from those fellows yet.'"

Now, as you may have guessed, Arthur Schlesinger does not happen to be my favorite authority on the American past. Nevertheless, I believe his first-hand view of relations between the Kennedy Administration and the press 10 years ago deserve the attention of this audience and all those truly interested in maintaining a free and responsible American Fourth Estate.

I say this because, in an age of revisionism, what we need most desperately in understanding the problems of our time is an accurate perspective.

My remarks tonight therefore are directed at bringing some perspective to the questions uppermost in the minds of this audience and the American Fourth Estate generally. Those questions are:

Is there, to borrow Schlesinger's phrase, a "reign of terror" against the press now going on in Washington?

In the cliché-ology of the 1970s, are the Nixon Administration's press policies producing a "chilling effect" on the 1st Amendment rights?

Is the people's right to know in jeopardy today because this Administration is "plotting an assault on the freedom of the press with a determination and malignity never before seen in the Republic"?

The answer to those questions, ladies and gentlemen of the press, is an emphatic "No."

Certainly, like national Administrations throughout our history, the Nixon Administration has had and will no doubt continue to have its differences with the press. That adversary relationship, as we know, is not only traditional but healthy.

A pliant press is not carrying out its responsibility as an independent guardian of the public interest.

Neither is a government that is pliant to the pressures of day-to-day headlines or editorial criticism necessarily carrying out its long-range responsibilities to the national interest.

Indeed, recent days—with the end of the American involvement in Vietnam and the long awaited return of our prisoners of war—have borne out the wisdom of an American President who, while not insensitive to day-to-day editorial opinion, nevertheless had the courage and perseverance to stay on a course he thought in the best interest of the nation.

When editorial and Administration opinions differ, why cannot the differences be accepted as sincere judgments by both sides?

Why, a decade and two administrations later, must there remain what President Kennedy once described as "paranoia" in the reaction of some members of the press to government's role in this adversary relationship?

Why cannot a public official criticize the editorial advocates for emphasizing that which supports their opinions and playing down that which contradicts them? After all, editors are only human. They are subject to the same business pressures, need for peer approval and pride in the efficacy of their opinions that affect the rest of us fallible mortals.

Yet some prestigious media spokesmen can be read and heard almost daily expressing fear for the future of the 1st Amendment. They assert that the American people are being kept in the dark by a receptive government. A national network newsman has referred to an Administration "conspiracy" against the people's right to know.

It is hard to find any factual basis for this hysteria. Almost nothing goes on in government that is not examined, re-examined, plumbed, analyzed, guessed about, criticized and caricatured by the media. All this effects the American people, as it should. But that doesn't mean that they necessarily accept it as revealed truth. They are not going to automatically embrace a Reasoner dissertation, a Rowan column or a Herblock cartoon any more than they automatically embrace a Nixon or a McGovern thesis.

Under our system, the exceptional good judgment of the American people—a people accustomed since the beginnings of our government to demanding the facts—represents the first line of defense against potential assault on the 1st Amendment or any other of our precious constitutional freedoms.

Resort to hyperbole and the indiscriminate application of terms such as "repression" and "conspiracy" only undermines the credibility of such critics with a general public which, as Schlesinger noted, has heard it all before—during the Kennedy Administration, the Johnson Administration, and now the Nixon Administration.

In this regard, results of a recent Alfred Dupont-Columbia University Survey of Broadcast Journalism indicate a loss of credibility by television network news among the viewing public. But while, predictably, those who conducted the survey try to trace this development to Administration criticism of the media. I would suggest that in the television news industry's response to these results a degree of self-analysis rather than a search for outside scapegoats would seem to be in order.

The determination and maintenance of acceptable professional standards is essential to the preservation of high-quality journalism. If media representatives wish to invoke a privilege unique to their profession, the profession itself must promulgate and enforce standards for the protection of the general community. Otherwise, individuals will have no defense against character assaults through the willful or negligent use of unidentified sources. . . .

The fact is that the Nixon Administration is no more desirous of nor more capable of curtailing freedom of the press in America than any of its predecessors. On the contrary, despite the exaggerated and ill-founded charges of past decades regarding various Administrations' reigns of terror, news coverage of government today is more intensive than ever before in American history.

However, an increase in intensity of coverage does not necessarily mean an increase in information. The new "advocacy journalism" often foreswears objectivity in the interest of what the reporter perceives to be a high moral purpose. The effect of a reporter's zealous dedication to a cause results in a focus of heat more often than light.

The antidote to all this is not more thousands of words supportive of a reporter's personal conclusions, but diversity of opinion. Such diversity provides the best protection against the danger of censorship—whether it be suppression of information by the corporate giants of the national media.

But let me get to the fundamental issue: The major areas of contention between government and the press today do not truly involve incursions of government power into press rights and prerogatives. Rather, they involve the point at which the rights and prerogatives of a free press interface those of other institutions and rights in a free society.

Such questions are complex. They concern 1st Amendment rights and interests about which you, as journalists, are vitally concerned, as well as rights and interests accorded not only members of the Fourth Estate but all Americans under the other parts of the Constitution.

In addition, they concern the fundamental interest of society in the proper administration of justice under a system providing due process.

It would therefore seem that, in any discussion regarding these conflicting rights and interests, we can best serve the public by foregoing oversimplification and the easy stereotype.

Thus, a speech by a government official discussing these problems does not constitute a threat to 1st Amendment rights. Nor do two speeches, despite what that network newsman may believe, constitute a conspiracy.

Indeed, the discourse between government and Fourth Estate in resolving such problems must necessarily be a dialogue, not a monologue. And a dialogue entitles a government official, as much as a network newsman, to tell the American people the way *he* thinks it is on any given day.

However, the most extreme example of such oversimplification of rights and responsibilities, in my opinion, is to be found in the contention of some adherents of a so-called "New Journalism" that they are answerable to a supra-institutional code, independent of the free society in which they operate.

Yet no institution in a free society can operate in a vacuum. The interests of no single institution can be allowed to supersede the interests of all other institutions within that society.

We do not, to paraphrase Orwell, live in a system wherein all institutional rights and interests are equal, but some are more equal than others.

Nor does any institution—whether of government or the press—have a monopoly on truth or on the zeal to pursue truth in the public interest.

The genius of America's free society—that which reflects the philosophy of our revolutionary Founding Fathers—is the absence of such a monopoly.

The framers of our Constitution did not define truth and justice. They sought not to create a lasting frame-work for a society in which the quest for truth and justice could be pursued by all.

For nearly two centuries, our government, through periods of crisis and challenge, has represented the mechanism by which such a society could flourish.

Those who comprise that government at any given moment in history are only temporary repositories of a public trust, responsible to the people and the principles of that society.

So, too, does the American Fourth Estate have a responsibility to the people and to those principles. So, too, are the members of this audience temporary repositories of a trust handed down by American editors and journalists through the decades.

In this, the government and the press of a free people have in common a primarily important mission. From the Administration of George Washington to the Administration of Richard Nixon, we have been and will continue to be, despite our adversary relationship, partners in a vital common endeavor: to maintain the framework of a free society in which all men and women can pursue truth and justice.

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## TV'S TOP ANCHORMEN ASSESS WHITE HOUSE POLICY TOWARD NETWORK NEWS

Q.: We'd like to start off by asking you about Clay T. Whitehead and the great deal of comment generated by his Indianapolis speech. What do you think his essential purpose was in combining the promise of a liberalized license-renewal bill for station owners with an attack on "ideological plugola" and "elitist gossip" on network news?

CHANCELLOR. When he made that speech, a lot of people reacted very strongly. There were people saying, "The sky is falling! The sky is falling!" In looking into it, there are a couple of things we have to keep in mind. One is that the people in charge of writing up this legislation—and I believe it has not arrived at the Congress yet—don't see how any proposals can be made to get machinery that would effectively monitor news programs before they come out. And they told us that's not their intent.

The second thing is that the threat to the local station owner has to be thought out. And my view of that is if the F.C.C. should ever decide to take a license away from a station owner because the station carried the wrong kind of news, the chances are very much that it would be overturned in the courts.

And I think we're talking about, from the station owner's point of view, a very remote possibility. What we're left with is another example of the Administration issuing vague threats about us and using some of those speeches as a platform for code words like "plugola" and "gossip."

But as far as the broadcasting industry is concerned, I don't see an awful lot in this practically. I do sense a kind of a colder wind, but we've had a lot of that.

CRONKITE. I don't think it's just enough to dismiss it as a colder wind, John, inasmuch as it is an escalation of the continuing attacks against us. I'd agree with you on the technical aspects of it—the problem of drawing legislation that could do the job that Dr. Whitehead suggested he wanted done. I think that's probably why the bill is still kicking around the halls in Washington. They're trying to find a formula under which they can make this thing work in some practical way.

I think far more important is what it indicates—that there's no retreat on the part of the Administration from what I believe to be its firm intent to drag down the press and all of us in broadcast journalism as well. And this is another step to attempt to build a backwash of protest from our affiliate stations to our operations in the network and thus create an added area of influence and pressure against us.

REASONER. I don't know what he [Whitehead] meant and I don't know that he did. I don't think of a conspiracy in terms of the Government planning step by step what they're doing against the press, any more than we have a regular meeting to plan what we'll lead with that night among the three networks, The New York Times and The Washington Post.

But I think [there]is an atmosphere within the Administration in which this kind of thing is encouraged by anybody who has a bent for it and has a role. In other words, I don't think President Nixon or anybody talked to Dr. Whitehead ahead of time. I suspect that the proposal for the new legislation grew up in a very bureaucratic way, but nobody who had anything to do with it is unconscious of the general Administration attitude.

SMITH. I think, with Walter, that it is to be taken seriously. I think, with Harry, that Mr. Whitehead didn't know fully what he was talking about—as Senator [John O.] Pastore [Democrat of Rhode Island] proved when he dismantled him in public at the hearings [last month on the license-renewal bill].

But it's a quantum jump. I did not disagree or oppose Agnew's original speech [in November, 1969, assailing "bias" in some newspapers and networks] as much as I think Walter did. It seems to me that if we give them hell they've got the right to give us hell. And he proposed no structural changes in the broadcasting-industry part. But Whitehead did. And they're going to have one definite effect. Getting local stations to take documentaries in the United States is extremely hard. In Britain they have mass audiences for documentaries. We have to fight our way.

He will give an excuse to many local stations who didn't want to take documentaries in the first place, not to take documentaries they would like to replace with reruns of "I Love Lucy." I think they can't do much about the evening news, because if Harry Reasoner is about to utter a piece of elitist gossip, they will never know until he's done it. It's too late to turn him off.

CRONKITE. Sometimes Harry doesn't know it, too.

CHANCELLOR. I'd like to disagree with Reasoner. I do think that at the higher levels of the White House there was a clear knowledge of what the Whitehead proposal was. I can't really quite believe that an Administration so sophisticated in the mechanics of American media would not realize the implications of that speech and discuss it at a very high level.

I don't know if the President had anything to do with it personally. But certainly

he bears a very strong responsibility for what his man said.

CRONKITE. I go along with that, too. I also wouldn't use the word "conspiracy." I used it once and I'm sorry I did.

But I believe that certainly this is all part of a basic plan. And if the plan isn't laid out on paper, step by step, item by item and time by time, at least the philosophy runs through the Administration. And I cannot believe that this isn't part of the general movement in that direction.

Q. Starting with Vice President Agnew, have the attacks by the Administration affected TV coverage in any way?

CHANCELLOR. I saw a certain drawing back, I think, in being more careful on the part of journalism in America generally, after the Agnew attacks.

I think people in our business, before they use a certain word or phrase, ought to think twice about it. And I think for a period there people were thinking three times. I don't personally, in my own work and in the network's work, see that there have been any serious changes of any kind.

SMITH. It has no effect whatever. If it does make people think three times instead of twice I think that's good. In fact, I think five times before I say something.

CRONKITE. I don't think one time frequently before saying something, I'd have to admit. But that's not good journalism. We should be very, very careful. And I think that probably these attacks have helped us pull up our boots a little bit and practice our profession with a little more expertise than we applied before, perhaps. And I think that that's probably a good effect.

But it's a side effect from what the intent was, and I cannot agree in any way with the intent. But to answer your question more directly, has it affected us as to the courage with which we tackle the Administration? I think that the clear indications are that that is not the case. And we're in trouble because of it. Watergate and the grain-scandals stories particularly, during the campaign, show that we have not been intimidated to that extent.

Now I would not say, however, that it has not had a subconscious effect, and that worries me a great deal. I try to analyze my own emotions about these things when a matter comes up to us for decision. The first indication to me is that I think I want to pull back a little bit, kind of throw up my dukes and take a quick step back before I launch out again. And that worries me, that reflex action. It indicates that something subconsciously is going on.

REASONER. I think there's another effect which has been very real, and which I think may have been in the minds of some of the people before Mr. Agnew made his speech—How much time have we spent since November, 1969, in just this kind of a meeting? Or in various kinds of introspection? I don't know what per cent of our total energies—but 10 per cent maybe, or 20 per cent, that should be occupied in more direct responsibilities.

CHANCELLOR. There's something that needs to be added here, and that is that we are living in a slightly different climate for journalism in America today than we did before the Vice President and this Administration made their attacks on us.

One of the changes that I perceive is that we may all be doing our jobs better because the Administration has accused us of being biased against them. And, therefore, I think a lot of editors all over the country—people who have a professional conscience—are going to make sure that their reputations remain intact in this period. I think that there are probably more column inches on Watergate than there might have been otherwise.

But there is more attention paid to the Administration because we are trying to answer to our own ethical standards—those standards having been brought into question by the Administration. It was, in fact, more relaxed in previous Administrations, and I think in some ways we may be doing a better job.

SMITH. One of the points Agnew made was "instant commentary." I was delighted in talking with Eric Sevareid the day before yesterday to find out he agreed with me—he hates to do instant commentary on something that's just broken, of which we have no warning. And I would rather like to dispense with instant commentaries and have a little while to think and then give a sensible commentary. So I think it might have helped in that respect.

Q. Even though they may not have changed the way you present things, to what extent have the Agnew and Whitehead speeches damaged the credibility of network news among your listeners?

CHANCELLOR. The mail that came to us in large amounts after the first Agnew speech was about half for us and half against us. Since then there has been a change. And the change is that the Vice President and this Administration have given a sort of legitimacy to views that millions of Americans held and had not articulated before they came out in the open with it.

For a long time in the country, people got their news about the country from newspapers, and not all the newspapers were as good as The New York Times. And not all those papers had readers like The New York Times. So that when I was a young man, people read the sports pages and the comics and occasionally looked at the front page and the editorial page, but got the information they wanted to get when they wanted to get it about their society.

Television came along and changed all that. Now, after network television news began to be a real mechanism in the country, it was serious news put out by serious men. And for the first time the American people were systematically exposed every night to news that comes in a brutal way. On television you can't switch around. If you don't want to read about the ax murders you don't have to in a newspaper. On television you take it or you leave it off completely.

This made a lot of people unhappy with the news they got. The news hadn't changed all that much, although the society was changing, but it was the manner in which they got it. And there were vague and unspecified feelings about the news, and people didn't much like it.

I remember we all then began to get, "Why don't you put a little more good news on, it's too bad." And into that attitude came this Administration, the President and the Vice President, saying that the news isn't any good because those people aren't any good.

And this is the change that has come about. They now have for their fears, for their dissatisfaction about the news—they now can look to the White House, which says, "Yes, you're right, and it's those bad people who are doing it." And that's been serious.

SMITH. May I say that I think that if we give them hell they're entitled to give us hell, as long as they don't suggest restrictions on freedom.

CRONKITE. But unfortunately they have coupled this with suggestions and restrictions on freedom.

SMITH. The last batch of subpoenas [from a variety of sources against newspapermen around the country] worries me more than anything.

Q.: Have the latest attacks been possible only because Spiro Agnew planted the seeds of doubt about the credibility of the press, particularly the Establishment press, in the minds of the American people years before?

SMITH. May I observe that we've planted seeds of doubt in the public's mind about the credibility of people in government. And I don't think it's bad if they criticize us. I don't think we're above criticism, as long as there are no specific restrictions on freedom of the press, which I think was basically the position of Agnew.

But I think we're in a new phase here now, which is worrisome. I don't think that was. There should be doubts about The New York Times and there should be doubts about us.

REASONER. I think that what goes to your question is: Has there been a kind of an adversary attitude in audiences that was not there before? A lot of the mail would say "I'm leaving you and going back to Cronkite because you're a liar," or the other way around—whether one network is more fair than the other.

There's a feeling among a certain segment of the audience that the networks are either their adversaries or their friends in American social life. It's a point which even Senator Pastore misses. In his dialogue with Dr. Whitehead he talked about the right of reporters to give their "plugola" just as much as the President. And neither he nor Dr. Whitehead conceded the possibility, or apparently recognized the possibility, that we aren't plugola-ing anything.

CRONKITE. What I object to in the criticism from the White House is not the fact that there is criticism, not even the fact that they would try to raise their own credibility by attacking ours. But what has happened is that this Administration, through what I believe to be a considered and concerted campaign, has managed to politicize the issue of the press vs. the Administration to the point that now we come to the real crunch, which is the matter of our actual freedoms to operate, our freedom to criticize, our right to do that. Our ability to function as journalists without harassment by an offended grand jury, whether it be county, state or Federal, or an investigative unit of the Federal Government.

We've come to that dangerous state now with the press in a position that to defend the right of the people to know—that is, to defend freedom of speech and press—is to somehow or other be anti-Administration.

Thus politicizing the issue, they have again proved to be highly divisive in this society, and have created two Americas—one that believes in freedom of speech and press and one that doesn't.

That's a vast oversimplification, of course, but still, when you get to the heart of it, we're down to that kind of a basic, and that is what concerns me today—the trend in this direction.

CHANCELLOR. I support Walter in this because the subpoenas have gone mainly to reporters for organizations that have been critical of the Nixon Administration. I don't see them going after reporters who've worked on stories the Administration regards as favorable.

Going beyond that, I think that there is a feeling, perhaps on the part of the President, surely on some of his senior aides, that centrally produced information in the American society is somehow wrong. That The New York Times, which runs a large supplementary-wire service; The Los Angeles Times and The Washington Post, which run a large wire service; that the networks which produce for the country's centrally produced news, are somehow wrong for the country.

I think that there are people in the White House who would like to see a fragmentation of the way in which we get news in America, that they would be more comfortable with that news, and that this is not necessarily just being a Republican or a Democrat, but that this would suit their attitudes about the

country. I think they'd like to have revenue sharing in information. They'd like to put the money on the stump and have a lot of small localized operations telling the American people what's going on.

Q: To pursue that point about fragmentation of news what's wrong with that?

SMITH. It's only not wrong, it's happening. In this city you have three network news programs per evening, but you have many more non-network news programs. It's true in Washington and most big cities. So there's not just three sources of information on television. And local programs often have higher ratings in their locality than network programs can.

CHANCELLOR. I don't see how, in a country this size with problems of Federal and state relationships, with an Executive growing more powerful every day, with foreign relations taking place at sometimes blinding speed and in great secrecy, that you can get along in a society based on an informed public without having centrally—somebody has to produce it centrally. Every other country does it.

CRONKITE. I would suggest that we would be well off in this country if we had a good A.P. or U.P.I. of television news, if there were a way that a local station could indeed produce its newspaper of the air.

I don't think, however, that even with that service, that this would mean that television network news should not continue to function. Unfortunately, they [local stations] cannot do the job today and they're not very likely to be willing to pay the price to organize and to provide a service adequate to putting out a full broadcast with all of the national and international news included, on a daily basis.

REASONER. With all due respect to The Times, this is the first time in history that we've had the equivalent of national newspapers—the three network news broadcasts. A client paper for The Times or The Post or any body else can pick and choose. But an affiliate carries A.B.C., C.B.S. or N.B.C.—and in most American cities that's the only alternative to the paper.

SMITH. A main source of information and opinion for upper-middle-class Americans is news magazines. There are only three of those. There have been no complaints of them.

Q. What do you see as the most severe limitations on what you're doing? And how would you remedy them?

CRONKITE. I think it's a combination of things. You have to bring what the limitations are into focus. And the severe one, to my mind, is the limitation of time. Now I do not think that you can expand television-network news indefinitely, or any other news. I can't expect people to sit there four or five hours a night to get all the news they need. They're never going to get all the news they need by television. They're going to have to go to print for the bulk of the information each day.

But if we could expand to an hour, my format for that would be to take most of the items we do—not the film pieces necessarily, but the pieces that I do in just the 20-second version of something that happened in a Washington hearing—and I'd expand it to 40 seconds, to get a couple of parenthetical phrases in there, a couple of hanging participial clauses in there, that might explain that story just a little bit better than I'm able to explain it in 20 seconds.

If we could do that, we would find a great deal of the problems that we have in being misunderstood by the public—the fact that we seem to be writing headlines, and we're only getting headlines—and we all know that headlines can be misinterpreted—we'd at least get the second deck of the headline into that story. And I think that would help.

Now, what we're never going to have, I'm afraid, is our own news-gathering staff to the depth that I would like to see it, to make us reasonably independent of the press services. And, as a consequence, we have to go on the air with a lot of material that is handed to us by a press agency. I wish that were not so.

Q. Why can't you have a staff to do that?

CRONKITE. Because the outlet, the half-hour, the limited time, makes it totally uneconomic to have a staffer in Kansas City, for instance, when we get one story in two years from Kansas City. That's just not the best way to use your resources. And we don't have the resources.

Q. Couldn't you have a special staff to do investigative reporting?

CRONKITE. We do have that. I'd definitely like to have more.

REASONER. This is partly psychological, isn't it, Walter? I remember the last scoop I got as a reporter was in 1959. And I discussed it with the executive producer of the C.B.S. evening news and he said it's a hell of a story. He said, "Let's leak it to the paper and we'll use it tomorrow night." We didn't want to go with it at that point, we were still digesting and editing and repeating the newspapers. This, I think, has changed very greatly.

Q. Isn't it true that when network news was expanded from 15 minutes to a half hour, the extra 15 minutes was largely taken up with feature type of stuff?

CRONKITE. No. I think that's absolutely false.

CHANCELLOR. People used to say to me, "What will you do at N.B.C. if C.B.S. goes to an hour?" And my answer was always, "Go to 15 minutes." I think that the half-hour news program has a sort of proper shape. I'm not sure that people in the United States will spend an hour looking at serious news every night. But I subscribe absolutely to what Walter says about more staff and better facilities with which to do our work.

Q. Do you feel that some of the attacks by the Government might be occasioned by the fact that you are stars and personalities to the public?

SMITH. My guess would be that to some extent that's true, that if we were anonymous people who change as the B.B.C. announcers do—every program you have a different man, and you don't announce his name anymore—that would probably get less resentment. But they have people to fixate on with us there, and I think that probably adds a little.

REASONER. Surveys keep showing that with all of the stirring-up of people, that still if you go out and ask people who they believe, Walter would rate substantially ahead of the Vice President or any politician.

CRONKITE. I also noticed in the same poll they threw out a name—Joe Smith or something—of a nonexistent individual, and he came in higher than a lot of Senators. It shows the validity is questionable.

But I think I agree that this is a factor unquestionably. If you can focus the attack on individuals it helps. Now they haven't done that to this extent in broadcasting. I think that in the public statements they haven't come down to aiming at Walter Cronkite or Harry Reasoner, John Chancellor or Howard Smith.

CHANCELLOR. I really think that we're talking about something that goes beyond personalities and goes into an institutional dispute. It's two institutions—the Administation and the national press in this country. And I think if we were all automatons, if you had robots giving the news, they would then be attacking the writers of that news, the producers and editors of that news.

Q.: To what extent are the four of you responsible for the selection of stories?

CHANCELLOR. I work with an executive producer and he and his staff have a lot to do with choosing the stories that go on the air. Where I come into it is in the organization of that, an occasional suggestion, which I hope is followed through, and in pretty much the layout of the program during a particular day. And also the copy that goes into it as opposed to the filmed stories and features we have.

CRONKITE. I think the only place that I do not have a direct element of control is in the actual editing of film. That's because of the time problem. It's something one man simply can't do and also handle the flow of the news during the day.

REASONER. It would be fairly rare that I would make up the line-up. I don't know how Howard works it in Washington, but I'm there, I read the wires, I read the transcript of what film is in and available, and I would assume I have substantial influence, although I don't, for instance, participate in the 11 o'clock meeting that says what's going to happen.

SMITH. I probably have less influence, Harry, because of geography and difficulty of communicating. But whenever I object strongly to something I make that known to our producer, who can stay close to things.

REASONER. Also it's a big news organization. I think it would be pretentious. We've gone past the "I'm so-and-so and here's the news I covered today."

CRONKITE. For every person who thinks that there's the cab driver who, when you're going to work at 9:30 in the morning, says, "What are you doing going in now? You're not on till 7 o'clock," there are just as many people who believe we do nothing, that we're news readers. And I'm terribly interested in disabusing them of that fact.

Q.: What's the case either for or against TV newsmen getting exactly the same First Amendment privileges as print newsmen?

REASONER. The case is all for it. There is no case against it.

CHANCELLOR. We feel it goes down to anybody who has anything to do with getting the news on the air.

CRONKITE. I think the phoniest argument in the world is that because we are regulated, therefore we do not have First Amendment rights. I just can't follow the legal labyrinth that comes to that conclusion. It makes no sense to me.

Q.: Are you doing anything about fighting for this?

CHANCELLOR. I think most of our bosses have testified for the most complete kind of embracing shield law. And if asked I'll spare no effort. I really feel very strongly about this because it applies to us as well as to newspapermen. What we seem to be getting to in the country now is that if I want to talk to somebody privately and confidentially I have to say, "Anything that you may say to me may be used in evidence against you."

SMITH. Or, "I may be willing to go to jail." You could say that, you know. Let's have some dissent in this. I'm against the shield law. Unless things get a lot worse than they are, I don't want a shield law for anybody. I think it involves too many complexities that haven't been thought out.

For one thing, you've got to define who a reporter is. The so-called underground press, some newsletters. If you said that anybody who gives news out, what's to prevent a mobster from writing a newsletter, and saying, "I'm a journalist; I can't testify"?

I think ambiguity has its value. The British have been ambiguous about a Constitution all their history and it's worked. And I think we should leave the First Amendment

these and fight each case one by one. We're not alone. Fifty bills have been introduced in Congress on our behalf.

CRONKITE. I'm opposed to any shield law that has conditions. I'm an absolutist in this regard and I take a little different position than Howard here. I believe that anything short of an absolute privilege is dangerous—very dangerous. It hands the Congress, it would seem, the right to pass laws regarding freedoms of speech and press. I don't like that part of the absolute law. But the Supreme Court in the Caldwell case invited the legislation, it seems, and perhaps that's the way to do it—with an absolute privilege. But anything short of that is highly dangerous.

REASONER. I was going to say that any law except unconditionally—and you aren't going to get an unconditional law—any other law is limiting.

SMITH. I think an absolute law is bad, too, if I can continue this dissent. It means, theoretically, that you can be a witness to a murder and you could not be required to testify. You may be the only witness to a murder. It means an experience like I had in Birmingham.

When I left C.B.S. we were doing a documentary on Birmingham. And I was tipped off that they were going to beat the hell out of the First Freedom Riders. I went to the bus station and I watched this phenomenon of the police leaving the streets, all the patrol cars leaving the streets, and these hoodlums taking over. The buses arrived. They climbed in. They beat these people.

I met one of them in Flint, Mich., the other day. He's hospitalized for life. He's paralyzed. Another had 26 stitches taken in his face.

I knew who was behind it. Now I think I should have been subpoenaed. Well, I didn't wait. I volunteered.

CRONKITE. That's the point, Howard. I think that the number of cases where you would have abuse of an absolute privilege would be very rare compared to the freedom to report, which would be granted by absolute privilege.

I would rather have the people protected by freedom to report and accept a few abuses where somebody would not volunteer the information, because I would assume in almost 99 cases out of 100, a reporter is going to cooperate to the extent of giving information.

Mr. HARRY F. BYRD, JR. I thank the Senator from West Virginia, and yield back to the Senator from West Virginia the balance of the time.

Mr. ROBERT C. BYRD. Mr. President, the Senator is welcome, and I yield back any time that may be remaining.

## TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 2 p.m., with statements therein limited to 5 minutes each.

## RESOLUTIONS ADOPTED BY HENRICO AND CHESTERFIELD COUNTY COUNCILS ON SCHOOL BUSING

Mr. HARRY F. BYRD, JR. Mr. President, I have paid tribute before to the dedicated citizens of the Commonwealth of Virginia who have consistently opposed compulsory busing of our schoolchildren for the purpose of creating an artificial racial balance in the schools.

Today I want to give special attention to the Henrico County Council of PTA's, a group of parents whose paramount concern is a quality education for their children and all the children of Henrico.

Monday I spoke with six of their representatives, along with their able Congressman, the Honorable DAVE SATTERFIELD, Mr. William S. Hanner, Mrs. R. E. Moser, Mr. James D. Rowe, Mrs. E. E. Vesley, Mrs. H. B. Arnold and Mr. R. N. Martin reemphasized their commitment to their children, to the members of their organization and to the people of Virginia—a commitment to preserve the concept of neighborhood schools and to put an end to the educational scourge of forced busing.

They also conveyed to me the sentiments of the Virginia Congress of Parents and Teachers. This statewide organization has passed a resolution reaffirming its opposition to the concept of busing for the purpose of achieving an artificial racial balance. The parents and teachers felt that compulsory busing is not compatible with the concept of quality educational programs.

The Virginia Congress of Parents and Teachers also passed a resolution in support of Senate Joint Resolution 106, the proposal Senator ALLEN of Alabama, Senator THURMOND of South Carolina and I cosponsored in the 92d Congress, to provide for fixed tenure for Federal judges and to make them subject to periodic reconfirmation. They felt, as we do, that the attacks on our neighborhood schools have been underwritten by some outrageous and irresponsible decisions of segments of our Federal judiciary—a judiciary accountable to no one—and one in which some judges have consistently ignored the principle of judicial restraint for the purpose of implementing their own personal social concepts and not those of constitutional or statutory law.

This measure has been reintroduced by me in this session as Senate Joint Resolution 13 and is cosponsored by Senators ALLEN, THURMOND, TALMADGE, and NUNN.

Mr. President, I salute the Virginia Congress of Parents and Teachers for the courage of its convictions.

And I again say to my colleagues—affirmative action by Congress to end compulsory busing is long overdue.

Affirmative action to make the Federal judiciary more accountable and to restore a balance to our Federal Government is long overdue.

We must act—and I pledge my support to the proposition that we shall act, and soon—to protect our form of government, our educational system, and, most of all, a sound heritage for our children.

Mr. President, I ask unanimous consent that Resolution No. 5 of the Virginia Congress of Parents and Teachers, submitted by the Henrico County Council of PTA's, and Resolution No. 6, submitted by the Chesterfield County Council, A.M. Davis Elementary PTA and Beulah Elementary PTA, be printed in the RECORD at this point.

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

SIXTY-SEVENTH ANNUAL CONVENTION, VIRGINIA CONGRESS OF PARENTS AND TEACHERS

Resolution Number 5: Submitted by Henrico County Council: passed.

Whereas, no human being is infallible; and

Whereas, the United States Congress, in Joint Senate and House Resolution No. 106, is considering legislation limiting the term of appointment of federal judges to eight years; and

Whereas, such legislation will provide the opportunity to periodically review judicial appointments; be it therefore

Resolved, that the Virginia PTA supports Joint Senate and House Resolution No. 106 in principle.

Note: Resolution No. 106 was entered May 19, 1972. The legislation, of necessity, calls for a constitutional amendment.

Resolution Number 6: Submitted as a combined resolution by Chesterfield County Council, A. M. Davis Elementary PTA, and Beulah Elementary PTA: passed.

Whereas, the program of the National Congress of Parents and Teachers is to promote the welfare of all children and youth in the home, school, church, and community; and

Whereas, the attainment of these objectives is the responsibility of each state congress and local unit; and

Whereas, we support quality educational programs to enable all children to attain their maximum potential without regard for race, creed, religion, or national origin; be it therefore

Resolved, that the Virginia PTA reaffirm its position on the neighborhood school concept that no child shall be bused to achieve an artificial racial balance, and; be it further

Resolved, that this resolution be communicated to the President of the United States, the Governor of Virginia, Congressmen of the United States, General Assemblymen of Virginia, the President of the National Congress of Parents and Teachers, and to the Presidents of the fifty-two state congresses; and, be it further

Resolved, that the Virginia PTA urge all local units to work toward the improvement of neighborhood schools, regardless of their location, so that a program of quality education is available to every child.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, is there any time left from the time of the assistant majority leader?

The PRESIDING OFFICER. The assistant majority leader's time has all been used. The Chair would advise the distinguished majority leader, the Senator from Montana, that we are still in the period for the transaction of routine morning business, in which 5-minute speeches are permitted.

## DESIGNATION OF SENATOR HUGHES TO RESPOND TO ADMINISTRATION'S MESSAGE ON CRIME AND DRUG ABUSE

Mr. MANSFIELD. Mr. President, on behalf of the joint House-Senate Democratic leadership, I am glad to state that the distinguished Senator from Iowa (Mr. HUGHES) has been designated by

the leadership of the congressional majority in both Houses to deliver the response to the administration's message on crime and drug abuse.

Senator HUGHES' message will be broadcast over all four radio networks at varying times early Saturday afternoon, March 17. The radio message, to be about 12 minutes in length, should be considered a reply to the latest segment of the President's state of the Union message delivered, I believe, last Saturday.

Senator HUGHES, as chairman of the Senate Subcommittee on Alcoholism and Narcotics, has been a strong voice in the Congress for fighting alcoholism and drug abuse in this country, and is known as a respected expert in these fields.

Senator HUGHES was the author and chief sponsor of the Drug Abuse Office and Treatment Act of 1972, which pioneered Federal efforts to combat drug abuse in America.

Senator HUGHES also drafted the Comprehensive Alcohol Abuse and Alcohol Prevention, Treatement and Rehabilitation Act of 1970, which won unanimous approval of both Houses of Congress and was hailed as a landmark in Federal legislation for coping with one of the Nation's major health problems.

Senator HUGHES follows in the distinguished footsteps of Senator PROXMIRE of Wisconsin, Senator RIBICOFF of Connecticut, and Senator MONDALE of Minnesota, all of whom have answered the segmentary state of the Union messages previously given by the President of the United States, and they have done so at the request of the joint Democratic leadership of both Houses, as is Senator HUGHES doing this coming weekend. Also, I would say that Members of the House, at the request of the joint Democratic leadership, are taking up their share of the responsibility in presenting the Democratic point of view as the occasion warrants.

## QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

## ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, after the recognition of the two leaders or their designees under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the following order: MANSFIELD, ROBERT C. BYRD, JACKSON, RIBICOFF, JAVITS, GURNEY, and HARRY F. BYRD, JR.

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

## QUORUM CALL

The PRESIDING OFFICER. Is there further morning business?

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

## RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:40 p.m.

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

Thereupon, at 12:56 p.m., the Senate took a recess until 1:40 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. JOHNSTON).

## MESSAGES FROM THE PRESIDENT

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

## FEDERAL SYSTEM OF CRIMINAL JUSTICE—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. JOHNSTON) laid before the Senate a message from the President of the United States, which was referred to the Committee on the Judiciary. The message is as follows:

*To the Congress of the United States:*

This sixth message to the Congress on the State of the Union concerns our Federal system of criminal justice. It discusses both the progress we have made in improving that system and the additional steps we must take to consolidate our accomplishments and to further our efforts to achieve a safe, just, and law-abiding society.

In the period from 1960 to 1968 serious crime in the United States increased by 122 percent according to the FBI's Uniform Crime Index. The rate of increase accelerated each year until it reached a peak of 17 percent in 1968.

In 1968 one major public opinion poll showed that Americans considered lawlessness to be the top domestic problem facing the Nation. Another poll showed that four out of five Americans believed that "Law and order has broken down in this country." There was a very real fear that crime and violence were becoming a threat to the stability of our society.

The decade of the 1960s was characterized in many quarters by a growing sense of permissiveness in America—as well intentioned as it was poorly reasoned—in which many people were reluctant to take the steps necessary to control crime. It is no coincidence that within a few years' time, America experienced a crime wave that threatened to become uncontrollable.

This Administration came to office in 1969 with the conviction that the integrity of our free institutions demanded stronger and firmer crime control. I promised that the wave of crime would not be the wave of the future. An all-out attack was mounted against crime in the United States.

—The manpower of Federal enforcement and prosecution agencies was increased.

—New legislation was proposed and passed by the Congress to put teeth into Federal enforcement efforts against organized crime, drug trafficking, and crime in the District of Columbia.

—Federal financial aid to State and local criminal justice systems—a forerunner of revenue sharing—was greatly expanded through Administration budgeting and Congressional appropriations, reaching a total of $1.5 billion in the three fiscal years from 1970 through 1972.

These steps marked a clear departure from the philosophy which had come to dominate Federal crime fighting efforts, and which had brought America to record-breaking levels of lawlessness. Slowly, we began to bring America back. The effort has been long, slow, and difficult. In spite of the difficulties, we have made dramatic progress.

In the last four years the Department of Justice has obtained convictions against more than 2500 organized crime figures, including a number of bosses and under-bosses in major cities across the country. The pressure on the underworld is building constantly.

Today, the capital of the United States no longer bears the stigma of also being the Nation's crime capital. As a result of decisive reforms in the criminal justice system the serious crime rate has been cut in half in Washington, D.C. From a peak rate of more than 200 serious crimes per day reached during one month in 1969, the figure has been cut by more than half to 93 per day for the latest month of record in 1973. Felony prosecutions have increased from 2100 to 3800, and the time between arrest and trial for felonies has fallen from ten months to less than two.

Because of the combined efforts of Federal, State, and local agencies, the wave of serious crime in the United States is being brought under control. Latest figures from the FBI's Uniform Crime Index show that serious crime is increasing at the rate of only one percent a year—the lowest recorded rate since 1960. A majority of cities with over 100,000 population have an actual reduction in crime.

These statistics and these indices suggest that our anti-crime program is on the right track. They suggest that we are taking the right measures. They prove that the only way to attack crime in America is the way crime attacks our people—without pity. Our program is based on this philosophy, and it is working.

Now we intend to maintain the momentum we have developed by taking additional steps to further improve law enforcement and to further protect the people of the United States.

LAW ENFORCEMENT SPECIAL REVENUE SHARING

Most crime in America does not fall under Federal jurisdiction. Those who serve in the front lines of the battle against crime are the State and local law enforcement authorities. State and local police are supported in turn by many other elements of the criminal justice system, including prosecuting and defending attorneys, judges, and probation and corrections officers. All these elements need assistance and some need dramatic reform, especially the prison systems.

While the Federal Government does not have full jurisdiction in the field of criminal law enforcement, it does have a broad, constitutional responsibility to insure domestic tranquility. I intend to meet that responsibility.

At my direction, the Law Enforcement Assistance Administration (LEAA) has greatly expanded its efforts to aid in the improvement of State and local criminal justice systems. In the last three years of the previous Administration, Federal grants to State and local law enforcement authorities amounted to only $22 million. In the first three years of my Administration, this same assistance totaled more than $1.5 billion—more than 67 times as much. I consider this money to be an investment in justice and safety on our streets, an investment which has been yielding encouraging dividends.

But the job has not been completed. We must now act further to improve the Federal role in the granting of aid for criminal justice. Such improvement can come with the adoption of Special Revenue Sharing for law enforcement.

I believe the transition to Special Revenue Sharing for law enforcement will be a relatively easy one. Since its inception, the LEAA has given block grants which allow State and local authorities somewhat greater discretion than does the old-fashioned categorical grant system. But States and localities still lack both the flexibility and the clear authority they need in spending Federal moneys to meet their law enforcement challenges.

Under my proposed legislation, block grants, technical assistance grants, manpower development grants, and aid for correctional institutions would be combined into one $680 million Special Revenue Sharing fund which would be distributed to States and local governments on a formula basis. This money could be used for improving any area of State and local criminal justice systems.

I have repeatedly expressed my conviction that decisions affecting those at State and local levels should be made to the fullest possible extent at State and local levels. This is the guiding principle behind revenue sharing. Experience has demonstrated the validity of this approach and I urge that it now be fully applied to the field of law enforcement and criminal justice.

THE CRIMINAL CODE REFORM ACT

The Federal criminal laws of the United States date back to 1790 and are based on statutes then pertinent to effective law enforcement. With the passage of new criminal laws, with the unfolding of new court decisions interpreting those laws, and with the development and growth of our Nation, many of the concepts still reflected in our criminal laws have become inadequate, clumsy, or outmoded.

In 1966, the Congress established the National Commission on Reform of the Federal Criminal Laws to analyze and evaluate the criminal Code. The Commission's final report of January 7, 1971, has been studied and further refined by the Department of Justice, working with the Congress. In some areas this Administration has substantial disagreements with the Commission's recommendations. But we agree fully with the almost universal recognition that modification of the Code is not merely desirable but absolutely imperative.

Accordingly, I will soon submit to the Congress the Criminal Code Reform Act aimed at a comprehensive revision of existing Federal criminal laws. This act will provide a rational, integrated code of Federal criminal law that is workable and responsive to the demands of a modern Nation.

The act is divided into three parts:

—1. general provisions and principles,

—2. definitions of Federal offenses, and

—3. provisions for sentencing.

Part 1 of the Code establishes general provisions and principles regarding such matters as Federal criminal jurisdiction, culpability, complicity, and legal defenses, and contains a number of significant innovations. Foremost among these is a more effective test for establishing Federal criminal jurisdiction. Those circumstances giving rise to Federal jurisdiction are clearly delineated in the proposed new Code and the extent of jurisdiction is clearly defined.

I am emphatically opposed to encroachment by Federal authorities on State sovereignty, by unnecessarily increasing the areas over which the Federal Government asserts jurisdiction. To the contrary, jurisdiction has been relinquished in those areas where the States have demonstrated no genuine need for assistance in protecting their citizens.

In those instances where jurisdiction is expanded, care has been taken to limit that expansion to areas of compelling Federal interest which are not adequately dealt with under present law. An example of such an instance would be the present law which states that it is a Federal crime to travel in interstate commerce to bribe a witness in a State court proceeding, but it is not a crime to travel in interstate commerce to threaten or intimidate the same witness, though intimidation might even take the form of murdering the witness.

The Federal interest is the same in each case—to assist the State in safeguarding the integrity of its judicial processes. In such a case, an extension of Federal jurisdiction is clearly warranted and is provided for under my proposal.

The rationalization of jurisdictional bases permits greater clarity of drafting, uniformity of interpretation, and the consolidation of numerous statutes presently applying to basically the same conduct.

For example, title 18 of the criminal Code as presently drawn, lists some 70 theft offenses—each written in a different fashion to cover the taking of various kinds of property in different jurisdictional situations. In the proposed new Code, these have been reduced to 5 general sections. Almost 80 forgery, counterfeiting, and related offenses have been replaced by only 3 sections. Over 50 statutes involving perjury and false statements have been reduced to 7 sections. Approximately 70 arson and property destruction offenses have been consolidated into 4 offenses.

Similar changes have been made in the Code's treatment of culpability. Instead of 79 undefined terms or combinations of terms presently found in title 18, the Code uses four clearly defined terms.

Another major innovation reflected in Part One is a codification of general defenses available to a defendant. This change permits clarification of areas in which the law is presently confused and, for the first time, provides uniform Federal standards for defense.

The most significant feature of this chapter is a codification of the "insanity" defense. At present the test is determined by the courts and varies across the country. The standard has become so vague in some instances that it has led to unconscionable abuse by defendants.

My proposed new formulation would provide an insanity defense only if the defendant did not know what he was doing. Under this formulation, which has considerable support in psychiatric and legal circles, the only question considered germane in a murder case, for example, would be whether the defendant knew that he was pulling the trigger of a gun. Questions such as the existence of a mental disease or defect and whether the defendant requires treatment or deserves imprisonment would be reserved for consideration at the time of sentencing.

Part Two of the Code consolidates the definitions of all Federal felonies, as well as certain related Federal offenses of a less serious character. Offenses and, in appropriate instances, specific defenses, are defined in simple, concise terms, and those existing provisions found to be obsolete or unusable have been eliminated—for example, operating a pirate ship on behalf of a "foreign prince," or detaining a United States carrier pigeon. Loopholes in existing law have been closed—for example, statutes concerning the theft of union funds, and new offenses have been created where necessary, as in the case of leaders of organized crime.

We have not indulged in changes merely for the sake of changes. Where existing law has proved satisfactory and where existing statutory language has received favorable interpretation by the courts, the law and the operative language have been retained. In other areas,

such as pornography, there has been a thorough revision to reassert the Federal interest in protecting our citizens.

The reforms set forth in Parts One and Two of the Code would be of little practical consequence without a more realistic approach to those problems which arise in the post-conviction phase of dealing with Federal offenses.

For example, the penalty structure prescribed in the present criminal Code is riddled with inconsistencies and inadequacies. Title 18 alone provides 18 different terms of imprisonment and 14 different fines, often with no discernible relationship between the possible term of imprisonment and the possible levying of a fine.

Part Three of the new Code classifies offenses into 8 categories for purposes of assessing and levying imprisonment and fines. It brings the present structure into line with current judgments as to the seriousness of various offenses and with the best opinions of penologists as the efficacy of specific penalties. In some instances, more stringent sanctions are provided. For example, sentences for arson are increased from 5 to 15 years. In other cases penalties are reduced. For example, impersonating a foreign official carries a three year sentence, as opposed to the 10 year term originally prescribed.

To reduce the possibility of unwarranted disparities in sentencing, the Code establishes criteria for the imposition of sentence. At the same time, it provides for parole supervision after all prison sentences, so that even hardened criminals who serve their full prison terms will receive supervision following their release.

There are certain crimes reflecting such a degree of hostility to society that a decent regard for the common welfare requires that a defendant convicted of those crimes be removed from free society. For this reason my proposed new Code provides mandatory minimum prison terms for trafficking in hard narcotics; it provides mandatory minimum prison terms for persons using dangerous weapons in the execution of a crime; and it provides mandatory minimum prison sentences for those convicted as leaders of organized crime.

The magnitude of the proposed revision of the Federal criminal code will require careful detailed consideration by the Congress. I have no doubt this will be time consuming. There are, however, two provisions in the code which I feel require immediate enactment. I have thus directed that provisions relating to the death penalty and to heroin trafficking also be transmitted as separate bills in order that the Congress may act more rapidly on these two measures.

DEATH PENALTY

The sharp reduction in the application of the death penalty was a component of the more permissive attitude toward crime in the last decade.

I do not contend that the death penalty is a panacea that will cure crime. Crime is the product of a variety of different circumstances—sometimes social, sometimes psychological—but it is committed by human beings and at the point of commission it is the product of that individual's motivation. If the incentive not to commit crime is stronger than the incentive *to* commit it, then logic suggests that crime will be reduced. It is in part the entirely justified feeling of the prospective criminal that he will not suffer for his deed which, in the present circumstances, helps allow those deeds to take place.

Federal crimes are rarely "crimes of passion." Airplane hi-jacking is not done in a blind rage; it has to be carefully planned. The use of incendiary devices and bombs is not a crime of passion, nor is kidnapping; all these must be thought out in advance. At present those who plan these crimes do not have to include in their deliberations the possibility that they will be put to death for their deeds. I believe that in making their plans, they should have to consider the fact that if a death results from their crime, they too may die.

Under those conditions, I am confident that the death penalty can be a valuable deterrent. By making the death penalty available, we will provide Federal enforcement authorities with additional leverage to dissuade those individuals who may commit a Federal crime from taking the lives of others in the course of committing that crime.

Hard experience has taught us that with due regard for the rights of all—including the right to life itself—we must return to a greater concern with protecting those who might otherwise be the innocent victims of violent crime than with protecting those who have committed those crimes. The society which fails to recognize this as a reasonable ordering of its priorities must inevitably find itself, in time, at the mercy of criminals.

America was heading in that direction in the last decade, and I believe that we must not risk returning to it again. Accordingly, I am proposing the re-institution of the death penalty for war-related treason, sabotage, and espionage, and for all specifically enumerated crimes under Federal jurisdiction from which death results.

The Department of Justice has examined the constitutionality of the death penalty in the light of the Supreme Court's recent decision in *Furman v. Georgia*. It is the Department's opinion that *Furman* holds unconstitutional the imposition of the death penalty only insofar as it is applied arbitrarily and capriciously. I believe the best way to accommodate the reservations of the Court is to authorize the automatic imposition of the death penalty where it is warranted.

Under the proposal drafted by the Department of Justice, a hearing would be required after the trial for the purpose of determining the existence or nonexistence of certain rational standards which delineate aggravating factors or mitigating factors.

Among those mitigating factors which would preclude the imposition of a death sentence are the youth of the defendant, his or her mental capacity, or the fact that the crime was committed under duress. Aggravating factors include the creation of a grave risk of danger to the national security, or to the life of another person, or the killing of another person during the commission of one of a circumscribed list of serious offenses, such as treason, kidnapping, or aircraft piracy.

The hearing would be held before the judge who presided at the trial and before either the same jury or, if circumstances require, a jury specially impaneled. Imposition of the death penalty by the judge would be mandatory if the jury returns a special verdict finding the existence of one or more aggravating factors and the absence of any mitigating factor. The death sentence is *prohibited* if the jury finds the existence of one or more mitigating factors.

Current statutes containing the death penalty would be amended to eliminate the requirement for jury recommendation, thus limiting the imposition of the death penalty to cases in which the legislative guidelines for its imposition clearly require it, and eliminating arbitrary and capricious application of the death penalty which the Supreme Court has condemned in the *Furman* case.

DRUG ABUSE

No single law enforcement problem has occupied more time, effort and money in the past four years than that of drug abuse and drug addiction. We have regarded drugs as "public enemy number one," destroying the most precious resource we have—our young people—and breeding lawlessness, violence and death.

When this Administration assumed office in 1969, only $82 million was budgeted by the Federal Government for law enforcement, prevention, and rehabilitation in the field of drug abuse.

Today that figure has been increased to $785 million for 1974—nearly 10 times as much. Narcotics production has been disrupted, more traffickers and distributors have been put out of business, and addicts and abusers have been treated and started on the road to rehabilitation.

Since last June, the supply of heroin on the East Coast has been substantially reduced. The scarcity of heroin in our big Eastern cities has driven up the price of an average "fix" from $4.31 to $9.88, encouraging more addicts to seek medical treatment. At the same time the heroin content of that fix has dropped from 6.5 to 3.7 percent.

Meanwhile, through my Cabinet Committee on International Narcotics Control, action plans are underway to help 59 foreign countries develop and carry out their own national control programs. These efforts, linked with those of the Bureau of Customs and the Bureau of Narcotics and Dangerous Drugs, have produced heartening results.

Our worldwide narcotics seizures almost tripled in 1972 over 1971. Seizures by our anti-narcotics allies abroad are at an all-time high.

In January, 1972, the French seized a half-ton of heroin on a shrimp boat headed for this country. Argentine, Brazilian and Venezuelan agents seized 285 pounds of heroin in three raids in 1972, and with twenty arrests crippled the existing French-Latin American connection. The ringleader was extradited to

the U.S. by Paraguay and has just begun to serve a 20-year sentence in Federal prison.

Thailand's Special Narcotics Organization recently seized a total of almost 11 tons of opium along the Burmese border, as well as a half-ton of morphine and heroin.

Recently Iran scored the largest opium seizure on record—over 12 tons taken from smugglers along the Afghanistan border.

Turkey, as a result of a courageous decision by the government under Prime Minister Erim in 1971, has prohibited all cultivation of opium within her borders.

These results are all the more gratifying in light of the fact that heroin is wholly a foreign import to the United States. We do not grow opium here; we do not produce heroin here; yet we have the largest addict population in the world. Clearly we will end our problem faster with continued foreign assistance.

Our domestic accomplishments are keeping pace with international efforts and are producing equally encouraging results. Domestic drug seizures, including seizures of marijuana and hashish, almost doubled in 1972 over 1971. Arrests have risen by more than one-third and convictions have doubled.

In January of 1972, a new agency, the Office of Drug Abuse Law Enforcement (DALE), was created within the Department of Justice. Task forces composed of investigators, attorneys, and special prosecuting attorneys have been assigned to more than forty cities with heroin problems. DALE now arrests pushers at the rate of 550 a month and has obtained 750 convictions.

At my direction, the Internal Revenue Service (IRS) established a special unit to make intensive tax investigations of suspected domestic traffickers. To date, IRS has collected $18 million in currency and property, assessed tax penalties of more than $100 million, and obtained 25 convictions. This effort can be particularly effective in reaching the high level traffickers and financiers who never actually touch the heroin, but who profit from the misery of those who do.

The problem of drug abuse in America is not a law enforcement problem alone. Under my Administration, the Federal Government has pursued a balanced, comprehensive approach to ending this problem. Increased law enforcement efforts have been coupled with expanded treatment programs.

The Special Action Office for Drug Abuse Prevention was created to aid in preventing drug abuse before it begins and in rehabilitating those who have fallen victim to it.

In each year of my Administration, more Federal dollars have been spent on treatment, rehabilitation, prevention, and research in the field of drug abuse than has been budgeted for law enforcement in the drug field.

The Special Action Office for Drug Abuse Prevention is currently developing a special program of Treatment Alternatives to Street Crime (TASC) to break the vicious cycle of addiction, crime, arrest, bail, and more crime. Under the TASC program, arrestees who are scientifically identified as heroin-dependent may be assigned by judges to treatment programs as a condition for release on bail, or as a possible alternative to prosecution.

Federally funded treatment programs have increased from sixteen in January, 1969, to a current level of 400. In the last fiscal year, the Special Action Office created more facilities for treating drug addiction than the Federal Government had provided in all the previous fifty years.

Today, federally funded treatment is available for 100,000 addicts a year. We also have sufficient funds available to expand our facilities to treat 250,000 addicts if required.

Nationwide, in the last two years, the rate of new addiction to heroin registered its first decline since 1964. This is a particularly important trend because it is estimated that one addict "infects" six of his peers.

The trend in narcotic-related deaths is also clearly on its way down. My advisers report to me that virtually complete statistics show such fatalities declined approximately 6 percent in 1972 compared to 1971.

In spite of these accomplishments, however, it is still estimated that one-third to one-half of all individuals arrested for street crimes continue to be narcotics abusers and addicts. What this suggests is that in the area of enforcement we are still only holding our own, and we must increase the tools available to do the job.

The work of the Special Action Office for Drug Abuse Prevention has aided in smoothing the large expansion of Federal effort in the area of drug treatment and prevention. Now we must move to improve Federal action in the area of law enforcement.

Drug abuse treatment specialists have continuously emphasized in their discussions with me the need for strong, effective law enforcement to restrict the availability of drugs and to punish the pusher.

One area where I am convinced of the need for immediate action is that of jailing heroin pushers. Under the Bail Reform Act of 1966, a Federal judge is precluded from considering the danger to the community when setting bail for suspects arrested for selling heroin. The effect of this restriction is that many accused pushers are immediately released on bail and are thus given the opportunity to go out and create more misery, generate more violence, and commit more crimes while they are waiting to be tried for these same activities.

In a study of 422 accused violators, the Bureau of Narcotics and Dangerous Drugs found that 71 percent were freed on bail for a period ranging from three months to more than one year between the time of arrest and the time of trial. Nearly 40 percent of the total were free for a period ranging from one-half year to more than one year. As for the major cases, those involving pushers accused of trafficking in large quantities of heroin, it was found that one-fourth were free for over three months to one-half year; one-fourth were free for one-half year to one year; and 16 percent remained free for over one year prior to their trial.

In most cases these individuals had criminal records. One-fifth had been convicted of a previous drug charge and a total of 64 percent had a record of prior felony arrests. The cost of obtaining such a pre-trial release in most cases was minimal; 19 percent of the total sample were freed on personal recognizance and only 23 percent were required to post bonds of $10,000 or more.

Sentencing practices have also been found to be inadequate in many cases. In a study of 955 narcotic drug violators who were arrested by the Bureau of Narcotics and Dangerous Drugs and convicted in the courts, a total of 27 percent received sentences other than imprisonment. Most of these individuals were placed on probation.

This situation is intolerable. I am therefore calling upon the Congress to promptly enact a new Heroin Trafficking Act.

The first part of my proposed legislation would increase the sentences for *heroin* and *morphine* offenses.

For a first offense of *trafficking* in less than four ounces of a mixture or substance containing heroin or morphine, it provides a mandatory sentence of not less than five years more than fifteen years. For a first offense of trafficking in four or more ounces, it provides a mandatory sentence of not less than ten years or for life.

For those with a prior felony narcotic conviction who are convicted of trafficking in less than four ounces, my proposed legislation provides a mandatory prison term of ten years to life imprisonment. For second offenders who are convicted of trafficking in *more* than four ounces, I am proposing a mandatory sentence of life imprisonment without parole.

While four ounces of a heroin mixture may seem a very small amount to use as the criterion for major penalties, that amount is actually worth 12–15,000 dollars and would supply about 180 addicts for a day. Anyone selling four or more ounces cannot be considered a small time operator.

For those who are convicted of *possessing* large amounts of heroin but cannot be convicted of trafficking, I am proposing a series of lesser penalties.

To be sure that judges actually apply these tough sentences, my legislation would provide that the mandatory minimum sentences cannot be suspended, nor probation granted.

The second portion of my proposed legislation would deny pre-trial release to those charged with trafficking in heroin or morphine unless the judicial officer finds that release will not pose a danger to the persons or property of others. It would also prohibit the release of anyone convicted of one of the above felonies who is awaiting sentencing or the results of an appeal.

These are very harsh measures, to be

applied within very rigid guidelines and providing only a minimum of sentencing discretion to judges. But circumstances warrant such provisions. All the evidence shows that we are now doing a more effective job in the areas of enforcement and rehabilitation. In spite of this progress, however, we find an intolerably high level of street crime being committed by addicts. Part of the reason, I believe, lies in the court system which takes over after drug pushers have been apprehended. The courts are frequently little more than an escape hatch for those who are responsible for the menace of drugs.

Sometimes it seems that as fast as we bail water out of the boat through law enforcement and rehabilitation, it runs right back in through the holes in our judicial system. I intend to plug those holes. Until then, all the money we spend, all the enforcement we provide, and all the rehabilitation services we offer are not going to solve the drug problem in America.

Finally, I want to emphasize my continued opposition to legalizing the possession, sale or use of marijuana. There is no question about whether marijuana is dangerous, the only question is how dangerous. While the matter is still in dispute, the only responsible governmental approach is to prevent marijuana from being legalized. I intend, as I have said before, to do just that.

CONCLUSION

This Nation has fought hard and sacrificed greatly to achieve a lasting peace in the world. Peace in the world, however, must be accomplished by peace in our own land. Of what ultimate value is it to end the threat to our national safety in the world if our citizens face a constant threat to their personal safety in our own streets?

The American people are a law-abiding people. They have faith in the law. It is now time for Government to justify that faith by insuring that the law works, that our system of criminal justice works, and that "domestic tranquility" is preserved.

I believe we have gone a long way toward erasing the apprehensions of the last decade. But we must go further if we are to achieve that peace at home which will truly complement peace abroad.

In the coming months I will propose legislation aimed at curbing the manufacture and sale of cheap handguns commonly known as "Saturday night specials," I will propose reforms of the Federal criminal system to provide speedier and more rational criminal trial procedures, and I will continue to press for innovation and imrovement in our correctional systems.

The Federal Government cannot do everything. Indeed, it is prohibited from doing everything. But it can do a great deal. The crime legislation I will submit to the Congress can give us the tools we need to do all that we can do. This is sound, reasonable legislation. I am confident that the approval of the American people for measures of the sort that I have suggested will be reflected in the actions of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, *March 14, 1973.*

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. JOHNSTON) 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.)

## QUORUM CALL

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

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

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION FROM DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to continue mandatory price support for tung nuts only through the 1976 crop (with an accompanying paper); to the Committee on Agriculture and Forestry.

REPORT ON MILITARY MANPOWER TRAINING

A letter from the Secretary of Defense, transmitting, pursuant to law, a report on military manpower training, for fiscal year 1974 (with an accompanying report); to the Committee on Armed Services.

REPORT ON DEPARTMENT OF DEFENSE CONTRACTS NEGOTIATED FOR EXPERIMENTAL, DEVELOPMENTAL, TEST OR RESEARCH WORK

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense contracts negotiated for experimental, developmental, test or research work, for the period July–December, 1972 (with an accompanying report); to the Committee on Armed Services.

REPORT ON EXPORT CONTROL

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on export control, covering the fourth quarter of 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT ON MONETARY POLICY AND THE U.S. ECONOMY IN 1972

A letter from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report entitled "Monetary Policy and the U.S. Economy in 1972—A Prelude to the Annual Report" (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to extend for 1 year the authority for more flexible regulation of maximum rates of interest or dividends (with an accompanying paper); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION FROM FEDERAL COMMUNICATIONS COMMISSION

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend subsection (b) of section 214 and subsection (c) (1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points (with accompanying papers); to the Committee on Commerce.

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend the Communications Act of 1934, as amended, with respect to commissioners and commission employees (with accompanying papers); to the Committee on Commerce.

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures (with accompanying papers); to the Committee on Commerce.

REPORT OF SOCIAL SECURITY ADMINISTRATION

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Social Security Administration, for fiscal year 1972 (with an accompanying report); to the Committee on Finance.

REPORT ON EXPERIENCE UNDER THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1971, AS AMENDED

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on experience under the Emergency Unemployment Compensation Act of 1971, as amended, from the beginning of the program through the end of 1972 (with an accompanying report); to the Committee on Finance.

REPORT ON THE FINANCIAL CONDITION AND RESULTS OF THE OPERATIONS OF THE AIRPORT AND AIRWAY TRUST FUND

A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report on the financial condition and results of the operations of the Airport and Airway Trust Fund, dated June 30, 1972 (with an accompanying report); to the Committee on Finance.

INTERNATIONAL AGREEMENTS, OTHER THAN TREATIES

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

REPORT OF U.S. ADVISORY COMMISSION ON INFORMATION

A letter from the Chairman, U.S. Advisory Commission on Information, transmitting, pursuant to law, a report of that Commission, dated January 27, 1973 (with an accompanying report); to the Committee on Foreign Relations.

PROPOSED LEGISLATION FROM DEPARTMENT OF STATE

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend the law authorizing the President to extend certain privileges to representatives of member States on the Council of the Organization of American States (with an accompanying paper); to the Committee on Foreign Relations.

PROPOSED LEGISLATION FROM THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines, and for other purposes (with accompanying papers); to the Committee on Foreign Relations.

PROPOSED LEGISLATION FROM U.S. INFORMATION AGENCY

A letter from the Director, U.S. Information Agency, transmitting a draft of proposed legislation to authorize appropriations for the U.S. Information Agency (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of Payments From Special Bank Account to Lockheed Aircraft Corp. for the C–5A Aircraft Program During the Quarter Ended December 31, 1972," Department of Defense, dated March 9, 1973 (with an accompanying report); to the Committee on Government Operations.

REPORT ON ADMINISTRATION OF THE FEDERAL METAL AND NONMETALLIC MINE SAFETY ACT

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on Administration of the Federal Metal and Nonmetallic Mine Safety Act, for the year 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM DEPARTMENT OF THE INTERIOR

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to authorize appropriations for the saline water program for fiscal year 1974, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT OF ATOMIC ENERGY COMMISSION

A letter from the General Manager, U.S. Atomic Energy Commission, reporting, pursuant to Public Law 85–804, a report of that Commission, for the calendar year ended December 31, 1972; to the Committee on the Judiciary.

PROPOSED LEGISLATION FROM DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs, and for other purposes (with an accompanying paper); to the Committee on Labor and Public Welfare.

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act to require the disclosure of ingredients on the labels of all foods (with accompanying papers); to the Committee on Labor and Public Welfare.

PROSPECTUS RELATING TO ACQUISITION OF SPACE UNDER LEASE ARRANGEMENTS TO HOUSE THE VETERANS' ADMINISTRATION REGIONAL OFFICE AND THE GENERAL SERVICES ADMINISTRATION REGIONAL OFFICE, SAN FRANCISCO, CALIF.

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus relating to the proposed acquisition of certain space for offices of the Veteran's Administration in the San Francisco, Calif. area (with accompanying papers); to the Committee on Public Works.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of New York; to the Committee on Finance:

"JOINT RESOLUTION No. 6

"Joint Resolution of the Legislature of the State of New York memorializing Congress to enact legislation and appropriate necessary funds to provide relief to individuals adversely affected by the social security increases extended by Public Law 92–336 whose conditions were not otherwise assisted by Public Law 92–603

"Whereas, Public Law 92–336 approved July 1, 1972 amended the U.S. Social Security Act to provide for a twenty per cent increase in benefits under the U.S. social security program, and

"Whereas, Public Law 92–603 approved October 30, 1972, further amended such Act to (1) pass along $4 a month of such social security increase to recipients of aid to the aged, blind and disabled who are social security beneficiaries, until January 1, 1974; and (2) provide that individuals who are social security beneficiaries and who are eligible for both cash public assistance and medical assistance benefits in August 1972 will, until October 1974 retain their eligibility for medical assistance, if such social security increase rendered such individuals ineligible for public assistance benefits; and

"Whereas, The Congress did not see fit to provide further relief from the adverse effects of such social security increase on: non-public assistance social security beneficiaries no longer automatically eligible for medical assistance benefits because of such social security increase; individuals made ineligible for federal food stamp benefits because of such increases; and other individuals no longer eligible for benefits under other publicly supported programs because of such social security increase; and

"Whereas, The Legislature finds that such omissions by the Congress are discriminatory and inequitable; and

"Whereas, The Legislature finds that unilateral action by New York State itself to provide relief to such adversely affected individuals, is not possible in the case of the federal food stamp program and will jeopardize receipt of federal aid under the medical assistance program; now, therefore, be it

"*Resolved, (if the Legislature concur)*, That the Congress of the United States be and hereby is respectfully memorialized to enact legislation and appropriate necessary funds to provide speedy relief to individuals adversely affected by the social security increase extended by Public Law 92–336, whose conditions were not otherwise assisted by Public Law 92–603; and be it further

"*Resolved (if the Legislature concur)*, That a copy of this resolution be transmitted to the President of the United States, the Secretary of the Senate, the Clerk of the House of Representatives, and to each member of Congress elected from the State of New York and that they be urged to devote their best efforts to the task of accomplishing the purpose of this resolution."

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with an amendment;

S. 837. A bill to amend the Foreign Assistance Act of 1961, and for other purposes (Report No. 93–62), together with additional views.

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. 398. A bill to extend and amend the Economic Stabilization Act of 1970 (Rept. No. 93–63), together with supplemental views.

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 13. Concurrent resolution authorizing the printing of additional copies of Senate hearings on the sudden infant death syndrome (Rept. No. 93–64); and

S. Res. 73. Resolution authorizing the printing of a history of the Committee on Finance as a Senate document (Rept. No. 93–66).

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

S. Res. 45. Resolution authorizing additional expenditures by the Committee on Commerce for inquiries and investigations (Rept. No. 93–65).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 11. Joint resolution to pay tribute to law enforcement officers of this country on Law Day, May 1, 1973 (Rept. No. 93–68).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 278. A bill for the relief of Manuela C. Bonito (Rept. No. 93–70);

S. 537. A bill for the relief of Mary Danos Nayak (Rept. No. 93–71); and

S. 666. A bill for the relief of Slobodan Babic (Rept. No. 93–72).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 89. A bill for the relief of Kuay Ten Chang (Kuay Hong Chang) (Rept. No. 93–73); and

S. 464. A bill for the relief of Guido Bellanca (Rept. No. 93–74).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 84. A bill for the relief of Naoyo Campbell (Rept. No. 93–75); and

S. 280. A bill for the relief of Lenora Lopez (Rept. No. 93–76).

## REPORT ENTITLED "THE FEDERAL JUDICIAL SYSTEM"—REPORT OF A COMMITTEE (S. REPT. NO. 93–67)

Mr. BURDICK, from the Committee on the Judiciary, pursuant to section 10, S. Res. 256, 92d Congress, second session, submitted a report entitled "The Federal Judicial System," which was ordered to be printed.

## REPORT ENTITLED "IMMIGRATION AND NATURALIZATION"—REPORT OF A COMMITTEE (S. REPT. NO. 93–69)

Mr. EASTLAND, from the Committee on the Judiciary, pursuant to S. Res. 256,

92d Congress, second session, submitted a report entitled "Immigration and Naturalization," which was ordered to be printed.

## EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. SPARKMAN, from the Committee on Banking, Housing, and Urban Affairs:

Lorena Causey Matthews, of Tennessee, to be a member of the National Credit Union Board;

Floyd H. Hyde, of California, to be Under Secretary of Housing and Urban Development;

H. R. Crawford, of the District of Columbia, to be an Assistant Secretary of Housing and Urban Development;

Sol Mosher, of Missouri, to be an Assistant Secretary of Housing and Urban Development;

Michael H. Moskow, of New Jersey, to be an Assistant Secretary of Housing and Urban Development; and

James L. Mitchell, of Illinois, to be General Counsel of the Department of Housing and Urban Development.

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

By Mr. EASTLAND, from the Committee on the Judiciary:

Lyle S. Garlock, of Virginia, to be a member of the Foreign Claims Settlement Commission of the United States.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. EASTLAND, from the Committee on the Judiciary:

Joseph F. Weis, Jr., of Pennsylvania, to be a U.S. circuit judge, Third Circuit; and

Herbert A. Fogel, of Pennsylvania, to be a U.S. district judge for the Eastern District of Pennsylvania.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Willie J. Usery, Jr., of Georgia, to be Federal Mediation and Conciliation Director.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. EASTLAND:

S. 1193. A bill for the relief of Oscar H. Barnett. Referred to the Committee on the Judiciary.

By Mr. CURTIS:

S. 1194. A bill for the relief of Emillie Tiongson. Referred to the Committee on the Judiciary.

By Mr. STEVENS:

S. 1195. A bill to provide needed facilities and services not otherwise available for the accommodaton of visitors in the areas administered by the National Park Service, by authorizing the Secretary of the Interior to guarantee loans which are part of concessioner investments in such facilities and services, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JAVITS (for himself and Mr. HRUSKA, Mr. McGEE, and Mr. TOWER):

S. 1196. A bill to establish an Antitrust Review and Revision Commission. Referred to the Committee on the Judiciary.

By Mr. HARTKE:

S. 1197. A bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods. Referred to the Committee on Commerce.

By Mr. BEALL:

S. 1198. A bill to amend section 5010(d) of title 18 of the United States Code, relating to youth offenders. Referred to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 1199. A bill to amend section 214 of the Internal Revenue Code of 1954 to permit a married couple to deduct certain household and dependent care expenses when one spouse is a full-time student to the same extent that a deduction would be allowable were both spouses employed. Referred to the Committee on Finance.

S. 1200. A bill to amend title II of the Social Security Act to provide for the payment of monthly insurance benefits to the aged dependent brothers and sisters of a deceased fully insured individual. Referred to the Committee on Finance.

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

S. 1201. A bill to amend the act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. FANNIN:

S. 1202. A bill to amend the Internal Revenue Code of 1954 to make clear the tax treatment intended for guaranteed renewable life, health, and accident insurance contracts in the case of life insurance companies. Referred to the Committee on Finance.

S. 1203. A bill to extend Letters Patent Numbered 2,322,210, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. FANNIN (for himself, Mr. HANSEN, and Mr. THURMOND):

S. 1204. A bill to revise section 801 of the Revenue Act, 1916, to increase the penalty for violation thereof, and for other purposes. Referred to the Committee on Finance.

By Mr. HANSEN:

S. 1205. A bill for the relief of Harry H. Hashimoto. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 1206. A bill for the relief of Concepcion Velasquez Rivas. Referred to the Committee on the Judiciary.

By Mr. HANSEN:

S. 1207. A bill to amend section 311(d)(2)(A) of the Internal Revenue Code of 1954. Referred to the Committee on Finance.

By Mr. FONG:

S. 1208. A bill to amend title II of the Social Security Act so as to extend the provisions of section 231 thereof—relating to coverage of persons of Japanese ancestry who were interned during World War II—to such persons who were not citizens of the United States. Referred to the Committee on Finance.

By Mr. HATFIELD:

S. 1209. A bill to amend the Internal Revenue Code of 1954 to permit the deducation of household and dependent care expenses by a married couple when one spouse is a full-time student to the same extent that such expenses could be deducted if both spouses were employed. Referred to the Committee on Finance.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 1210. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for transportation expenses of certain individuals employed at remote Federal installations. Referred to the Committee on Finance.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 1211. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Northern Paiute Nation by the Indian Claims Commission in docket numbered 87, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. ROTH:

S. 1212. A bill to amend the Outer Continental Shelf Lands Act, as amended, to require a study of the environmental impact of mineral exploration in the Atlantic Ocean. Referred to the Committee on Interior and Insular Affairs.

By Mr. SCHWEIKER:

S. 1213. A bill to establish a Joint Committee on Federal Spending, to require the Congress to establish a limit on expenditures for each fiscal year, and for other purposes. Referred to the Committee on Government Operations.

By Mr. MUSKIE (for himself and Mr. ERVIN):

S. 1214. A bill to amend the Budget and Accounting Act, 1921, so as to provide the Congress with information relating to budget requests of the various departments and establishments of the Government. Referred to the Committee on Government Operations.

By Mr. METCALF:

S. 1215. A bill to amend title II of the Legislative Reorganization Act of 1970 to improve the ability of Congress to specify, obtain, and use the Federal fiscal, budgetary, and program-related data it requires from the executive branch, and for other purposes. Referred to the Committee on Government Operations.

By Mr. SAXBE:

S. 1216. A bill to be cited as the "North Eastern Rail Service Preservation Act of 1973." Referred to the Committee on Commerce.

By Mr. GRAVEL:

S. 1217. A bill to phase out the operation, construction, and export of civilian nuclear-fission power-plants by January, 1980. Referred to the Joint Committee on Atomic Energy.

S. 1218. A bill to amend title II of the Communications Act of 1934 to authorize common carriers subject to such title to provide certain free or reduced rate service for individuals who are deaf or hard of hearing. Referred to the Committee on Commerce.

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

S. 1219. A bill to amend the Communications Act of 1934 to provide for loan assistance to certain cable television systems. Referred to the Committee on Commerce.

By Mr. MONDALE (for himself, Mr. JAVITS, Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROCK, Mr. BROOKE, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. COOK, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS:

S. 1220. A bill to limit the authority of the Secretary of Health, Education, and Welfare to impose, by regulations, certain additional restrictions upon the availability and use of Federal funds authorized for social services under the public assistance programs established by the Social Security Act. Referred to the Committee on Finance.

By Mr. BIBLE:

S. 1221. A bill to provide that Federal employees shall be entitled to accumulate annual leave in excess of 30 days, or receive payment therefor, for periods such employees have been in a missing status while serving in Southeast Asia during the Vietnam era. Referred to the Committee on Post Office and Civil Service.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 1222. A bill to declare that all right, title, and interest of the United States in 2,640 acres, more or less, are hereby held by the United States in trust for the Piaute-Shoshone Tribe of the Fallon Indian Reservation, Nevada. Referred to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS:

S. 1223. A bill to amend the Act establishing the Gateway National Recreation Area to authorize the Secretary of the Interior to provide for water transportation facilities to the recreation area. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRAVEL (for himself, Mr. HATHAWAY and Mr. HUMPHREY):

S. 1224. A bill to provide equality in the availability of communications for all residents of the United States and Puerto Rico. Referred to the Committee on Commerce.

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

S. 1225. A bill to authorize the conveyance of certain property of the United States to the State of Alaska. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON:

S. 1226. A bill for the relief of Anacleto Aboyabor Dotollo and Tortosa Torssilla Dotollo. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 1227. A bill to amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges. Referred to the Committee on Commerce.

S. 1228. A bill to authorize appropriations for the fiscal year 1974 for the Corporation for Public Broadcasting. Referred to the Committee on Commerce.

S. 1229. A bill to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize FM radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations. Referred to the Committee on Commerce.

By Mr. MAGNUSON (by request):

S. 1230. A bill to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

By Mr. MOSS:

S. 1231. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of cigarettes and alcoholic beverages is not a deductible expense. Referred to the Committee on Finance.

S. 1232. A bill to authorize the Secretary of the Interior to consider and act upon an application for modification of Bureau of Land Management coal lease No. D–034365. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 1233. A bill for the relief of Akiyo Kojima Molcilio. Referred to the Committee on the Judiciary.

By Mr. HRUSKA (by request):

S. 1234. A bill to provide for Special Law Enforcement Revenue Sharing. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 1235. A bill to amend Public Law 90–553 authorizing an additional appropriation for an International Center for Foreign Chanceries. Referred to the Committee on Foreign Relations.

By Mr. INOUYE:

S. 1236. A bill to amend title 5, United States Code, to allow credit for civil service retirement purposes for time spent by Japanese-Americans in World War II internment camps. Referred to the Committee on Post Office and Civil Service.

By Mr. WILLIAMS:

S. 1237. A bill to amend the Communications Act of 1934 to provide for the regulation of community antenna television systems. Referred to the Committee on Commerce.

S. 1238. A bill to amend section 8(b)(4) of the National Labor Relations Act, as amended, with respect to strike at the sites of construction projects; and

S. 1239. A bill to amend section 302(c) of the Labor-Management Relations Act, 1947, to permit employer contributions for joint industry promotion of products in certain instances. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS:

S. 1240. A bill for the relief of Fermina L. Marinas;

S. 1241. A bill for the relief of Consuelo Coronado; and

S. 1242. A bill for the relief of Asuncion Ventura-Rumi. Referred to the Committee on the Judiciary.

By Mr. BEALL:

S.J. Res. 75. A joint resolution to authorize a study of the operations of the Youth Correction Act. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. BAYH, Mr. BROOKE, Mr. CRANSTON, Mr. EAGLETON, Mr. HART, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. MCGOVERN, Mr. MATHIAS, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. RANDOLPH, Mr. TUNNEY, Mr. HATHAWAY, and Mr. PROXMIRE):

S.J. Res. 76. A joint resolution proposing an amendment to the Constitution of the United States granting representation in the Congress to the District of Columbia. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS:

S.J. Res. 77. Joint resolution to authorize the President to proclaim the month of April 1973, as "National Health Professional Careers Month." Referred to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS:

S. 1195. A bill to provide needed facilities and services not otherwise available for the accommodation of visitors in the areas administered by the National Park Service, by authorizing the Secretary of the Interior to guarantee loans which are part of concessioner investments in such facilities and services, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, today I am introducing legislation which would authorize the Secretary of the Interior to guarantee loans used to finance the construction of visitor centers and other facilities in areas under the jurisdiction of the National Park Service.

Specifically, the Secretary would be authorized to guarantee up to 90 percent of the actual cost of a particular improvement. However, a $25 million ceiling would be placed on the aggregate unpaid principal amount of outstanding loans guaranteed under the act. Moreover, a loan could not be guaranteed unless the Secretary finds—first, that the concessioner is unable to obtain the necessary funds without a loan guarantee; second, that the proposed improvement is economically sound; and third, that the proposed improvement is necessary and appropriate for the public use and enjoyment of an area administered by the National Park Service. In order to insure the necessary financing, a revolving fund would be created, with contingency borrowing authority vested in the Secretary of the Interior in the event that at any time, the moneys in the fund were not sufficient to pay an amount owed by the Secretary on account of a loan default.

The introduction of this bill is necessitated by the fact that because the legal title to all improvements erected in areas administered by the National Park Service vests in the U.S. Government, it is very difficult to obtain private capital on a long term basis to construct such improvements. Moreover, the present economic situation makes it difficult to obtain the necessary financing.

Mr. President, I believe that the establishment of visitor centers and related facilities in areas not now served by these improvements would promote public use and enjoyment of our national parks, wilderness areas, wildlife refuges, and other areas of this type. Since the Act stipulates that new facilities and services could be instituted only if they are consistent with the preservation and conservation of areas administered by the Park Service, the natural environment of these withdrawals would not be impaired.

In my State of Alaska, which has numerous areas of great natural beauty, tourism would be stimulated with a concomitant beneficial impact on our entire economy. At the same time, many thousands of Americans would be able to experience the scenic beauty and splendor of Mount McKinley National Park, the Glacier Bay and Katmai National Monu-

ments, and other areas administered by the Park Service in my State. Similar public enjoyment and economic benefits would result in many other parts of the United States. For all of these reasons, I urge the prompt enactment of the bill that I have introduced today.

I ask unanimous consent that this legislation be reprinted at this point in the CONGRESSIONAL RECORD.

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

S. 1195

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

POLICY AND PURPOSE

SECTION 1. It is hereby declared to be the policy of Congress to encourage private persons and corporations to provide and operate facilities and services for the accommodation of visitors in the areas administered by the National Park Service of the Department of the Interior, but only to the extent that such facilities and services are necessary and appropriate for the public use and enjoyment of such areas, and are consistent with their preservation and conservation. However, it is recognized that as legal title to all improvements erected in areas administered by the National Park Service vests in the United States Government, private capital to construct these facilities is not available from conventional sources for long-term financing.

It is the sense of the Congress that the Secretary of the Interior should adopt such policies and take such action as may be necessary or appropriate to implement the foregoing policy, and, in furtherance of that policy, it is the purpose of this Act to authorize the Secretary of the Interior to guarantee loans obtained by concessioners to finance such facilities. To the degree consistent with the best interests of the parties, these loans should be obtained from sources local to the area served.

DEFINITION

SEC. 2. As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "concessioner" means a holder of a concession contract with the Department of the Interior, who is authorized to provide and operate, under the supervision of the National Park Service, facilities and services for the accommodation of visitors in areas administered by the National Park Service.

(3) The term "concession contract" means the contract to provide and operate facilities and services granted to the concessioner by the Department of the Interior.

(4) The term "improvement" means any facility used or to be constructed, repaired, or improved in an area referred to in paragraph (2), including equipment to be purchased and used in connection therewith by a concessioner pursuant to the request and subject to the approval of the Secretary, for the purpose of enabling the concessioner to furnish accommodations or to perform services to the public, as such accommodations and services are defined in the concession contract.

(5) The term "financing" shall mean any loan, advance of credit, or bonds or notes issued under a trust indenture.

(6) The term "lender" includes the original maker of any loan and his successors in interest, or the purchaser of a bond or note, except that in the case of a loan or advance of credit involving a trust indenture and an issue of bonds or notes thereunder, it means the trustee designated in such trust indenture and his successors and assigns as trustees, but does not include the holders of the bonds or notes issued under such trust indenture.

(7) The term "actual cost of an improvement" means, as of any specific date, the aggregate (as approved by the Secretary) of (a) all amounts paid by or on account of the concessioner on or before that date, and (b) all amounts the concessioner is then obliged to pay from time to time thereafter, for an improvement.

(8) The term "possessory interest" means the rights of the concessioner in improvements recognized in the concession contract.

GUARANTEE OF LOANS

SEC. 3. (a) When the Secretary determines that not less than 10 per centum of the cost of the improvement will be furnished by the concessioner from sources other than the lender whose financing is to be guaranteed, the Secretary is hereby authorized to guarantee such lender against loss of principal and interest on any financing made by such lender to any concessioner. Such guarantee shall be made on such terms and conditions, and pursuant to such regulations as the Secretary may prescribe, but in no case shall the Secretary pay, pursuant to any such guarantee, an amount in excess of 90 per centum of the actual cost of an improvement.

(b) The faith of the United States is solemnly pledged to the payment of each guarantee made pursuant to this Act.

(c) The aggregate unpaid principal amount of outstanding loans guaranteed under this Act shall not exceed $25,000,000.

GUARANTEE RESTRICTIONS

SEC. 4. No loan shall be guaranteed under this Act, unless the Secretary finds—

(1) that the concessioner would be unable to obtain the necessary funds for the improvement without such guarantee, and in the amount thereof;

(2) at or prior to the time the guarantee is made, that the improvement with respect to which the financing is or will be executed is economically sound; and

(3) that the improvement for which the financing is or will be executed is necessary and appropriate for the public use and enjoyment of an area administered by the National Park Service.

FINANCING GUARANTEE FUND

SEC. 5. (a) There is created a National Park Service Guaranty Fund (hereinafter referred to as the "fund"), which shall be used by the Secretary as a revolving fund for the purpose of carrying out the provisions of this Act. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of the fund, or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States.

(b) The Secretary is authorized to fix a guarantee fee in connection with each financing guaranteed under this Act. Such charge shall not be less than one-quarter of 1 per centum per annum, nor more than one-half of 1 per centum per annum of the average principal amount of the financing outstanding. Fee payments shall be made when payments are first advanced under the loan agreement or trust indenture and on each anniversary date thereafter. All such fee payments shall be computed and shall be payable to the Secretary under such regulations as the Secretary may prescribe.

(c) All moneys borrowed by the Secretary under section 7, and all fees collected in connection with financing guaranteed under this Act, shall be deposited in the fund.

DEFAULTS ON FINANCING

SEC. 6. (a) In the event of an act or failure to act which gives the lender the right to mature any financing guaranteed under this Act (any such event being referred to herein as a default), and if there is a failure on the part of the concessioner to remove and remedy the default within thirty days thereafter, the lender shall have the right—

(1) in the case of a default in respect to the payment of principal or interest or the payment of any amount to provide for the payment of guarantee charges to the Secretary, to demand payment at or before the expiration of sixty days after any such default; or

(2) in the case of any other default, including but not limited to a substantial default or continued unsatisfactory performance under the concession contract to demand at any time during the continuance of such default, payment by the Secretary of the unpaid principal amount of such financing and of the unpaid interest thereon to the date of payment. Upon the making of any such demand, the lender shall assign the financing instrument and any obligations evidencing the same to the Secretary. The Secretary may at any time during the continuance of any default notify the lender in writing that a default exists, specifying the same, and that by reason of such default the Secretary intends to terminate the guarantee sixty days after such notice is received by the lender. The lender shall be entitled to demand payment by the Secretary as above provided at any time during such sixty-day period, whether or not the default is removed and remedied, and if the lender shall fail to make such demand, the guarantee may be terminated by the Secretary on or after the expiration of such period. Within a period of thirty days from the date of any such demand, the Secretary shall accept the assignment and promptly pay to the lender the unpaid principal amount of such financing and unpaid interest thereon to the date of payment; except that in any case in which the Secretary has given notice of intention to terminate the guarantee pursuant to the foregoing provisions, the Secretary shall not be required to accept such assignment if, prior to the expiration of such thirty-day period, he shall find that there was no default or that such default was removed and remedied prior to any such demand.

(b) In the event the Secretary shall accept the assignment of a financing agreement upon the default of a concessioner pursuant to subsection (a), he shall take such action against the concessioner or any other parties liable under the financing agreement thereunder as, in his discretion, may be required to protect the interests of the United States and of the lender as they may appear. In any event, and in addition to all other remedies which may be available to the Secretary as a matter of law, or pursuant to the concession contract or the financing agreement, the payment made by the Secretary to the lender under subsection (a) shall constitute a primary lien against the entire possessory interest of the concessioner under the concession contract of such concessioner, without any limitation to the improvements which were acquired by means of the defaulted obligation. The Secretary shall require as a condition of entering into the guarantee herein provided for, that the concessioner shall agree—

(1) default in the financing shall constitute a default under the concession contract;

(2) the Secretary shall have the right, in addition to the rights granted under the concession contract, to offer for sale not only the possessory interest of the concessioner, but all other property of the concessioner which may have been pledged to secure the loan, with any excess of the proceeds of such sale over any amount paid by the Secretary pursuant to subsection (a) to be paid to the concessioner.

If the Secretary shall determine that the interests of the United States do not require the sale of the possessory interest of the concessioner, he may make such agreement with the concessioner as, in the opinion of the Secretary, will result in remedying the default.

(c) Any amount required to be paid by the Secretary pursuant to subsection (a) shall be paid in cash.

BORROWING AUTHORITY

SEC. 7. If at any time the moneys in the fund are not sufficient to pay any amount the Secretary is required to pay by section 6(a), the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligation in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued hereunder and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Funds borrowed under this section shall be deposited in the fund, and redemptions of such notes and obligations shall be made by the Secretary from the fund.

INCONTESTABILITY OF GUARANTEES

SEC. 8. Any contract of guarantee entered into by the Secretary under this Act shall not be terminated, canceled, or otherwise revoked for any reason, except as provided in section 6, and shall be conclusive evidence that the financing complies fully with the provisions of this Act; and any contract of guarantee so entered into shall be incontestable from the date on which it is entered into, except for fraud, duress, or mutual mistake of fact.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated such sums as may be necessary for the administrative expenses incurred in carrying out the provisions of this Act.

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By Mr. JAVITS (for himself and Mr. HRUSKA, Mr. MCGEE, and Mr. TOWER):

S. 1196. A bill to establish an Antitrust Review and Revision Commission. Referred to the Committee on the Judiciary.

Mr. JAVITS. Mr. President, I send to the desk and introduce for appropriate reference, a bill to establish an Antitrust Review and Revision Commission. I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JAVITS. Mr. President, this bill would establish an 18-member bipartisan Commission which would be charged with the duties of examining our antitrust laws and making recommendations for revising them. The Commission would be composed of eight Members of Congress, four members of the executive branch, and six experts from the private sector, to be chosen in such a manner as to be broadly representative of the various interests, needs, and concerns which the antitrust laws may affect. The Commission would specifically be asked to examine the effect of the antitrust laws upon:

Price levels, product quality and service;

Employment, productivity, output, investment and profit;

Concentration of economic power and financial control;

Foreign trade and international competition; and economic growth.

The bill provides a period of 2 years for this study, in order that fundamental and basic relationships between the antitrust laws and our increasingly complex economy can be thoroughly analyzed and so that proposals for revision of the laws may be given careful and thoughtful review.

Among the reasons why I believe a review and revision of the antitrust statutes has become an economic necessity for our country are:

First, the market structure of our economy and even the nature of the economy itself have changed radically since the adoption of the Sherman Act in 1890; statutes designed to meet the needs of a 19th century economy cannot be expected to provide direction for economic policies of the 1970's.

Second, the vague language of the existing antitrust statutes and the lack of clarity as to the purposes of those statutes have left the courts, the bar, and the business community with little guidance for deciding cases, predicting results, or making business decisions. The result has been confusion, conflict, and uncertainty in the law.

Third, the general language of the law has required that the major antitrust policies be shaped and expressed by the judiciary, which has no significant expertise in the economy. This has led to applications of and developments in the antitrust law, some of which may be said to be anticompetitive and genuinely in conflict with the declared purposes of our antitrust statutes.

Major historical developments affecting the nature and market structure may have rendered obsolete many 19th century conceptions of antitrust and, at the same time, have generated a need for different antitrust rules and weapons.

Perhaps the most important of these historical changes is the evolution of an essentially laissez-faire economy into a mixed business-government economy, characterized by pervasive government involvement as participant and regulator.

Another is the growth of a nation of many small businesses and few trusts into one whose economy is increasingly dominated by corporate giants which, it has been suggested, can operate more economically as far as the consumer is concerned under stable conditions conducive to planning than can small businesses.

Still another important historical change, of great importance today, is the growth of multinational corporations and the development of various international economic institutions, such as GATT, which have drastically changed international trade and the business relationships involved in such trade.

Our antitrust laws, as interpreted by the courts, have not kept pace with these changes. Perhaps the courts are not to be blamed for this, for the judicial function is to interpret statutes consistently with their purpose. However, Congress has the responsibility for seeing that laws and their purpose are kept up to date; antitrust policy in changing times should be made by Congress and not the courts.

It is my hope that the Commission to be established by my bill would give full consideration to the implications of these historical trends for antitrust policy and suggest to Congress appropriate corrective action.

Our antitrust laws are rife with conflict and uncertainty. Vague statutory terms about restraints of trade and attempts to monopolize have been given substance and content by the courts with practically no guidance from Congress. Indeed, it could be argued that Congress has given worse than no guidance by imposing conflicting and contrary mandates on the courts, for it is difficult to reconcile the philosophy of earlier statutes with the price-equivalency of the Robinson-Patman Act, which dampens competition—though it may be necessary for public policy reasons. Confusion has been increased by the overlapping jurisdictions of the Justice Department and the Federal Trade Commission, which should serve separate prosecutorial and regulatory functions; and, by the uncertain relationship between private antitrust actions and suits brought by the Government.

The problem facing lawyers and businessmen was well summarized by Robert H. Jackson when he was Assistant Attorney General for Antitrust:

> In view of the extreme uncertainty which prevails as a result of these vague and conflicting adjudications, it is impossible for a lawyer to determine what business conduct will be pronounced lawful or unlawful by the courts. The situation is embarrassing to businessmen wishing to obey the law and to government officials attempting to enforce it.

If anything, the situation has become far worse since that statement was made in 1938. The Antitrust Review and Revision Commission could perform a great service by laying a basis for a consistent and predictable antitrust law.

Congress now has the benefit of two recent Presidential Task Force reports on the antitrust laws, commissioned by Presidents Johnson and Nixon. These reports made several interesting observations and suggestions. Proposal for legislative action ranged in scope from the breakup of very large firms in highly concentrated industries to a limitation on the duration of antitrust decreases. I believe two general features of the reports tended to render them ineffective. First, in large part the focus of the reports was on the technical improvement of existing laws rather than the clarification and reordering of fundamental concepts. It may be of course that intensive investigation would support the basic prin-

ciples of our existing laws, but I believe that it is most important that such an investigation be made. A Commission would have the mandate and the time to do so. Second, the task forces were not made up of officials in a position to effectuate their policy conclusions; the reports were simply forwarded by experts to officials who had not participated in making the studies and recommendations.

The Commission to be established by my bill would insure the involvement of Senators and Members of Congress and executive officials who would be in a position to help implement their proposals. These are some of the reasons why I believe it is necessary to establish a high-level Commission to study all aspects of our antitrust policy and make appropriate recommendations to Congress for revising the law. Only on the basis of the recommendations of such a Commission is Congress likely to be moved to action. Such a Commission could be a very effective instrument of reform.

I am not suggesting that we scrap our antitrust laws or that competition is an anachronism. Nor am I so naive as to think that the Commission will resolve all the disparate views about the role of antitrust policy into one broad consensus. However, the time has come when I feel the Commission could make recommendations which would attract broad support in Congress and have a major effect in improving and facilitating our whole enterprise system.

Antitrust laws are today one among many techniques of regulating our economy. The Commission would be expected to examine into the structural issues which are at the core of antitrust policy as well as the relationship between antitrust policy as well as the relationship between antitrust and other forms of regulation. In addition, there are a myriad of special problems in the antitrust area which have occasioned much discussion and litigation in recent years, as to which Congress ought to have some informed judgment available to enable it to consider legislative policy in specific areas.

Thus, the Commission could profitably give its attention to marketing techniques. With the growth of the economy a number of novel marketing techniques have evolved, and with them have come, inevitably, antitrust problems. These problems include resale price maintenance, fair trade laws, limitations on competition between distributors, and a whole panoply of problems connected with franchising.

The Commission could also perform a valuable service by clarifying the relationship between the Justice Department and the FTC in the enforcement scheme. At present, there is a good deal of overlap in their functions, particularly under the Clayton Act. Similarly the relationship between private antitrust actions and Government actions could be clarified.

Another extremely valuable contribution the Commission could make would be to determine if the Robinson-Patman Act, forbidding price discrimination, continues to serve a useful purpose and, if so, to rewrite the act so that the courts which must interpret it, and the businessmen which must obey its commands, can make some sense out of it. For years now the courts have been extending pointed invitations to Congress to do something about this problem, and it is time the invitation was accepted.

Another area in which the Commission clearly could make a most valuable contribution is in the application of our domestic antitrust laws to foreign trade and investment. For many years, experts have been pointing out how the rigid application of the antitrust laws has put our exporters at a serious disadvantage abroad. That is not a matter to be taken lightly in these days of concern with our balance of payments and our trade balance.

No less pressing is the need to encourage the investment of private capital of the United States and other developed countries in the developing countries. Again it is widely felt that our antitrust laws are an inhibiting factor, particularly to the establishment of consortiums of the United States and other private companies from industrialized countries grouping to invest in less developed countries. In both instances, there is a deep conflict between our antitrust philosophy and other major national policies when there should be coordination and thoughtful accommodation between them.

Many experts have concluded that uncertainty about the enforcement of U.S. antitrust laws extraterritorially is the greatest single inhibitor to increased foreign trade and investment. The report of the ABA Committee on Trade Regulation in 1963, for example, highlights the following specific areas of uncertainty in this field:

First, uncertainty as to the terms under which a U.S. business may enter into a joint venture with a competitor, either American or foreign, to engage in business abroad;

Second, uncertainty as to the extent to which U.S. business may cooperate in association with foreign competitors, even when the association is required or permitted by the laws of the foreign country where the activity takes place;

Third, uncertainty as to the extent to which a U.S. business may include territorial and other limitations in patents, trademarks, and know-how licenses;

Fourth, uncertainty due to conflicts between antitrust laws of the United States and the laws of foreign countries, and economic communities, such as the European Common Market; and

Fifth, protests by foreign governments due to the extraterritorial application of U.S. antitrust laws to their nationals.

The list of critical cases which the proposed Commission would be charged with studying could be elaborated at much greater length. But these are some of the major areas of concern.

In the last analysis the enormous job of studying, recommending, and enacting the antitrust laws is with the Congress. The tendency has been in recent years for a major part of the antitrust policy to be articulated by the enforcement agencies and the courts. The Commission I propose would enable Congress, if it will, again to establish basic antitrust policy; and such policy is basic to the economic future of the United States at home and abroad and to its leadership in world affairs.

In short, the keystone to effective operation of the modern American economy may be a revision of the antitrust laws. Our antitrust laws, now over 80 years old, may well have become obsolete. It is high time that Congress take the matter in hand to determine our national policy on U.S. business—marvel of our world and of economic history. We could help enable it to perform its legendary feats for our people and for peace and well-being and justice in the world, if we reviewed the rules under which it operates.

In addition, I would like to state that I believe this bill is quite consistent with what I feel the administration believes in in this field, and I hope that the administration will support it.

I hope very much that this proposal to study and revise the antitrust laws will, at long last, have the effective and positive action which it so richly needs and deserves in the interest of the American economy.

In short, Mr. President, as the antitrust laws determine so heavily what will happen in the American economy, they should now be definitively reviewed, and I introduce the bill for that purpose.

I am joined in the introduction of this measure by the Senator from Nebraska (Mr. HRUSKA), the Senator from Wyoming (Mr. MCGEE), and the Senator from Texas (Mr. TOWER) as cosponsors of the proposal.

EXHIBIT 1

S. 1196

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is hereby established an Antitrust Review and Revision Commission (hereinafter referred to as the "Commission") constituted in the manner hereinafter provided.

PURPOSE OF THE COMMISSION

SEC. 2. The Commission shall study the antitrust laws of the United States, their applications, and their consequences, and shall report to the President and the Congress the revision, if any, of said antitrust laws which it deems advisable on the basis of such study. The study shall include the effect of said antitrust laws upon:

(a) price levels, product quality and service;

(b) employment, productivity, output, investment, and profits;

(c) concentration of economic power and financial control;

(d) foreign trade and international competition; and

(e) economic growth.

MEMBERSHIP OF THE COMMISSION

SEC. 3. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of eighteen members appointed by the President as follows:

(1) four from the executive branch of the Government;

(2) four from the Senate, upon the recommendation of the President of the Senate;

(3) four from the House of Representatives, upon recommendation of the Speaker of the House of Representatives and

(4) six from private life.

(b) REPRESENTATION OF VARIED INTERESTS.—The membership of the Commission shall be

selected in such a manner as to be broadly represented of the various interests, needs, and concerns which may be affected by the antitrust laws.

(c) POLITICAL AFFILIATION.—Not more than one-half of the members of each class of members set forth in clauses (2), (3), and (4) of subsection (a) shall be from the same political party.

(d) VACANCIES.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 4. The Commission shall select a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 5. Ten members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 6. (a) MEMBERS OF CONGRESS.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000 and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 7. (a) (1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its functions and duties, held such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duty designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the injury is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—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.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

SEC. 8. The Commission shall transmit to the President and to the Congress not later than two years 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 as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 9. Sixty days after the submission to Congress of the final report provided for in section 8, the Commission shall cease to exist.

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By Mr. HARTKE:

S. 1197. A bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods. Referred to the Committee on Commerce.

TRUTH IN FOOD LABELING ACT

Mr. HARTKE. Mr. President, today I introduce the Truth in Food Labeling Act. This legislation is designed to enable the consumer to have all pertinent information at her disposal when she shops at the neighborhood supermarket or the corner grocery store.

This is an age when people are demanding to know more about their environment, yet we know so little about the food we eat. We are ignorant about its quality, its nutritional value, its ingredients, its freshness, and its manufacturer. These are crucial facts, yet they remain hidden from most consumers.

The Truth in Food Labeling Act puts an end to the mystery which envelops the food we eat. In essence, it requires that certain basic information about the contents of that food be printed on the package label in plain and concise language. Specifically, the bill accomplishes the following objectives:

First, it establishes a uniform system of grade labeling for all consumer food products and requires that grade designations appear in a conspicuous and legible type on each food package. To accomplish this purpose, the bill establishes grades "A" to "E" and "substandard" and mandates the use of these terms on all food products with the exception of meat products for which there is currently an inspection and grading program administered by the Secretary of Agriculture.

Second, the bill requires that the labels of food products disclose their ingredients. There is no reason to ask a consumer to buy a product whose contents are not known in full. At a time when we are beginning to learn so much about the harmful effects of certain substances, we must assure the consumer of full knowledge about the food he eats.

Third, the bill requires that food product labels contain information about the nutritional content of that product. The consumer should have access to this information so that nutritional meals can be planned. Although there is ample proof that Americans are eating more food than ever, there is equally ample proof that the nutritional content of our diets is decreasing. If the consumer is to become nutrition-conscious, then she will have to have the nutrient content of foods prominently displayed on each package.

Fourth, the bill requires that all perishable and semiperishable foods contain a "pull date" on the label of the product. This date represents the latest date on which that product can be sold as fresh. During the past several months, much has been written to indicate that many outdated products are being sold every day. Baby food, canned goods, and packaged goods which were stale months and years ago are being sold as fresh products. The most ironic aspect of this problem is that most perishable and semiperishable food products do contain some sort of "pull date," but it is printed in a code form which is not decipherable by the consumer, nor can it be understood by many food store managers. Under my proposal, the "pull date" would have to be stated in the form of day, month, and year.

Fifth, the bill requires the name and place of business of the manufacturer, packager, and distributor to be printed on the packages of food, drugs and cosmetics. This provision will enable a consumer to make better comparisons among competing brands of the same product, and it will also help to promote the public safety. Many products are marketed under private labels. The fact that these products are often cheaper than nationally known brands does not mean that they are necessarily of inferior quality. There are many instances of a manufacturer producing the same product packaged under different—and often competing—brand names sold at different prices. In the Bon Vivant case last year, one of the problems presented to the consumer is that the company mar-

keted its product under different brand names. The consumer was thus uncertain whether the soup he had on his shelves was manufactured by Bon Vivant or another company. This provision of my bill eliminates that uncertainty.

Mr. President, the Truth in Food Labeling Act will lessen substantially the difficulties which consumers face when purchasing food. It will assist in making the consumer informed and knowledgeable about what he buys at the store. The doctrine of "caveat emptor" is only valid so long as the consumer has at his or her disposal adequate information upon which to make a rational purchase judgment.

The only realistic means by which a consumer can obtain that information is through a new and revolutionary system of product labeling. The Truth in Food Labeling Act will achieve this objective by providing the consumer with an opportunity to make a reasoned decision about the best product to buy in light of his individual needs and desires. It will also benefit consumers by promoting competition among food manufacturers and processors. Nothing in this bill imposes an unreasonable requirement on the food industry. If there is opposition, it will come not from those who seek to keep the consumer from being confused by too much information, but from those who seek to keep the consumer from being informed about the food he eats.

Mr. President, I ask unanimous consent that the text of the Truth in Food Labeling Act be printed at this point in the RECORD.

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

S. 1197

*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 "Food Consumers' Protection Act of 1973".

SEC. 2. (a) The Fair Packaging and Labeling Act (15 U.S.C. 1451–1461) is amended as follows—

(1) by inserting "Title I—Fair Packaging and Labeling" immediately above the heading of section 2;

(2) by redesignating sections 2 through 5 as sections 101 through 104, respectively;

(3) by striking out "section 3" in section 103(a) (as redesignated by clause (2) of this section) and inserting in lieu thereof "section 102";

(4) by striking out "section 3" in section 103 (b) (as redesignated by clause (2) of this section) and inserting in lieu thereof "section 103";

(5) by striking out "section 4" and "section 2" in section 104(b) (as redesignated by clause (2) of this section) and inserting in lieu thereof "section 103" and "section 101", respectively;

(6) by striking out "section 4" in section 104(c) (as redesignated by clause (2) of this section) and inserting in lieu thereof "section 103"; and

(7) by adding immediately after section 104 (as redesignated by clause (2) of this section) the following new titles:

"TITLE II—QUALITY GRADING OF FOOD PRODUCTS

"SEC. 201. (a) It shall be unlawful for any person engaged in the packaging or labeling of any food product for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled food product, to distribute or to cause to be distributed in commerce any such product if it is contained in a package, or if there is affixed to that product a label which does not conform to the provisions of this title and regulations promulgated under the authority of this title.

"(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail food distributors except to the extent that such persons (1) are engaged in the packaging or labeling of such food, or (2) prescribe or specify by any means the manner in which such food is packaged or labeled.

"SEC. 202. (a) The Secretary of Health, Education, and Welfare shall formulate and prescribe a system of food quality grade designations, expressed in a uniform nomenclature, for all food products.

"(b) No person subject to the prohibition contained in section 201 shall distribute or cause to be distributed in commerce any packaged or labeled food product except in accordance with regulations which shall be prescribed by the Secretary of Health, Education, and Welfare pursuant to this title. Such regulations shall require that any food product distributed in interstate commerce bear a label containing a food quality designation of the food product contained therein, that the label on such product appear in a uniform location on the package, and that such label—

"(1) appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matters on the package;

"(2) contain letters or numerals in type size which shall be (A) established in relationship to the area of the principal display found on the package, and (B) uniform for all packages of substantially the same size; and

"(3) be placed so that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

"(c) The Food quality designations for food products adopted by the Secretary shall provide for the following designations in descending order of quality of the food product:

"(1) U.S. GRADE A
"(2) U.S. GRADE B
"(3) U.S. GRADE C
"(4) U.S. GRADE D
"(5) U.S. GRADE E
"(6) SUBSTANDARD.

The Secretary of Health, Education, and Welfare may authorize the use of less than six different designations in the case of any food product if he determines that it is not in the public interest or is impracticable to require such food product to be broken down into six quality designations.

"(d) The Secretary of Health, Education, and Welfare shall immediately initiate and carry out a program of consumer education in conjunction with the promulgation of food quality designations prescribed by him under this title.

"TITLE III—LABELING OF FOOD PRODUCTS TO DISCLOSE INGREDIENTS

"SEC. 301. (a) It shall be unlawful for any person engaged in the packaging or labeling of any food product for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distibution in commerce of any packaged or labeled food product, to distribute or to cause to be distributed in commerce any such product if it is contained in a package, or if there is affixed to that product a label which does not conform to the provisions of this title and regulations promulgated under the authority of this title.

"(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail food distributors except to the extent that such persons (1) are engaged in the packaging or labeling of such food, or (2) prescribe or specify by any means the manner in which such food is packaged or labeled.

"SEC. 302. No person subject to the prohibition contained in section 301 shall distribute or cause to be distributed in commerce any packaged or labeled food product except in accordance with regulations which shall be prescribed by the Secretary of Health, Education, and Welfare pursuant to this title. Such regulations shall require that any food product distributed in interstate commerce bear a label containing a statement specifying all the ingredients contained in such food product, that the label on such product appear in a uniform location on the package, and that such label—

"(1) appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matters on the package;

"(2) contain letters or numerals in type size which shall be (A) established in relationship to the area of the principal display found on the package, and (B) uniform for all packages of substantially the same size; and

"(3) be placed so that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

"TITLE IV—NUTRITIONAL LABELING OF FOOD PRODUCTS

"DEFINITIONS

"SEC. 401. For the purpose of this title—

"(1) The term 'nutritional value' means the amount of nutrients contained in the food expressed in terms of the relationship of the amount of each nutrient contained in such food to the total recommended daily requirement of each such nutrient required to maintain a balanced diet as determined by the Secretary of Health, Education, and Welfare after consultation with the National Academy of Sciences.

"(2) The term 'nutrient' includes protein, vitamin A, B vitamins (thiamin, riboflavin, niacin), vitamin C, vitamin D, carbodydrate, fat, calories, calcium, iron, and such other nutrients as may be prescribed by regulation.

"SEC. 402. (a) It shall be unlawful for any person engaged in the packaging or labeling of any food product for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distibution in commerce of any packaged or labeled food product, to distribute or to cause to be distributed in commerce any such product if it is contained in a package, or if there is affixed to that product a label which does not conform to the provisions of this title and regulations promulgated under the authority of this title.

"(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail food distributors except to the extent that such persons (1) are engaged in the packaging or labeling of such food, or (2) prescribe or specify by any means the manner in which such food is packaged or labeled.

"LABELING REQUIREMENTS

"SEC. 403. (a) No person subject to the prohibition contained in section 402 shall distribute or cause to be distributed in commerce any packaged or labeled food product except in accordance with regulations which shall be prescribed by the Secretary of Health, Education, and Welfare pursuant to this title. Such regulations shall require that any food product distributed in interstate commerce bear a label containing a statement specifying the nutritional value of the food product contained therein, that the label on such commodity appear in a uniform location on the package, and that such label—

"(1) appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matters on the package;

"(2) contain letters or numerals in type size which shall be (A) established in relationship to the area of the principal display found on the package, and (B) uniform for all packages of substantially the same size;

"(3) be placed so that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed; and

"(4) bear a statement of the nutritional value of each serving if the label appears on a packaged food product which bears a representation as to the number of servings of the food product contained in the package.

"(b) The Secretary may by regulations require additional or supplementary words or phrases to be used in conjunction with the statement of nutritional value appearing on the label whenever he determines that such regulations are necessary to prevent the deception of consumers or to facilitate value comparisons as to any food product. Nothing in this subsection shall prohibit supplemental statements, which are not misleading or deceptive, at other places on the package, describing the nutritional value of the food product contained in such package.

"TITLE V—LABELING REQUIREMENTS FOR PERISHABLE AND SEMI-PERISHABLE FOODS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(2) The term 'food' has the meaning prescribed for that term by section 201 of the Federal Food, Drug, and Cosmetic Act, except that such term does not include any fresh fruit or vegetable.

"(3) The term perishable or semi-perishable food' means any food which the Secretary determines has a high risk of any of the following as it ages:

"(A) spoilage;

"(B) significant loss of nutritional value; or

"(C) significant loss of palatability.

"(4) The term 'pull date' means the last date on which a perishable or semi-perishable food can be sold for consumption without a high risk of spoilage or significant loss of nutritional value or palatability, if stored by the consumer after that date for the period which a consumer can reasonably be expected to store that food.

"LABELING REQUIREMENTS FOR PERISHABLE AND SEMI-PERISHABLE FOODS

"SEC. 502. (a) No person who manufactures or packages a perishable or semi-perishable food in the form in which it is sold by retail distributors to consumers may distribute (or cause to be distributed) in commerce for purposes of sale a perishable or semi-perishable food packaged by him in such form unless he has, in accordance with the requirements of subsection (f), labeled such packages to show (1) the pull date for such food, and (2) the optimum temperature and humidity conditions for its storage by the ultimate consumer.

"(b) No person engaged in business as a retail distributor of any packaged perishable or semi-perishable food subject to the provisions of subsection (a) may sell, offer to sell, or display for sale such food unless the food's package is labeled in accordance with this title.

"(c) No person engaged in business as a retail distributor of any packaged perishable or semi-perishable food may sell, offer to sell, or display for sale any such food whose pull date, as specified on its package's label, has expired unless—

"(1) the food is fit for human consumption, as determined under applicable Federal, State, or local law,

"(2) such person separates the food from other packaged perishable or semi-perishable foods whose pull dates, as specified on their package's labels, have not expired, and

"(3) such person clearly identifies the food as a food whose pull date has expired.

"(d) No person engaged in the business of manufacturing, processing, packing, or distributing perishable or semi-perishable foods may place packages of such foods, labeled in accordance with subsection (a), in shipping containers or wrappings unless such containers or wrappings are labeled by him, in accordance with regulations of the Secretary, to show the pull date (or dates) on the labels of such packages.

"(e) No person may change, alter, or remove, before the sale of a packaged perishable or semi-perishable food to the ultimate consumer, any pull date required by this section to be placed on the label of such food's package or shipping container or wrapping.

"(f)(1) The pull date and the storage instructions required to be on the label of a packaged perishable or semi-perishable food under subsection (a) shall be determined in the manner prescribed by regulations of the Secretary.

"(2) A pull date shall, in accordance with regulations of the Secretary—

"(A) be (i) in the case of the month contained in the pull date, expressed in the commonly used letter abbreviations for such month, and (ii) otherwise expressed in such combinations of letters and numbers as will enable the consumer to readily identify (without reference to special decoding information) the day, month, or year, as the case may be, comprising the pull date; and

"(B) be separately and conspicuously stated in a uniform location upon the principal display panel of the label required under subsection (a).

"(3)(A) Any regulation under paragraph (1) prescribing the manner in which pull dates for a packaged perishable or semi-perishable food shall be determined may include provisions—

"(i) prescribing the time periods to be used in determining the pull dates for such food,

"(ii) prescribing the data concerning such food (and the conditions affecting it before and after its sale to the consumer) to be used in determining its pull dates, or

"(iii) permitting a person engaged in the business of manufacturing, processing, packaging, or distributing such food to determine its pull dates using such time periods and data as such person considers appropriate.

"(B) If such regulation includes provisions described in subparagraph (A)(iii) of this paragraph, such regulation shall also contain—

"(i) such provisions as may be necessary to provide uniformity, where appropriate, in the time periods used in pull date determinations; and

"(ii) provisions for regular review by the Secretary of the pull date determinations and the time periods and data upon which they are based.

"PENALTIES AND INJUNCTIONS

"SEC. 503. (a) Any person who knowingly or willfully violates any provision of section 502, or any regulation made thereunder, shall be imprisoned for not more than one year or fined not more than $5,000, or both; except that if any person commits such a violation after a conviction of him under this subsection has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $25,000, or both.

"(b) Any packaged perishable or semi-perishable food that is distributed in violation of section 502 or any regulation made thereunder shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States within the jurisdiction of which such packaged food is found. Section 504 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) (relating to seizures) shall apply with respect to proceedings brought under this subsection and to the disposition of packaged foods subject to such proceedings.

"(c)(1) The United States district courts shall have jurisdiction, for cause shown, to restrain violations of section 502 and regulations made thereunder.

"(2) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this subsection, which violation also constitutes a violation of section 502 or a regulation made thereunder, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(d) Before any violation of section 502 or a regulation made thereunder is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

"(e) Nothing in this title shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of section 502 or a regulation made thereunder whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

"(f)(1) Actions under subsection (a) or (c) of this section may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

"(2) In any actions brought under subsection (a) or (c) of this section, subpenas for witnesses who are required to attend a United States district court may run into any other district."

"TITLE VI—LABELING REQUIREMENTS FOR CERTAIN PACKAGE GOODS

"SEC. 601. (a) Section 403(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by striking out "or" in clause (1) and inserting "and" in lieu thereof.

"(b) Section 502(b) of such Act (21 U.S.C. 352) is amended by striking out "or" in clause (1) and inserting "and" in lieu thereof.

"(c) Section 602(b) of such Act (21 U.S.C. 362) is amended by striking out "or" in clause (1) and inserting "and" in lieu thereof.

"SEC. 602. The amendments made by this Act shall take effect upon the expiration of the one hundred and eighty day period which begins on the date of the enactment of this Act.

SEC. 3. (a) The Fair Packaging and Labeling Act is further amended by inserting "TITLE VI—GENERAL PROVISIONS" above the heading for section 6, and by redesignating sections 6 through 13 as sections 601 through 608, respectively.

(b) Section 601(a) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "section 4 or section 5 of this Act" in subsections (a) and (b) and inserting in lieu thereof "section 103, 104, 201, 302, 403, or 502 of this Act".

(c) Section 602(a) of such Act (as redesignated by subsection (e) of this sec-

tion) is amended by striking out "section 3 of this Act." and inserting in lieu thereof "section 102, 201, 301, or 402 of this Act. The provisions of this subsection shall not apply with respect to title V."

(d) Section 602(a) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "section 4 and 5" and inserting in lieu thereof "sections 103, 104, 201, 302, 403, and 502".

(e) Section 603 of such Act (as redesignated by subsection (a) of this section) is amended by striking out "section 5(d) and inserting in lieu thereof "section 104(d)".

(f) Section 605 of such Act (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following:

"(g) The terms 'food' and 'food product' mean any article used for food or drink for man or other animals, and any article used as a component of such article."

(g) Section 607 of such Act (as redesignated by subsection (a) of this section) is amended to read as follows:

"SEC. 607. It is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may provide for (1) the labeling of the net quantity of contents of the package of any consumer commodity as provided in title I of this Act; (2) the quality grading of food products as provided in title II of this Act; (3) the labeling of the ingredients contained in food products as provided in title III of this Act, (4) the labeling of the nutritional value of food products as provided in title IV of this Act; (5) the labeling of perishable and semi-perishable foods as provided in title V of this Act, which are less stringent than or require information different from the requirements of the appropriate title or regulations promulgated pursuant to such title."

(h) Section 608 of such Act (as redesignated by subsection (a) of this section) is amended by striking "This" and inserting in lieu thereof "(a) Except as provided in subsection (b), this"; and by adding at the end thereof a new subsection as follows:

"(b) The provisions of titles II, III, IV, and V shall become effective six months after the date of enactment of such title, except that the Secretary of Health, Education, and Welfare may by regulation postpone for an additional twelve-month period the effective date of any such title with respect to any class or type of food product on the basis of a finding that such a postponement would be in the public interest."

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By Mr. BEALL:

S. 1198. A bill to amend Sec. 5010(d) of title 18, United States Code, relating to youth offenders. Referred to the Committee on the Judiciary.

S.J. Res. 75. A joint resolution to authorize a study of the operations of the Youth Correction Act. Referred to the Committee on the Judiciary.

Mr. BEALL. Mr. President, the continuing problem of crime in the Nation requires us to continually consider the operation of our criminal justice system. On occasion, the laws which we pass designed to improve the situation are misinterpreted by either the executive or judicial branch bringing about the need for further legislation clarifying our desires.

I believe that we have in the District of Columbia, a situation where the court of appeals has taken a congressional act and misinterpreted the original intent of the legislation—and in so doing has created a climate that needs adjustment.

I am speaking, of course, of the use of the sentencing provisions of the Youth Corrections Act. The act, as I pointed out last year, was originally intended to give the Federal courts an alternative to sending a youth between the age of 16 and 22 to an adult institution. Under the act, a sentencing judge could determine that it might be best for the young offender to be placed with his peers rather than with more experienced criminal offenders. On the other hand, he might feel that the offense of the offender was of the type that he deserved incarceration in an adult institution and that sentence would then be available also. The discretion as to the use of the youth provisions was left up to the sentencing judge or so we thought until recent decisions of the court of appeals.

The Federal Act was patterned after the Borstal system, England's answer to the problem of placing youths in the same institutions with adult offenders where the youth might be influenced by this association and led further toward a life of antisocial behavior. Under this system the court has discretionary power to commit young offenders to Borstal training. The word discretionary is the key here since this is now the missing element in the courts of the District of Columbia. Under the decision of the Circuit Court for the District of Columbia in the *United States* v. *Waters* (437 Fed. 722), the courts in this city must now make an affirmative finding that the youth offender will not benefit from rehabilitative treatment before he can be sentenced as an adult. To quote a law review article on the act:

> This requirement places an almost impossible demand on the sentencing judge who, without highly sophisticated powers of intuition approaching clairvoyance, would be hard pressed to say with any finality that any youth, other than a hardened offender, would not benefit from specialized treatment. (Note—The Federal Youth Correction Act—Past Concern In Need Of Legislative Reappraisal—Vol. II No. 1, the American Criminal Law Review).

My only further comment would be that I am not certain that even a hardened habitual offender can be found not to be benefited from such specialized treatment. And so what we have, at least in the District of Columbia where all offenses come under the Federal system, is a procedure where virtually every offender, between the ages of 16 and 22, no matter what his offense, can expect to be sentenced under the youth correction rovisions in our Federal district courts.

Mr. President, the result of this misuse of the act is several fold. First, and perhaps most importantly for the public, we have vicious young criminals, with little or no regard for life and limb, walking the streets after a short period of incarceration even after being convicted of the most serious offenses. We are, therefore, failing to protect the law-abiding citizens of the District of Columbia, Maryland, and Virginia from these hoodlums.

Second, we are bringing about the very situation in our youth institutions that this act was designed to avoid. We are placing together those young men who may have a chance for rehabilitation with the ones who are true criminals and who will commit crimes of violence against the person. This association can only make rehabilitation harder for those who have committed less serious offenses or those who are truly repentant over their criminal acts and want a chance for readjustment to normal society.

A third unfortunate result of the present use of the system in the District is the overcrowding of the youth facility that results from the lack of discretion given the trial judge. Since a judge has virtually no choice, many more offenders are sent to the youth facility than can be beneficially handled. As a result the rehabilitation process suffers greatly. Staff cannot operate under such conditions to give the specialized treatment envisioned under the act.

Under these circumstances, Mr. President, I think it is clear that the Congress must consider the present misuse of the act, as well as completely reassess the youth corrections legislation in light of 20 years of experience with an eye toward improvements that may allow for better rehabilitation of those who can actually benefit from specialized treatment.

I am, therefore, introducing two measures to deal with this situation. The first is quite similar to that which I introduced last year. It is designed to make clear the discretion that I believe was intended to be given to the trial judge under the original bill. It also deals with the procedure for release of offenders and sets up standards which the trial judge can use to make his decision on sentencing.

The second measure is a resolution asking the Justice Department to undertake an investigation of the operation of the youth correction system and changes in the law necessary to make it a more effective rehabilitative procedure.

Mr. President, the problems of the system may be a blessing in disguise. It may require us to confront the facts that the system is not accomplishing its purpose and needs overhaul. In support of these measures, I ask unanimous consent to insert in the RECORD material realting to the act that is informative as to the problems we have encountered under it.

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

[U.S. District Court for the District of Columbia]

UNITED STATES OF AMERICA v. JAMES A. ALSBROOK

(Criminal Case Nos. 1065–71, 1473–71)

The experience of the Office of the United States Attorney has engendered the fear that crimes of violence committed upon the citizenry of the District of Columbia have been perpetrated by many individuals who have had previous experience as convicted defendants in the criminal justice system. The problem of repeating offenders makes it imperative that the criminal justice system re-examine the philosophy, operation and function of the corrections system in the District of Columbia. The instant case creates the opportunity to examine one major area of the corrections system, namely, the Youth Corrections Act.

The attached exhibits comprise statistics compiled with the assistance of the Metropolitan Police Department which purport to represent the following:

A. The total number of offenders convicted of rape, robbery, and homicide who were parolees and/or residents of Community Treatment Centers (half-way houses) as of November 2, 1971.[1]

B. The total number of youth offenders charged with rape, robbery and homicide who have been rearrested between the months of March through October, 1971.

C. Excerpt, Third Quarterly Report of the Major Violators Branch, Criminal Investigation Division, Metropolitan Police Department.

1. The average time of commitment for rape, robbery and homicide to the Youth Corrections Center at Lorton from sentence date to parole has been:

| | Months |
|---|---|
| 1967 | 32.09 |
| 1968 | 22.78 |
| 1969 | 17.03 |
| 1970 | 10.95 |
| 1971 | ——— |

2. No distinction whatsoeverever is made between commitments under 18 U.S.C. § 5010 (b) and under 18 U.S.C. § 5010(c) in terms of commitment time.

3. The dramatic yearly decrease in the average commitment time would indicate release procedures are used to control the inmate population rather than to rehabilitate.

[1] In each of the exhibits the length of sentence is either six years or a figure in excess of six years. Wherever six years is indicated, it means that the defendant was sentenced under 18 U.S.C. § 5010(b); where the period of sentence is greater than six years it means that the defendant was sentenced under 18 U.S.C. § 5010(c).

4. The large number of violent youth offenders rearrested after release in the community creates the presumption that rehabilitation is not being achieved under the Youth Correction Act as presently implemented.

5. In our survey and within our personal experience in the judicial system, it appears that virtually no violent youthful offender submitted for examination under 18 U.S.C. § 5010(e) is rejected for sentence under the Youth Correction Act. Therefore, we conclude that no meaningful standards exist whereby it can be determined which youthful offenders can be rehabilitated under the Youth Corrections Act.

6. Our statistics lack information concerning the time an offender is released to a Community Treatment Center prior to parole. The information contained in Exhibit C, the Third Quarterly Report of the Major Violators Unit, highlights the need to know this salient fact. The random examples cited in Exhibit C also create the need to know the nature, extent, quality, and date concerning antidrug abuse procedures. It would appear that although urine surveillance is employed, a failure to pass urinalysis has no effect whatsoever on the offender's inexorable march to parole within the previously computed period of time. Moreover, it seems clear that the failure to pass urinalysis carried with it no sanction such as the obvious one, viz. to withdraw the offender from the Community Treatment Center.

7. Our inquiry, therefore, is twofold:

a. Does the underlying data concerning the actual operation of the Youth Corrections Act support the contention that rehabilitation is being achieved?

b. What is the impact of this operation and implementation of this Act upon the safety of public of the District of Columbia.

Wherefore, to assist the Court in its continuing inquiry, we respectfully move the Court to order production of the following information:

1. The monthly urine surveillance reports on all youthful offenders committed under 18 U.S.C. §§ 5010(b) and 5010(c) since the inception of the urine surveillance procedure.

2. A list of youthful felons in community control centers who have been rearrested since January 1, 1967.

3. A list of all furloughs authorized for youthful felons since January 1, 1967, and the number of rearrests while on furlough.

4. The urinalysis reports of all furlough returnees since the inception of the furlough program.

5. A list of persons since January 1, 1967, committed to the Youth Center under the Youth Corrections Act who were sentenced there despite a contrary recommendation by the Department of Corrections.

6. The dates on which all youth offenders listed on the attached exhibits were transferred to a half-way house facility.

7. A list of youthful offenders rejected in the past four years for treatment under the Youth Corrections Act by the Department of Corrections.

Respectfully submitted,

THOMAS A. FLANNERY,
*U.S. Attorney.*
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| D.C.D.C. No. | Offense | Sentence years | Sentence date | Date in center | Date of parole | Date of escape | Date of rearrest | Charge | Served |
|---|---|---|---|---|---|---|---|---|---|
| **1967** | | | | | | | | | |
| 155047 | Robbery | 6 | July 31, 1967 | | Aug. 29, 1969 | | | | 23 months. |
| 147487 | Manslaughter | 6 | Jan. 7, 1967 | | Feb. 31, 1971 | | | | 49 months. |
| 156607 | Robbery | 15 | Dec. 20, 1967 | Apr. 31, 1971 | | | | | 40 months. |
| 148405 | do | 12 | Sept. 15, 1967 | Apr. 1, 1971 | | | | | 43 months to center. |
| 158185 | do | 6 | Dec. 24, 1967 | Apr. 31, 1971 | | | | | 40 months. |
| 152153 | Rape | 6 | Oct. 13, 1967 | | Mar. 18, 1970 | | | | 29 months. |
| 155577 | Robbery | 7 | Sept. 11, 1967 | | Mar. 27, 1969 | | | | 18 months. |
| 156818 | do | 6 | July 7, 1967 | | Apr. 9, 1969 | | | | 21 months. |
| 154747 | do | 8 | Jan. 9, 1967 | | Mar. 13, 1970 | | | | 39 months. |
| 154460 | Murder 2 | 6 | June 23, 1967 | | Dec. 23, 1968 | | | | 18 months. |
| 157683 | Robbery | 6 | Oct. 23, 1967 | | Aug. 1, 1969 | | | | 22 mohths. |
| 152552 | do | 6 | Nov. 15, 1967 | | Nov. 7, 1969 | | | | 24 months. |
| 152705 | Rape | 6 | Oct. 31, 1967 | | July 6. 1971 | | | | 46 months. |
| 156138 | Robbery | 6 | Oct. 27, 1967 | | Apr. 2, 1970 | | | | 30 months. |
| 147732 | do | 8 | Nov. 15, 1967 | | May 27, 1969 | | | | 18 months. |
| 155728 | do | 6 | Dec. 8, 1967 | | Sept. 25, 1969 | | | | 22 months. |
| 154854 | do | 8 | Nov. 7, 1967 | | Aug. 1, 1969 | | | | 21 months. |
| 156806 | do | 6 | May 6, 1967 | | Apr. 16, 1971 | | | | 46 months. |
| 155989 | Att. robbery | 6 | Feb. 27, 1967 | | Mar. 23, 1970 | | | | 37 months. |
| 155195 | Robbery | 8 | May 15, 1967 | Jan. 26, 1971 | | | | | 43 months. |
| 072575 | do | 9 | July 31, 1967 | Apr. 31, 1971 | | | | | 45 months. |
| **1968** | | | | | | | | | |
| 157073 | Robbery | 6 | May 7, 1968 | | Aug. 22, 1969 | | | | 15 months. |
| 158803 | AWIC, att. robbery | 6 | Sept. 20, 1968 | | Oct. 8, 1969 | | | | 13 months. |
| 157444 | Robbery | 6 | June 5, 1968 | | June 17, 1970 | | | | 24 months. |
| 158244 | do | 6 | Oct. 8, 1965 | | Apr. 10, 1970 | | | | 18 months. |
| 151604 | Rape | 6 | Sept. 9, 1968 | | June 17, 1970 | | | | 21 months. |
| 153052 | Robbery | 6 | Dec. 23, 1968 | | Apr. 16, 1971 | | | | 28 months. |
| 159147 | Rape | 6 | Apr. 12, 1968 | | Oct. 29, 1971 | | | | 38 months. |
| 157629 | Robbery | 8 | June 21, 1968 | | Nov. 13, 1970 | | | | 29 months. |
| 153267 | do | 6 | June 28, 1968 | | Apr. 23, 1970 | | | | 22 months. |
| 155473 | do | 9 | Jan. 8, 1968 | | Nov. 17, 1969 | | | | 23 months. |
| 154667 | do | 6 | June 7, 1968 | | Nov. 28, 1969 | | | | 17 months. |
| 151838 | AWIC, rape | 6 | Oct. 4, 1968 | | Mar. 17, 1970 | | | | 17 months to center. |
| 157289 | Att. robbery | 9 | Dec. 2, 1968 | UNCD Apr. 31, 1971. | | | | | 28 months. |
| 146103 | Robbery | 8 | Aug. 21, 1968 | | June 10, 1970 | | | | 22 months to center. |
| 157511 | do | 6 | Apr. 22, 1968 | Apr. 16, 1971 | | | | | 36 months. |
| 158279 | do | 12 | July 26, 1968 | | Dec. 11, 1970 | | | | 29 months. |
| 159471 | do | 6 | May 17, 1968 | | July 15, 1970 | | | | 14 months. |
| 147745 | Att. robbery | 6 | Oct. 4, 1968 | | Feb. —, 1971 | | | | 28 months. |
| 158747 | Armed and plain robbery (2). | 8 | Sept. 13, 1968 | | Feb. 13, 1970 | | | | 17 months. |
| 156133 | Robbery | 10 | Sept. 9, 1968 | | May 20, 1970 | | | | 20 months. |
| 155995 | do | 6 | Mar. 27, 1968 | | July 3, 1969 | | | | 16 months. |
| 155773 | Armed robbery | 8 | June 25, 1968 | | Feb. 26, 1970 | | | | 20 months. |
| 156964 | Rape | 6 | Aug. 30, 1968 | | Oct. 8, 1969 | | | | 14 months. |
| 158528 | Armed robbery | 7 | Nov. 15, 1968 | | Apr. 16, 1971 | | | | 29 months. |
| 151469 | AWIC robbery | 8 | Aug. 23, 1968 | | Mar. 23, 1970 | | July 20, 1971 | PPW, shotgun | 19 months. |
| 154647 | Robbery | 6 | June 21, 1968 | | Apr. 3, 1970 | | Aug. 25, 1971 | C.S.A. | 20 months. |
| 158335 | do | 8 | June 28, 1968 | | July 26, 1971 | | Sept. 29, 1971 | do | 36 months. |
| **1969** | | | | | | | | | |
| 162039 | do | 10 | Nov. 17, 1969 | | Apr. 16, 1971 | | | | 17 months. |

| D.C.D.C. No. | Offense | Sentence years | Sentence date | Date in center | Date of parole | Date of escape | Date of rearrest | Charge | Served |
|---|---|---|---|---|---|---|---|---|---|
| 1969—Continued | | | | | | | | | |
| 158611 | Robbery | 6 | Feb. 25, 1969 | | Apr. 16, 1971 | | | | 26 months. |
| 160786 | Armed robbery | 10 | Dec. 19, 1969 | | Apr. 20, 1971 | | | | 16 months. |
| 158345 | Rape | 8 | Apr. 25, 1969 | | July 22, 1970 | | | | 15 months. |
| 160726 | Robbery | 7 | Dec. 4, 1969 | | Mar. 23, 1971 | | | | Do. |
| 162099 | do | 10 | Aug. 1, 1969 | | February 1971 | | | | 18 months. |
| 160519 | Armed robbery | 6 | Aug. 8, 1969 | | Feb. 26, 1970 | | | | 6 months. |
| 16104 | do | 6 | do | | Dec. 4, 1970 | | | | 16 months. |
| 157481 | Robbery | 6 | Jan. 10, 1969 | | Sept. 16, 1970 | | | | 21 months. |
| 158619 | Armed robbery | 15 | May 9, 1969 | | Sept. 11, 1970 | | | | 16 months. |
| 160798 | do | 6 | May 28, 1969 | | Oct. 22, 1971 | | | | 29 months. to center |
| 161049 | Robbery | 9 | Jan. 4, 1969 | Aug. 10, 1971 | | | | | 32 months. |
| 158273 | Armed robbery | 10 | July 25, 1969 | | Jan. 18, 1971 | | | | 17 months. |
| 163775 | Robbery | 6 | Dec. 17, 1969 | | February 1971 | | | | 14 months. |
| 161116 | Armed robbery | 6 | June 13, 1969 | | Mar. 27, 1970 | | | | 9 months. |
| 161609 | do | 6 | Aug. 8, 1969 | | February 1971 | | | | 18 months to center. |
| 151618 | Robbery | 6 | Dec. 5, 1969 | Sept. 8, 1971 | | | | | 22 months. |
| 161299 | do | 6 | June 27, 1969 | | Aug. 14, 1971 | | | | 26 months. |
| 161117 | Armed robbery | 8 | Aug. 8, 1969 | | Mar. 27, 1970 | | | | 7 months. |
| 162425 | Robbery | 6 | Oct. 22, 1969 | | Dec. 31, 1969 | | | | 2 months. |
| 155542 | do | 8 | Feb. 28, 1969 | | Sept. 1, 1970 | | | | 19 months. |
| 163266 | Armed robbery | 10 | Oct. 31, 1969 | | Feb. 26, 1971 | | | | 16 months. |
| 160822 | Robbery | 6 | Mar. 14, 1969 | | June 8, 1970 | | | | 15 months. |
| 159216 | do | 10 | Nov. 21, 1969 | | Apr. 16 1971 | | | | 17 mohths. |
| 159118 | Fel. murd. and ADW mslghtr. | 6 | Oct. 19, 1969 | | Jan. 13, 1971 | | | | 14 months. |
| 161939 | Robbery | 6 | July 8, 1969 | | Feb. 31, 1971 | | | | 20 months. |
| 162667 | Armed robbery | 6 | July 18, 1969 | | Dec. 31, 1969 | | | | 5 months. |
| 161625 | Robbery | 10 | Dec. 1, 1969 | | Aug. 13, 1971 | | | | 21 months. |
| 161013 | do | 6 | May 29, 1969 | | Apr. 16, 1971 | | | | 23 months. |
| 161218 | do | 6 | Aug. 28, 1969 | | Jan. 2, 1970 | | | | 3 months. |
| 158334 | AWIC robbery | 10 | Feb. 14, 1969 | | Jun. 10, 1971 | | | | 28 months. |
| 161893 | Armed robbery | 6 | May 19, 1969 | | July 31, 1970 | | | | 14 months. |
| 162217 | Robbery | 7 | Sept. 5, 1969 | | Apr. 16, 1971 | | | | 19 months. |
| 165244 | do | 10 | Dec. 5, 1969 | | June 28, 1971 | | | | 19 months. |
| 162622 | Armed robbery | 10 | Nov. 20, 1969 | | Apr. 28, 1971 | | | | 17 months. |
| 159489 | Bank robbery | 6 | May 9, 1959 | | July 22, 1970 | | | | 14 months. |
| 162500 | Assault rape (armed) | 6 | Apr. 18, 1969 | | Feb. 2, 1970 | | | | 10 months. |
| 161102 | Armed robbery | 10 | July 11, 1969 | | Feb. 31, 1971 | | | | 19 months. |
| 162317 | ADW and robbery | 6 | Oct. 10, 1960 | | do | | | | 16 months. |
| 162157 | Robbery | 6 | Nov. 25, 1969 | | Apr. 16, 1971 | | | | 17 months. |
| 162698 | Assault, att. robbery | 6 | do | | June 17, 1971 | | | | 19 months |
| 161831 | Armed robbery | 6 | Oct. 24, 1969 | | Apr. 16, 1971 | | | | 18 months. |
| 158753 | Robbery | 6 | May 23, 1971 | | Sept. 22, 1970 | | | | 16 months. |
| 161861 | do | 6 | July 25, 1969 | | Aug. 13, 1971 | | | | 26 months. |
| 162279 | do | 6 | Aug. 1, 1969 | | Feb. 31, 1971 | | | | 18 months. |
| 162019 | Armed robbery | 8 | Aug. 15, 1969 | | do | | | | 18 months. |
| 160492 | Robbery | 6 | May 29, 1969 | | Dec. 9, 1969 | | | | 7 months. |
| 160813 | do | 6 | Aug. 27, 1969 | | Aug. 18, 1970 | | | | 12 months. |
| 160535 | Armed and plain robbery | 8 | Apr. 18, 1969 | | Apr. 16, 1971 | | | | 24 months. |
| 158327 | Rape | 6 | Jan. 17, 1969 | | Aug. 18, 1970 | | | | 18 months. |
| | Armed robbery | 6 | Oct. 24, 1969 | | Jan. 22, 1971 | | Apr. 12, 1971 | Robbery | 15 months. |
| | do | 15 | Mar. 14, 1969 | | Mar. 22, 1971 | | Apr. 7, 1971 | Armed robbery | 24 months. |
| | Robbery | 8 | July 29, 1969 | | Feb. 18, 1971 | | May 30, 1971 | CSA | 19 months. |
| 161917 | Armed robbery | 6 | May 16, 1969 | | Oct. 29, 1969 | | Sept. 3, 1971 | CDW gun | 5 months. |
| | do | 12 | Jan. 12, 1969 | | July 9, 1971 | | | | 19 months. |
| | Robbery | 10 | June 13, 1969 | | July 28, 1971 | | | | 25 months. |
| 157616 | do | 6 | Oct. 31, 1969 | | Apr. 16, 1971 | | July 13, 1971 | PL | 18 months. |
| 162763 | do | 10 | Dec. 3, 1969 | | Jan. 22, 1971 | | May 16, 1971 | 2d degree murder | 13 months. |
| 163136 | do | 6 | Nov. 25, 1969 | | Oct. 6, 1970 | | May 22, 1971 | Homicide | 11 months. |
| 152457 | do | 6 | Mar. 13, 1969 | | Feb. 4, 1971 | | July 14, 1971 | UNA, PIC | 23 months. |
| 143490 | do | 6 | May 16, 1969 | | Oct. 1, 1971 | | Oct. 21, 1971 | Robbery | 17 months. |
| 158756 | CDW gun and armed robbery. | 6 | July 18, 1969 | | | July 11, 1971 | Aug. 24, 1971 | Armed robbery | 24 months. |
| 1970 | | | | | | | | | |
| 162104 | Robbery | 6 | Jan. 13, 1970 | | Jan. 27, 1971 | | | | 12 months. |
| 167942 | (Armed) robbery and ADW. | 6 | Sept. 17, 1970 | | Apr. 12, 1971 | | | | 7 months. |
| 157653 | Robbery | 7 | July 24, 1970 | Oct. 6, 1971 | | | | | 15 months to center. |
| 157107 | do | 10 | Oct. 9, 1970 | | Apr. 16, 1971 | | | | 6 months. |
| 165363 | Armed robbery | 10 | Mar. 5, 1970 | | do | | | | 13 months. |
| 164176 | do | 14 | Mar. 13, 1970 | | | | | | |
| 148912 | Robbery | 8 | May 27, 1970 | | June 5, 1970 | | | | 8 days. |
| 162414 | Assault sup. of jury | 6 | Feb. 19, 1970 | | May 7, 1971 | | | | 15 months. |
| 163082 | Att. robbery w/armed (Murder 1). | 10 | Mar. 5, 1970 | | Sept. 28, 1970 | | | | 6 months. |
| 165292 | Armed robbery | 15 | July 23, 1970 | | Oct. 25, 1971 | | | | 15 months. |
| 165369 | do | 6 | May 1, 1970 | | Aug. 19, 1970 | | | | 3 months. |
| 164541 | Robbery | 6 | May 14, 1970 | | May 7, 1971 | | | | 12 months. |
| 163333 | do | 10 | May 18, 1970 | | May 10, 1971 | | | | 12 months. |
| 165912 | Armed robbery | 10 | | | | | | | |
| | 2 att. robbery | (2) 6 | July 17, 1970 | | Oct. 5, 1971 | | | | 13 months. |
| 163728 | (Armed) robbery | 6 | Feb. 11, 1970 | | May 7, 1971 | | | | 15 months. |
| 158318 | do | 8 | May 22, 1970 | | June 1, 1971 | | | | 13 months. |
| 163994 | do | 6 | Apr. 1, 1970 | | Apr. 16, 1971 | | | | 12 months. |
| 150097 | 2nd degree murder, manslaughter. | 10 | Mar. 11, 1970 | Oct. 15, 1971 | | | | | 19 months. |
| 164879 | (Armed) robbery | 6 | May 4, 1970 | | Sept. 11, 1970 | | | | 4 months. |
| 165144 | do | 8 | Aug. 27, 1970 | | Aug. 14, 1971 | | | | 12 months. |
| 161049 | 2d M and AWI robbery (Murder 1). | 15 | Aug. 19, 1970 | June 15, 1971 | | | | | 10 months. |
| 162713 | Robbery | 8 | Mar. 4, 1970 | | Feb. 2, 1971 | | | | 11 months. |
| 164710 | do | 6 | Oct. 13, 1970 | | Sept. 8, 1971 | | | | Do. |
| 164174 | do | 6 | Dec. 4, 1970 | July 27, 1971 | | | | | 7 months. |
| 165214 | 2d degree murder | 10 | Sept. 1, 1970 | | July 10, 1971 | | | | 10 months. |
| 164769 | (Armed) robbery | 8 | May 14, 1970 | | July 6, 1971 | | | | 14 months. |
| 165772 | do | 10 | Sept. 22, 1970 | | May 20, 1971 | | | | 8 months. |
| 161722 | do | 6 | Apr. 27, 1970 | | July 10, 1971 | | | | 14 months. |
| 163522 | do | 6 | Oct. 2, 1970 | | May 15, 1971 | | | | 5 months. |
| 164612 | do | 6 | July 9, 1970 | | July 14, 1971 | | | | 12 months. |
| 158286 | Robbery | 8 | Aug. 12, 1970 | | May 4, 1971 | | | | 9 months. |
| 163300 | (Armed) robbery | 6 | June 12, 1970 | | Nov. 5, 1970 | | | | 5 months. |
| 160537 | Robbery | 8 | Feb. 25, 1970 | | June 17, 1971 | | | | 16 months. |
| 160654 | do | 6 | June 25, 1970 | | July 27, 1971 | | | | 13 months. |
| 163073 | (Murder 1) attempt, armed robbery. | 10 | Mar. 2, 1970 | | May 5, 1971 | | | | 14 months. |
| 165307 | (Armed) robbery | 6 | June 19, 1970 | July 13, 1971 | | | | | 13 months. |
| 164351 | Armed robbery | 6 | Nov. 2, 1970 | | June 8, 1971 | | | | 7 months. |
| 165483 | (Armed) Carnal knowledge. | 6 | Dec. 23, 1970 | Oct. 15, 1971 | | | | | 10 months. |

| D.C.D.C. No. | Offense | Sentence years | Sentence date | Date in center | Date of parole | Date of escape | Date of rearrest | Charge | Served |
|---|---|---|---|---|---|---|---|---|---|
| 1970—Continued | | | | | | | | | |
| 165545 | Armed robbery | 6 | July 30, 1970 | | June 5, 1971 | | | | 11 months. |
| 156819 | (Armed) robbery | 9 | Feb. 24, 1970 | Sept. 13, 1971 | | | | | 8 months. |
| 165331 | (Armed) and armed robbery | 8 | July 15, 1970 | Oct. 21, 1971 | | | | | 15 months. |
| 163104 | Robbery | 6 | May 12, 1970 | | April 27, 1971 | | | | 11 months. |
| 164937 | Armed robbery | 6 | July 27, 1970 | | May 7, 1971 | | | | 10 months. |
| 166001 | Robbery | 14 | July 10, 1970 | Sept. 21, 1970 | | | | | 14 months. |
| 163648 | Armed robbery | 10 | May 21, 1970 | | April 9, 1971 | | | | 11 months. |
| 166993 | do | 12 | July 30, 1970 | | Aug. 30, 1971 | | | | 13 months. |
| 161048 | do | 12 | April 30, 1970 | | do | | | | 16 months. |
| 158933 | Bank robbery | 6 | May 22, 1970 | | June 17, 1971 | | | | 13 months. |
| 166569 | Armed robbery | 10 | Oct. 23, 1970 | | July 9, 1971 | | | | 9 months. |
| 165448 | do | 10 | Aug. 19, 1970 | | Nov. 1, 1971 | | | | 15 months. |
| 162390 | Att. robbery w/armed | 6 | Nov. 18, 1970 | | Mar. 18, 1971 | | | | 4 months. |
| 165001 | (Armed) robbery | 6 | Aug. 11, 1970 | | July 13, 1971 | | | | 11 months. |
| 163946 | Robbery | 6 | Sept. 15, 1970 | | June 17, 1971 | | | | 9 months. |
| 162447 | Armed robbery | 10 | Feb. 11, 1970 | | April 22, 1971 | | | | 14 months. |
| 162943 | AWI robbery (Armed) | 6 | April 30, 1970 | | Aug. 23, 1970 | | | | 4 months. |
| 163571 | (Mrdr I-Fel. M) Mansl., Armed robbery. | 6 | Sept. 28, 1970 | | July 28, 1971 | | | | 10 months. |
| 164612 | (Armed) rob | 6 | July 9, 1970 | | July 14, 1971 | | | | 12 months. |
| 164964 | (Armed) rob | 6 | May 22, 1970 | | Apr. 16, 1971 | | | | 11 months. |
| 165642 | Robbery | 8 | Nov. 3, 1970 | July 27, 1971 | | | | | 8 months. |
| 160562 | (Armed robbery) AWIR | 6 | June 8, 1970 | | Apr. 16, 1971 | | | | 10 months. |
| 168044 | Armed robb | 6 | Sept. 22, 1970 | | June 22, 1971 | | | | 9 months. |
| 160459 | Armed robbery | 10 | Mar. 12, 1970 | | Apr. 28, 1971 | | | | 13 months. |
| 153007 | Manslaughter | 12 | Feb. 19, 1970 | June 18, 1971 | | | | | 16 months. |
| 163339 | Armed and att robbery | 10 | Jan. 12, 1970 | | Jan. 27, 1971 | | | | 12 months. |
| 163189 | Robbery | 6 | Mar. 26, 1970 | | do | | | | 16 months. |
| 160700 | (ADW) and robbery | 6 | Jan. 13, 1970 | | Apr. 16, 1971 | | | | 16 months. |
| 166457 | Robbery | 6 | Nov. 18, 1970 | | May 20, 1971 | | | | 6 months. |
| 162992 | 2 cases (rob. and att. rob.) | 6 | Dec. 10, 1970 | | June 21, 1971 | | | | 6 months. |
| 167433 | (Armed) rob | 8 | July 31, 1970 | | May 7, 1971 | | | | 10 months. |
| 164878 | (Armed) rob | 10 | May 4, 1970 | | July 7, 1971 | | | | 14 months. |
| 163389 | Armed robbery | 6 | May 4, 1970 | | June 25, 1971 | | | | 13 months. |
| 151680 | Mis. escape robbery | 6 | Sept. 23, 1970 | Oct. 21, 1971 | | | | | Do. |
| 165037 | (Armed) rob | 6 | July 29, 1970 | | Aug. 13, 1971 | | | | Do. |
| 161714 | Armed robbery | 12 | Jan. 12, 1970 | | July 9, 1971 | | | | 19 months. |
| 162941 | Armed robbery | 10 | Apr. 30, 1970 | | May 5, 1971 | | | | 13 months. |
| 158402 | Robbery | 10 | July 31, 1970 | June 24, 1971 | | | | | 11 months. |
| 159695 | AWIR/armed Robbery | 10 | June 26, 1970 | | Apr. 16, 1971 | | | | 10 months. |
| | | 10 | Oct. 22, 1969 | | | | | | 18 months. |
| 150953 | do | 6 | May 7, 1970 | | Apr. 16, 1971 | | | | 11 months. |
| 164719 | do | 10 | June 16, 1970 | Sept. 9, 1971 | | | | | 15 months. |
| 165012 | Armed robbery | 6 | Aug. 11, 1970 | | Aug. 13, 1971 | | | | 12 months. |
| 165419 | do | 6 | Nov. 16, 1970 | | July 19, 1971 | | | | 8 months. |
| 165728 | Robbery | 6 | Sept. 4, 1970 | Feb. 3, 1971 | | | | | 5 months. |
| 163262 | AWI rob, att robbery | 7 | Jan. 5, 1970 | Aug. 27, 1970 | | | | | 20 months. |
| | Att robbery | 6 | June 12, 1970 | | Feb. 4, 1971 | | Mar. 3, 1971 | UUV, PIC, PPW, PK | 7 months. |
| | 2 armed robbery | 8 | Mar. 16, 1970 | | Jan. 22, 1971 | | Mar. 30, 1970 | CDW gun | 10 months. |
| | Armed robbery | 6 | May 12, 1970 | | Oct. 6, 1970 | | Apr. 5, 1971 | HNA | 5 months. |
| 162946 | Robbery | 9 | Apr. 21, 1970 | | Mar. 4, 1971 | | June 14, 1971 | Burgl 2 | 11 months. |
| | do | 6 | June 1, 1970 | | | | Sept. 8, 1971 | Armed robbery | |
| | 2d D. murder, 1st D. murder. | 15 | Sept. 11, 1970 | Aug. 3, 1971 | | | Oct. 21, 1971 | do | 11 months. |
| 165219 | Rape | 6 | Apr. 22, 1970 | | Oct. 6, 1970 | | May 4, 1971 | Rape | 6 months. |
| 164456 | Armed robbery | 6 | May 21, 1970 | Mar. 16, 1971 | | | May 12, 1971 | PL | 10 months. |
| 162176 | do | 10 | June 8, 1970 | | Apr. 16, 1971 | | June 16, 1971 | CSA CDW gun | 10 months. |
| 64755 | Armed robbery | 10 | May 28, 1971 | May 27, 1971 | | | July 27, 1971 | Armed robbery | 12 months. |
| 63268 | AWIC robbery, armed | 10 | Apr. 6, 1970 | Mar. 27, 1971 | | | July 6, 1971 | do | 11 months. |
| 62235 | Rape and robbery | 8 | Jan. 9, 1970 | Jan. 22, 1971 | | | do | Sodomy | 12 months. |
| 60401 | Armed robbery | 6 | Sept. 16, 1970 | May 27, 1971 | | | Aug. 14, 1971 | P.L | 11 months. |
| 16327 | 2 armed robberies | 10 | Dec. 16, 1970 | July 15, 1971 | | | Aug. 5, 1971 | do | 7 months. |
| | Armed robbery | 6 | Oct. 16, 1970 | June 15, 1971 | | July 2, 1971 | Sept. 22, 1971 | 57 counts burglary | 8 months. |
| 166041 | do | 6 | Nov. 6, 1970 | | | Apr. 16, 1971 | Sept. 2, 1971 | Burg. I, armed robbery. | 6 months. |
| 165149 | do | 15 | Oct. 16, 1970 | | Aug. 4, 1971 | | Sept. 5, 1971 | UUV | 10 months. |
| 159357 | Rape | 15 | July 1, 1970 | Aug. 5, 1971 | | | Oct. 13, 1971 | Burg. I | 13 months. |
| 162862 | Armed robbery | 9 | Oct. 7, 1970 | | | | May 9, 1971 | 822-71 | 7 months. |
| 161680 | Rape | 6 | May 22, 1970 | | Oct. 6, 1970 | | Aug. 27, 1971 | Burg. 2 | 5 months. |
| 165549 | Armed robbery | 8 | July 30, 1970 | | June 26, 1971 | | Aug. 29, 1971 | Armed robbery | 11 months. |
| 165668 | Robbery | 6 | July 18, 1969 | | | July 11, 1971 | Aug. 24, 1971 | do | 12 months. |
| 164944 | Armed robbery | 10 | May 20, 1970 | | June 18, 1971 | | Aug. 19, 1971 | do | 13 months. |
| 165532 | do | 6 | June 18, 1970 | | June 21, 1971 | | Aug. 24, 1971 | do | 12 months. |
| 1971 | | | | | | | | | |
| 166214 | 2 armed robberies | 15 | Jan. 13, 1971 | July 22, 1971 | | | | | 6 months. |
| 167722 | Armed robbery | 10 | Feb. 26, 1971 | | Sept. 25, 1971 | | | | 7 months. |
| 166353 | do | 10 | Feb. 19, 1971 | Oct. 19, 1971 | | | | | 8 months. |
| 165778 | Robbery | 6 | June 30, 1971 | Oct. 5, 1971 | | | | | 3 months. |
| 166124 | Murder I (Armed robbery). | 6 | Jan. 28, 1971 | Feb. 3, 1971 | | | | | 5 days to center. |
| 165539 | Robbery | 6 | Mar. 19, 1971 | Oct. 12, 1971 | | | | | 7 months. |
| 159486 | do | 6 | Jan. 15, 1971 | | Sept. 13, 1971 | | | | 8 months. |
| 171017 | AWIC robbery | 6 | Oct. 27, 1971 | Oct. 28, 1971 | | | | | 1 day. |
| 169466 | Armed robbery | 8 | Mar. 31, 1971 | Aug. 3, 1971 | | | | | 4 months. |
| 165444 | Robbery | 5 | Jan. 7, 1971 | June 30, 1971 | | | | | 7 months. |
| 167791 | Armed robbery | 6 | July 30, 1971 | Aug. 31, 1971 | | | | | 1 month. |
| 166397 | do | 10 | Apr. 8, 1971 | June 3, 1971 | | | | | 2 months. |
| 170195 | Att. robbery | 6 | May 12, 1971 | Aug. 7, 1971 | | | | | 3 months. |
| 166787 | (Armed) robbery | 8 | Oct. 8, 1971 | Oct. 8, 1971 | | | | | 0. |
| 170196 | (Robbery) Att robbery | 6 | May 12, 1971 | | Sept. 21, 1971 | | | | 4 months. |
| 163288 | do | 6 | Aug. 13, 1971 | | Oct. 29, 1971 | | | | 2 months. |
| 158741 | Armed robbery | 15 | June 28, 1971 | Aug. 17, 1971 | | | | | 2 months. |
| 168208 | do | 6 | Feb. 23, 1971 | Oct. 19, 1971 | | | | | 8 months. |
| 167343 | do | 6 | June 25, 1971 | | Oct. 22, 1971 | | | | 4 months. |
| 166383 | do | 6 | Apr. 30, 1971 | Sept. 28, 1971 | | | | | 5 months. |
| 168784 | (2d murder) mnslghtr | 6 | Jan. 8, 1971 | | Apr. 29, 1971 | | | | Do. |
| 167032 | Armed robbery | 12 | Feb. 12, 1971 | Oct. 19, 1971 | | | | | 8 months. |
| 166195 | (Robbery) att robbery | 6 | Jan. 27, 1971 | Sept. 28, 1971 | | | | | Do. |
| 165367 | (Armed) robbery | 6 | Feb. 19, 1971 | July 22, 1971 | | | | | 5 months. |
| 166919 | (Armed) robbery | 10 | May 12, 1971 | Aug. 31, 1971 | | | | | 3 months. |
| 166381 | Robbery | 6 | June 4, 1971 | Sept. 21 1971 | | | | | Do. |
| 166403 | (Manslaughter) 2d murder. | 7 | Apr 7, 1971 | | Oct. 16, 1971 | | | | 6 months. |

| D.C.D.C. No. | Offense | Sentence years | Sentence date | Date in center | Date of parole | Date of escape | Date of rearrest | Charge | Served |
|---|---|---|---|---|---|---|---|---|---|
| 1970—Continued | | | | | | | | | |
| 170400 | Waived ind. att. robbery | 6 | June 9, 1971 | Aug. 31, 1971 | | | | | 3 months. |
| 168961 | Murder 2 | 6 | Jan. 28, 1971 | | Sept. 23, 1971 | | | | 8 months. |
| 170502 | Robbery | 6 | June 22, 1971 | Oct. 28, 1971 | | | | | 4 months. |
| 167385 | do | 6 | May 12, 1971 | Aug. 17, 1971 | | | | | 3 months. |
| 168500 | AWIC w/armed and robbery. | 6 | Aug. 24, 1971 | Oct. 28, 1971 | | | | | 2 months. |
| 167576 | Armed robbery | 6 | Feb. 23, 1971 | | May 27, 1971 | | May 31, 1971 | CDW | 3 months. |
| 218468 | do | 6 | Jan. 25, 1971 | May 27, 1971 | | | July 27, 1971 | Armed robbery | 4 months. |
| | do | 10 | Jan. 14, 1971 | | | July 19, 1971 | Oct. 18, 1971 | do | 6 months. |

EXHIBIT B

YOUTH ACT PAROLEES' ARRESTS—MARCH–OCTOBER, 1971

| DCDC No. | Offense | Sentence years | Sentence date | Date in center | Date of parole | Date of escape | Date of rearrest | Charge |
|---|---|---|---|---|---|---|---|---|
| 165144 | Armed robbery | 8 | Aug. 27, 1970 | | Aug. 14, 1971 | | Mar. 29, 1971 | ADW, gun. |
| 165976 | Robbery | 6 | Feb. 28, 1969 | | | | Mar. 4, 1971 | Disorderly jostling. |
| | Att. robbery | 6 | Dec. 30, 1969 | | Apr. 16, 1971 | | Mar. 31, 1971 | Burglary 2. |
| | do | 6 | June 12, 1970 | | Feb. 4, 1971 | | Mar. 31, 1971 | UUV, PIC, PPW. PIC. |
| | Robbery | | | | Mar. 3, 1970, Feb. 4, 1971. | | Mar. 11, 1971 | Rape while armed. |
| | Armed and armed robbery | 8 | Mar. 16, 1970 | | Jan. 22, 1971 | | Mar. 30, 1971 | CDW gun. |
| | Armed robbery | 6 | Oct. 24, 1969 | | do | | Apr. 12, 1971 | Robbery. |
| | Robbery | | | | Feb. 4, 1971 | | Apr. 8, 1971 | Armed robbery gun. |
| 159118 | Mnslgtr. and ADW. homicide | 6 | Oct. 10, 1969 | | Oct. 6, 1970, Jan. 13, 1971. | | Apr. 5, 1971 | Rape. |
| 159142 | Armed robbery | 15 | Mar. 14, 1969 | | Mar. 22, 1971 | | Apr. 7, 1971 | Armed robbery. |
| 165563 | Armed robbery | 6 | May 12, 1970 | | Oct. 6, 1970 | | Apr. 5, 1971 | H.N.A. |
| 158611 | Robbery | 6 | Feb. 25, 1969 | | Apr. 16, 1971 | | May 25, 1971 | Burglary 2. |
| 164032 | do | 8 | July 29, 1969 | | Feb. 18, 1971 | | May 30, 1971 | CSA distribution. |
| 156219 | Rape | 6 | Apr. 22, 1970 | | Oct. 6, 1970 | | May 4, 1971 | Asslt. with int. to rape |
| 161939 | Robbery | 6 | July 8, 1969 | | do Feb. 31, 1971. | | May 20, 1971 | CDW gun. |
| 163136 | do | 6 | Nov. 25, 1969 | | Oct. 6, 1970 | | May 22, 1971 | Homicide. |
| 166333 | do | | | | Mar. 10, 1971 | | May 19, 1971 | Armed robbery. |
| 162763 | do | 10 | Dec. 3, 1969 | | Jan. 22, 1971 | | May 16, 1971 | 2d degree murder. |
| 164456 | Armed att. robbery | 6 | May 21, 1970 | Mar. 16, 1971 | | | May 12, 1971 | Petit larc. |
| 167576 | Armed robbery | 6 | Feb. 23, 1971 | | May 27, 1971 | | May 31, 1971 | CDW gun. |
| 162946 | Robbery | 9 | Apr. 21, 1970 | | Mar. 4, 1971 | | June 14, 1971 | Burglary 2. |
| 162176 | Armed robbery | 10 | June 8, 1970 | | Apr. 16, 1971 | | June 16, 1971 | CSA, CDW. |
| 155464 | ADW | 10 | Jan. 31, 1968 | | Apr. 26, 1971 | | June 24, 1971 | Armed robbery. |
| 157616 | Robbery | 6 | Oct. 31, 1969 | | Apr. 16, 1971 | | July 13, 1971 | Petit larceny. |
| 151318 | AWIC robbery | 8 | Aug. 23, 1968 | | Mar. 23, 1970 | | July 20, 1971 | PPW shotgun. |
| 164755 | Armed robbery | 10 | May 28, 1970 | Mar. 23, 1971, May 27, 1971. | | | Mar. 23, 1971, July 27, 1971. | Armed robbery. |
| 218468 | do | 6 | Jan. 25, 1971 | | | | July 22, 1971 | Homicide. |
| 163268 | AWIC armed robbery | 10 | Apr. 6, 1970 | Mar. 9, 1971, May 27, 1971. | | | July 16 1971 | Armed robb. (shotgun). |
| 158279 | Robbery | 12 | July 26, 1968 | | Dec. 11, 1970 | | July 28, 1971 | Armed robbery. |
| 162235 | AWIC, rape, and robbery | 8 | Jan. 9, 1970 | | Mar. 9, 1971, Jan. 22, 1971. | | July 6, 1971 | Oral sodomy forced. |
| 152457 | Robbery | 6 | Mar. 13, 1969 | | Aug. 18, 1970 | | July 14, 1971 | U.N.A., PIC. |
| 143173 | do | | | | Feb. 14, 1971 | | July 6, 1971 | Murder. |
| 164437 | do | | | | May 28, 1971 | | Aug. 4, 1971 | Larceny. |
| 162862 | Armed robbery | 9 | Oct. 7, 1970 | | | May 9, 1971 | Aug. 22, 1971 | First degree murder. |
| 161680 | S.A. (rape and sodomy) | 6 | May 22, 1970 | | Oct. 6, 1970 | | Aug. 27, 1971 | Burglary 2. |
| 160798 | Armed robbery | 6 | May 29, 1969 | | June 23, 1970 | | Aug. 19, 1971 | Armed robbery. |
| 165549 | do | 8 | July 30, 1970 | | June 26, 1971, FU–25. | | Aug. 24, 1971 | Burg. I, robb. Hold-up. |
| 165668 | Robbery | 6 | Sept. 4, 1970 | | June 17, 1971 | | Aug. 29, 1971 | Armed robbery. |
| 154848 | do | | | | | | Aug. 2, 1971 | Robbery. |
| 158756 | 2 cases: CDW and armed robbery | 6 | July 18, 1969 | | | July 11 1971 | Aug. 24, 1971 | Robbery, holdup gun. |
| 154647 | Robbery | 6 | June 21, 1968 | | Apr. 23, 1970 | | Aug. 25, 1971 | CSA distribution sch. 1. |
| 163189 | do | 6 | Mar. 26, 1970 | | Mar. 18, 1971 | | Aug. 25, 1971 | UNA. |
| 168961 | 2d degree (homicide) | 6 | Jan. 28, 1971 | | Sept. 23, 1971 | | Aug. 16, 1971 | Burglary. |
| 164944 | Armed robbery | 10 | May 20, 1970 | | June 18, 1971 | | Aug. 19, 1971 | Armed robbery. |
| 165532 | Armed robbery | 6 | Oct. 18, 1970 | | | | Aug. 24, 1971 | Armed robbery. |
| 166457 | Robbery | 6 | Nov. 18, 1970 | | May 20, 1971 | | Aug. 28, 1971 | Robb. holdup gun. |
| 160401 | Armed robbery | 6 | Sept. 16, 1970 | | | | Aug. 14, 1971 | Petit larceny. |
| 163527 | 2 cases: Armed and robbery | 10 | Dec. 16, 1970 | | | | Aug. 5, 1971 | Do. |
| 164170 | Robbery | 6 | Oct. 13, 1970 | | Sept. 8, 1971 | | Sept. 16, 1971 | CSA. |
| 155755 | Att. robbery | | | | June 25, 1971 | | Sept. 21, 1971 | P.I.C. |
| | Armed robbery | 6 | Oct. 16, 1970 | June 15, 1971 | | July 2, 1971 | Sept. 22, 1971 | 57 counts burglary. |
| 166041 | do | 6 | Nov. 6, 1970 | | | Apr. 16, 1971 | Sept. 2, 1971 | Burglary 1, robbery. |
| 168208 | do | 6 | Feb. 23, 1971 | | Aug. 25, 1971 | | Sept. 6, 1971 | Armed robbery. |
| 158335 | Robbery | 8 | June 16, 1971 | | July 26, 1971 | | Sept. 29, 1971 | CSA. |
| 161917 | do | 6 | Dec. 13, 1968 | | Oct. 29, 1969 | | Sept. 3, 1971 | CDW gun. |
| 165149 | Armed robbery | 15 | Oct. 16, 1970 | | Aug. 4, 1971 | | Sept. 5, 1971 | U.U.V. |
| 158695 | Robbery 2d and burglary | | | | Mar. 10, 1971 | | Sept. 11, 1971 | CDW gun. |
| 158747 | 2 one armed robbery | 8 | Sept. 13, 1968 | | Feb. 13, 1970, Oct. 6, 1970. | | Sept. 27, 1971 | Petit larceny. |
| | Robbery | 6 | June 1, 1970 | | | | Sept. 8, 1971 | Armed robbery. |
| 156806 | do | 6 | June 6, 1967 | | Oct. 27, 1969 | | Sept. 18, 1971 | Murder. |
| 143490 | P.L. and robbery | 6 | May 16, 1969 | | Oct. 1, 1970 | | Oct. 21, 1971 | Robbery. |
| 159357 | Rape | 15 | July 1, 1970 | Aug. 5, 1971 | | | Oct. 13, 1971 | Burglary 1. |
| 163295 | 2d degree murder | 15 | Sept. 11, 1970 | Aug. 3, 1971 | | | Oct. 21, 1971 | Armed robbery. |
| 158747 | 2 robbery | 8 | Sept. 13, 1968 | Feb. 13, 1970 | Feb. 13, 1970 | | Oct. 6, 1971 | Att. UUV. |
| | Armed robbery | 6 | Mar. 19, 1971 | Jan. 12, 1971 | | | Oct. 24, 1971 | Rape. |
| 168138 | do | 10 | Jan. 14, 1971 | | | July 19, 1971 | Oct. 18, 1971 | Armed robbery. |

EXHIBIT C

The following is an excerpt from the Third Quarterly Report of the Major Violators Branch, Criminal Investigation Division, Metropolitan Police Department. The excerpt deals specifically with youthful offenders.

D. Narcotics/Community Correctional Centers:

In July, 1971, the Major Violators Branch was furnished a copy of the D.C. Department of Corrections Narcotic Testing Report for June, 1971. An examination of this report revealed that a number of individuals who had three or more positive urinalysis examinations (demonstrating narcotic usage other than methadone) were being paroled within a short time after such positive examinations. It was also noted that some of the individuals had escaped after failing several urinalysis examinations. The following cases are examples of what happened to individuals with three or more positive urine examinations in June. A positive reaction to methadone was not counted as having a positive Narcotic examination.

Louis Cain—This subject had four positive quinine tests in June, 1971. He was paroled on June 26, 1971, and rearrested for Armed Robbery on August 24, 1971.

Donnie Free—This subject had eight positive quinine and morphine exams in June, 1971, and was paroled on July 28, 1971.

Lewis Hartwell—This subject had five positive quinine and morphine exams in June, 1971, and escaped on July 11, 1971. He was rearrested for Armed Robbery on August 24, 1971.

Zachary Jones—This subect had 3 positive quinine and morphine exams in June, 1971, and was paroled on June 28, 1971.

Terry Stroman—This subject had 3 positive quinine and morphine exams in June, 1971, and was granted an Extended Furlough on June 21, 1971. He was rearrested for Armed Robbery on August 24, 1971.

Vincent Turner—This subject had four positive quinine exams in June, 1971, and was paroled on July 9, 1971.

James Marshall—This subject had four positive quinine and morphine exams in June, 1971, and was paroled on July 14, 1971.

In August, 1971, a copy of the July, 1971 D.C. Department of Corrections Narcotic Testing Report was furnished to the Major Violators Branch. Two hours later a representative from Corrections came to this Branch and asked that the report be returned as it had been furnished by mistake. The report was returned as requested and we have not been furnished any other such reports.

E. Rearrests of Persons on Parole:

In July, August, and September, 1971, this Branch documented the rearrest of 113 individuals who were on either Adult or Youth Parole, under the supervision of the D.C. Department of Corrections, at the time of their rearrest Felony charges accounted for 77 or 65.4% of the rearrest.

The following persons were on . . . Youth Parole when they were rearrested for Robbery.

| Name | Previous offense | Date paroled | New arrest: Offense | New arrest: Date |
|---|---|---|---|---|
| Louis Cain | Robbery | June 26, 1971 | Armed robbery | Aug. 14, 1971 |
| Walter A. Covert | do | Aug. 4, 1971 | do | Aug. 29, 1971 |
| William H. Covington | do | Oct. 6, 1970 | do | Aug. 19, 1971 |
| James L. Edwards | do | May 25, 1971 | Robbery | Aug. 2, 1971 |
| Curtis L. Foster | do | May 27, 1971 | Armed robbery | July 6, 1971 |
| Larry E. Jones | do | Dec. 11, 1970 | do | July 28, 1971 |
| Watson L. Mills | do | Aug. 18, 1970 | do | Aug. 24, 1971 |
| Dandre H. Shorter | do | May 20, 1971 | do | Aug. 28, 1971 |
| Paul M. Strohman | do | Aug. 4, 1971 | do | Aug. 19, 1971 |
| Terry Stroman | do | do | do | Aug. 24, 1971 |

The following cases are among those documented by this Branch involving the rearrest of individuals on parole under the supervision of the D.C. Department of Corrections.

Virgil Ronald Minor, age 23 years:

On January 9, 1970, this subject was committed to jail after being convicted of Assault with Intent to Rape and Burglary I. He was sentenced under the Federal Youth Corrections Act, Section 5010(b), not to exceed six years.

This conviction was the result of Minor entering an apartment at 2:00 a.m., with a stocking mask on and attempting to rape the female occupant.

On January 29, 1971, Minor was placed on Youth Parole.

On June 29, 1971, about midnight, Minor approached a lone female who was getting into her auto after leaving work. He pointed a pistol at her and also entered the auto. Minor forced the complainant to drive into an alley and then made her commit oral sodomy on him.

On July 6, 1971, after being identified in the case, Minor was arrested on a warrant charging Oral Sodomy and ADW (Pistol). He is now confined to the D.C. Jail pending trial on the new charge.

D'Andre Henry Shorter, age 10 years:

On November 18, 1970, this subject was sentenced under the Federal Youth Corrections Act, Section 5010(B), not to exceed six years, after being convicted of Robbery. The conviction resulted after Shorter knocked a male and female to the ground and robbed them.

On May 20, 1971, the defendant was placed on Youth Parole. On August 28, 1971, Shorter was arrested for Armed Robbery on a warrant charging that on August 18, 1971, he held up a citizen at gunpoint and robbed him of $300.

Shorter was released by the court on his Personal Recognizance following his last arrest under the supervision of the D.C. Bail Agency. His parole has not been revoked and he is free in the community as of the date of this report.

E. Rearrest of Individuals under supervision by D.C. Department of Corrections for Homicide:

William Edward Hawkins, age 20 years:

Henry Halver Jones, age 26 years:

On November 25, 1969, William Edward Hawkins was sentenced under the Federal Youth Corrections Act, Section 5010(B), not to exceed six years, after being convicted of Armed Robbery. He was paroled on November 12, 1970.

On October 3, 1968, Henry H. Jones was convicted of Attempt Burglary II and Destroying Private Property in Superior Court. He was placed on probation from October 3, 1968 until October 2, 1969.

On June 1, 1969, Jones was rearrested for Larceny from the D.C. Government and Burglary II. He was convicted and on June 19, 1970, he was sentenced to serve one to three years in jail.

On November 26, 1970, Jones escaped from the Lorton Complex and remained at large until February 10, 1971. In spite of the escape, Jones was paroled on April 26, 1971.

On May 21, 1971, Hawkins and Jones assaulted a 15-year-old male and stabbed him three times in the chest. The victim died on the scene and Hawkins and Jones fled the scene.

Both subjects were arrested on May 22, 1971, and Henry H. Jones is now confined to the D.C. Jail. William Edward Hawkins was released on his Personal Recognizance by the court, under the supervision of the D.C. Bail Agency, and is at large in the community still on parole.

Investigation of this offense by Homicide Investigators revealed that the 15 year old who was killed was mistakenly identified by Hawkins and Jones for another person they were angry at.

Henry David Johnson, Jr., age 22 years:

On December 3, 1969, this subject was sentenced under the Federal Youth Corrections Act, Section 5010(C), not to exceed 10 years, after being convicted of Armed Robbery and ADW (Gun).

On January 22, 1971, Johnson was placed on Youth Parole.

On April 12, 1971, Johnson fatally shot a 30 year old male in the head during an altercation inside the victim's home. Johnson fled the scene following the homicide.

On May 16, 1971, Johnson was arrested after breaking into an apartment in Northwest. He was arrested hiding under a bed. He was also charged with Second Degree Murder on a warrant at the time of the Burglary arrest.

Henry D. Johnson, Jr. is now confined in the Lorton Complex.

Robert Watson, age 22 years:

On June 5, 1967, this subject was arrested for Armed Robbery after holding up a laundry truck driver. At the time of his arrest he was armed with a handgun. Watson was later identified in other Armed Robberies of delivery truck drivers and was indicted by the Grand Jury in five Armed Robbery cases.

Watson entered a plea of guilty to one count of Armed Robbery and was sentenced under the Federal Youth Corrections Act, Section 5010(B), not to exceed six years, on February 2, 1968. On October 27, 1969, Watson was paroled.

On Friday, September 17, 1971, Watson was arrested in Montgomery County, Maryland, after he followed the female resident of a high-rise apartment from a laundry room to her apartment. Once in the apartment he sexually assaulted the victim and then stabbed her to death.

Watson is now held in the Montgomery County Jail charged with First Degree Murder.

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[In the U.S. District Court for the District of Columbia]

UNITED STATES OF AMERICA VERSUS JAMES A. ALSBROOK, CRIMINAL NO. 1066–71

APPEARANCES

John Z. Noyes, Esquire, Counsel for Defendant.

Daniel A. Rezneck, Esquire, Of, Arnold & Porter, Amicus Curiae appointed by the Court.

Robert A. Shuker, Esquire, Richard A. Hibey, Esquire, Assistant United States Attorneys.

John A. Earnest, Esquire, Shane Stark, Esquire, Assistant Corporation Counsel.

John Perazich, Esquire, Paul Chernoff, Esquire, Public Defender Service.

FINDINGS OF FACT AND CONCLUSIONS OF LAW ON ANCILLARY HEARING

The Lorton Youth Center and the D.C. Board of Parole, while finding defendant Alsbrook amenable to rehabilitative treatment under the Federal Youth Corrections Act,[1] recommended that he be sentenced as an adult on the ground that "meaningful treatment cannot be provided due to overcrowding and inadequate facilities." Because of this development and other recent indications that there has been a local breakdown in the administration of the Youth Corrections Act, this Court noticed an ancillary factfinding hearing in aid of sentencing which was held on November 19.[2]

For reasons set out below, the Court has concluded that immediate steps must be taken both by correction authorities and the Court so that the Court's sentencing functions can be carried out in this jurisdiction in a manner consistent with the Act and implementing decisions of the United States Court of Appeals for the District of Columbia.

The Youth Corrections Act was originally enacted in 1950. Later, in 1952, Congress provided that D.C. Code youth offenders would also be eligible for Youth Act commitment. The Act was amended accordingly and funds were subsequently provided for the present Youth facility situated at Lorton, Virginia.

The Act contemplates that offenders convicted prior to reaching age 22 may be considered for commitment under indeterminate sentences to an appropriate youth facility, there to receive treatment and rehabilitation. Typically, educational, vocational and therapeutic assistance are provided at such a Youth Center. Offenders committed under

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Footnotes at end of article.

the Act are released by the correction authorities when considered ready to re-enter civilian life, regardless of the length of interminate sentence imposed by the Court. Often release is to a half-way house or other transitional community center for a short period of one or two months in order that adjustment to civilian life may occur under a degree of supervision.

The Act represents a humane and deliberate effort to assist young offenders by coupling an adequate degree of punishment with supervised treatment in the hope of salvaging many among the increasing number of young adult offenders involved in serious criminal conduct. Similar institutions have been created by some states and many of these programs have, generally speaking, been quite successful. The basic theory of the Act is rehabilitative, a consideration to be given priority unless the sentencing judge is convinced a youth is incorrigible and unable to derive help from the program as provided.[3]

Two types of commitments are available under the Act: a 5010(b) commitment which involves an indeterminate sentence up to six years; and a 5010(c) commitment which involves an indeterminate sentence for a greater number of years as may be specified by the sentencing judge. It is also provided in 5010(e) that an offender may be committed preliminarily for a period of approximately 60 days for the purpose of obtaining a full background report indicating the amenability of the offender to the Youth program in view of his needs and the type and degree of supervision required. Following such study, the Court may impose sentence on the basis of the study report and other information available.

Here in the District of Columbia, many young felony offenders eligible under the Youth Corrections Act have been committed by the United States District Court to the Lorton Youth Center. Judges have made frequent use of the 5010(e) type of preliminary study in order to aid in imposing the ultimate sentence. For reasons that will appear, the Court is not receiving the type of thorough, knowledgeable report which the Court requires to exercise its responsibilities under the Act. Yet in recent months the necessity of an adequate 5010(e) study preliminary to final commitment has become more apparent in view of the decision of the United States Court of Appeals in *Waters* which requires the sentencing judge to enunciate affirmatively on the record his reasons for believing rehabilitation is not feasible under the Act in any instance where an otherwise eligible youthful offender receives an adult commitment. This usually involves a specified minimum and maximum term at an adult prison.

The Youth Center at Lorton, constructed in 1966, was designed for a capacity of 300 inmates. Single dormitory rooms are provided. The complex has minimal vocational educational and therapeutic accommodations geared to a 300-inmate capacity as designed. A special unit was constructed at the Center to accommodate individuals committed preliminarily for purposes of 5010(e) study.

Because of the rising incidence of crime among young adults, more effective law enforcement, and other factors, this Lorton Youth facility is now completely inadequate to handle commitments by the United States District Court under the Act. This would still be the case even if the heavy commitments to the facility from the Superior Court of felony and misdemeanor offenders were totally ignored.

The Center now has a census of approximately 385 inmates and has on a number of recent occasions had over 400. Correction authorities are unable to handle more than 340 or 350 inmates at the Center and still provide that minimum degree of treatment and rehabilitative service required by the Act.

The special unit at the Center designed for 5010(e) studies has been used to house offenders finally committed under the Act and as a result there are 85 in this unit originally built for 40. The authorities are, against their better judgment, utilizing the D.C. Jail for study purposes in most instances where offenders are initially committed for study under 5010(e). At present, there are 133 defendants undergoing 5010(e) studies at the Jail. Correction authorities generally acknowleged that when such studies are conducted at the Jail they are inadequate, inappropriate and undesirable,[4] and the Court finds that the Jail is not an "appropriate classification center or agency" under 5010(e). This situation is caused solely by the seriously overcrowded conditions at the Lorton Youth Center.

The Mayor-Commissioner advised the Court at the hearing that the Center will refuse to accept more than 350, a number well below current census. This is a frank recognition that the facility cannot now or in the future meet the requirements of the Courts in the community under the Act.[5]

Since September, 1971, 43 defendants believed to be amenable to rehabilitation have, like Ashbrook, been recommended for adult incarceration due entirely to overcrowding and indeed there have been 64 offenders in this category since the first of January. When the authorities limit the level at the Center to 350, a substantially greater number will have to be regularly recommended for adult commitment. There is no legal authority for diverting otherwise eligible youths to adult institutions due solely to lack of space.

These extremely critical overcrowded conditions must be viewed in the light of expected immediate future developments. In the next twelve months the Center expects to receive approximately 1200 commitments, assuming the present procedure which results in committing all parole violators to adult institutions is continued.[6] Thus the immediate requirements which the Courts are expected to place on the Center exceed by well over 100 percent the capacity which the Center when stretched to its outermost limits can or will accept. This conclusion does not reflect any change in the present rate of turnover which is all too rapid.

The pressures from overcrowding result in a complete frustration of the Youth Corrections Act program. Not only are the correction authorities and the sentencing judges required to reach commitment determinations upon inadequate 5010(e) studies; the rehabilitation program of the Center itself is stultified. Vocational, educational and therapeutic facilities are increasingly less effective to handle the numbers presented within the time periods available. The volume of new offenders is such that the Center has been forced to release inmates at all too early a date. Often individuals are sent to half-way houses or other community facilities before they are ready. Such premature release defeats treatment objectives and encourages recidivism. The report submitted by the Mayor-Commissioner states that the Department of Corrections considers the number of persons in the half-way houses or community treatment centers as far too many and that "roughly half that number ought not to be in the center [i.e., the community treatment center] but ought to be in the Youth Center."

About 80 percent of offenders committed to the Center have a drug problem in some degree and yet neither the Center nor the community centers have personnel or facilities that are devoted to the prevention of drug use. Indeed there was evidence at the hearing that continued drug usage by an offender does not even prevent release into the community from half-way houses.[7]

While there have undoubtedly been some advances made at the Youth Center in terms of shortening the program of treatment and rehabilitation, the significant reduction in time spent, particularly by sophisticated defendants committed under the Youth Corrections Act, illustrates the pressures of overcrowding and the consequent lack of adequate rehabilitation care. Robbery, rape and homicide commitments in 1967 averaged 32 months from sentence to parole. By 1970, the figure was down to approximately 11 months and in 1971, at the most eight to ten months. Analysis of information submitted by the U.S. Attorney based on Police Department data received in turn from the correction authorities shows numerous cases of serious offenders committed under the Youth Act for armed robbery, rape, murder or aggravated assaults who spent periods in the Youth Center substantially less than six months, having been sentenced to periods of six, eight, ten or fifteen years, and in some cases such defendants were in the Youth Center only for a period of two or three months.

The Center's operations also suffer from the fact that there has been undue intermingling of highly sophisticated, hardened defendants with defendants who have committed non-violent offenses and have not an experience of frequent incarceration in juvenile or other youth facilities.[8] In spite of the overcrowding the Center has rarely rejected an offender because of his criminal activities. Nor has there been any effort to be highly selective when recommending youthful offenders for incarceration. While some comingly of the sophisticated and unsophisticated defendant may always occur, the present program is made far more difficult and less effective as the numbers in both categories increase and inmates are crowded more and more on top of each other under conditions which minimize the possibility of individualized treatment or control. This situation presently totally defeats efforts of sentencing judges to isolate for special handling defendants whose age or background indicates special rehabilitative needs.

In contrast, the Federal Youth Corrections Act system has established several facilities and can differentiate among types of offenders by age and offense. This desirable flexibility is not available in the District of Columbia. While other Youth Centers operated throughout the country under the Director of the Federal Bureau of Prisons are full, there is much less overcrowding, the number of violent and sophisticated offenders committed is minimal and yet the period of incarceration is substantially longer. It is also significant that these other institutions, unlike the Lorton Youth Center, recognize a clear distinction between 5010 (b) and 5010 (c) commitments, holding 5010 (c), committees a longer period of time.[10] At the Lorton. Youth Center there is no consideration whatsoever given by the authorities to the fact that individuals committed under 5010 (c) sentences have been judicially determined to require longer treatment. Moreover, in the federal institutions, no individual is released to the community without the approval of the Board of Parole,[11] while here the Center does not always consult the Board of Parole and the Court's experience indicates it may act contrary to the Board's wishes in releasing to half-way houses after brief incarceration.

The local correction authorities believe that in order to meet the needs of the Youth Corrections Act in this community it will be necessary to construct one and possibly two additional facilities, each with a projected inmate census of 500. Requests to the Congress for funds to establish the first additional facility have been rejected. No construction of additional facilities is authorized

Footnotes at end of article.

or in progress. The Director of the Federal Bureau of Prisons has no available facilities to take any of the load from the District of Columbia.

All persons sentenced under the Act are committed to the custody of the Attorney General and it is the ultimate responsibility of the Federal and City authorities to furnish the necessary facilities. This responsibility falls jointly upon the Director of the Federal Bureau of Prisons and the Mayor-Commissioner of this city.[12]

The proper administration of justice, the requirements of the statute and the interests of this community demand that adequate facilities promptly be made available. The shortage of proper accommodations cannot be tolerated any longer. There is need of both an interim and a long-term solution.

The Court accordingly directs the Attorney General, the Director of the Federal Bureau of Prisons and the Mayor-Commissioner jointly to submit in writing within two weeks an interim plan for alleviating the present congestion consistent with the requirements of the Act. The interim plan should specify what steps will be taken and the date by which each phase of the plan will be accomplished. The plan should at the very least accomplish the following:

(a) Create additional temporary facilities for at least 300 male inmates by April 1, 1972.

(b) Provide facilities also sufficient to enable authorities to conduct all 5101(e) studies at a suitable location or locations other than the D.C. Jail by January 1, 1972.

These new facilities may be minimum security facilities if sufficient to accommodate non-violent offenders, including the bulk of offenders in the age group 16–18.

In directing that an interim plan for creation of additional facilities be submitted, the Court has carefully considered elaborate materials presented for the record on behalf of the Mayor-Commissioner. It appears that a detailed analysis of the available capacity of correctional facilities and institutions has already been made by a special task force. On the basis of this analysis, after projecting expected caseloads, the decision has been made administratively that the present facilities at Occoquan could be turned into an additional Youth facility by transferring individuals in the alcoholic rehabilitation program. This and related adjustments would provide a Youth Center facility capable of increasing the present total capacity to 625. This would be sufficient to handle the projected 1972 Youth Center population, although, of course, would not take care of the long-term need. Whether this plan or some variable of this plan is chosen is, however, entirely a matter for consideration of the appropriate authorities.

Since any interim solution which will be proposed will not fully alleviate the situation, it appears necessary that this Court take some emergency steps consistent with the realities of the problem which will improve administration under the Act. The following has been recommended for consideration of the full Court.[13] Where the individual United States District Court Judge concludes that a defendant may be amenable for final commitment under the Youth Corrections Act, the following should occur:

(1) No defendant shall be so committed under the Youth Corrections Act without a 5010(e) study.

(2) In the event the study indicates that the correction authorities consider the defendant amenable to final commitment under the Youth Corrections Act, the Court shall require as part of the 5010(e) report a precise statement by the correction authorities of the plan of treatment and the approximate period of time it is contemplated the defendant will be in custody before release to a half-way house, including goals that will be set for him prior to release.

(3) No defendant shall be committed under the Youth Corrections Act unless the Attorney General certifies in advance as to each defendant that a facility is available to provide the type of program and adequate period of treatment contemplated in the particular 5010(e) report.

(4) Under appropriate circumstances, the Court shall commit all offenders under U.S. Code offenses for 5010(e) studies and ultimate incarceration at other Youth Centers around the country.

The Court recognizes that if these emergency steps are taken by the Court as a whole and an interim plan is put into effect promptly to alleviate the immediate overcrowding crisis, that further action must still be taken to provide adequate facilities. The Court urges that energetic and immediate action be taken by the Attorney General and the Federal Bureau of Prisons and the Mayor-Commissioner to obtain necessary construction and supportive funds from the Congress so that facilities and personnel can be provided on an expedited basis through emergency appropriations within the shortest possible period of time and without awaiting the implementation of the interim steps to be covered by the plan.

A full discussion of the Court's authority to place an interim plan into effect, to announce emergency procedures, and to take whatever further steps may be necessary to make the Youth Corrections Act viable is not required at this stage. Suffice it to note that as an Article III Court under the Constitution this Court is vested with "the judicial power of the United States." This is a grant of an inherent authority to direct action which is found essential to the continued effective functioning of the Federal Courts. The Court's supervisory powers must be exercized to this end. Unless adequate facilities are made available, the Court's role in sentencing becomes merely advisory and it losses the "judicial power" to enforce its orders of commitment under the Act. Moreover, the mandatory requirements of Sections 5011 to 5014, inclusive, and 5025(c) which direct the Mayor-Commissioner and the Director of the Federal Bureau of Prisons to provide treatment facilities, must be enforced in accordance with the express directions of the Congress. Given comparable constitutional and statutory authority, Courts have in the past ordered executive action without regard to the availability of earmarked funds.[14]

This is such a case—a case where it has become abundantly clear that immediate action by the Court is required to assure the fair and proper administration of justice under a statute enacted by the Congress.

There are many offenders below the age of 22 who come before this Court who can be and have been rehabilitated through the Youth Corrections Act program. Congress has wisely put such a program into effect and experience has emphasized and re-emphasized the validity of this approach to many young offenders in a community such as Washington, D.C. The breakdown that has occurred is a tragedy for this city. Not only are defendants denied the treatment and training Congress requires, but premature release is placing citizens unnecessarily at hazard and it cannot be disputed that a correctional system that ignores the clear intendment of the Court's sentences leads the public to question the very integrity of our judicial process. This Court cannot stand idly by and permit these conditions, whatever the cause, to continue. The Court is entitled to have facilities provided sufficient to make the Act effective and the Court must insist that its sentencing orders are implemented in the interests of the fair and proper administration of justice.

A hearing to consider placing an appropriate interim plan into effect is hereby set for December 23, 1971, at 9:30 a.m.

GERHARD A. GESELL,
*U.S. District Judge.*

DECEMBER 1, 1971.

FOOTNOTES

[1] 18 U.S.C. 5005 *et seq.*

[2] Chief Judge John J. Sirica sat with the Court as an observer at the hearing. The following appeared as witnesses: Robert C. Whitaker, Superintendent of the Youth Center at Lorton; Allen M. Schuman, Superintendent of Youth Services of the D.C. Department of Corrections; Kenneth L. Hardy, Director of the D.C. Department of Corrections; and Richard J. Heaney, Deputy Director of the Federal Bureau of Prisons.

[3] United States v. Waters, 141 U.S. App. D.C. 289, 437 F.2d 722 (1970). H.R. Rep. No. 2979, 81st Cong., 2d Sess. (1950). S. Rep. No. 1180. 81st Cong., 1st Sess. (1949).

[4] For example, the Superintendent of the Youth Center at Lorton stated:

[T]o effectively make a recommendation to the Court, on our observation on this man, it is unrealistic to think if we house a man in a jail cell, and we send our C. and P., our diagnostic team up there to call him out of the jail cell to talk to him, and he goes back in the jail cell, who is observing the man, other than the three officers who are in the cell block? There really is no observation. The observation takes place when the man goes up and gives the social history, the background history, school, his work, and so on, and so forth. But it is unrealistic to think we can provide an intelligent observation of the man. (Tr. p. 15.)

I see it as not really being able to effectively observe the man, his behavior, his attitude, what his remorse is about the crime he committed, and so forth.

The ideal—when the Youth Center was constructed some years ago, the man was at the Youth Center, he went about attending classes, being seen by the psychologist on a kind of regular basis, being seen by the classification and social worker, being introduced to vocational and academic programs at the Youth Center, seeing him among the population, as to how he is going to react to institutional life, whether that kind of setting is best for the man. We don't have that kind of situation right now. (Tr. p. 16).

[5] Mr. Whitaker stated the conclusion bluntly:

Without the tools and without the facilities, we can't do a job. It is unrealistic to think that we have a magic wand, that we can hope with those kinds of population figures and do an effective job in rehabilitating a man. (Tr. p. 88).

[6] "It is anticipated that there will be approximately 900 commitments under 5010(e) and 240 direct commitments under 5010(b) and 5010(c) in the next twelve months. Parole violators presently number approximately 16 per month or 192 in the next twelve months. The anticipated increase totalling 1,256 is of course in addition to our present youth population of 609. This does not include approximately 150 16 and 17 year olds expected in the next twelve months." Letter from Kenneth I. Hardy to Judge Gesell, November 18, 1971, p. 5.

[7] Mr. Schuman estimated that 20 percent presently in half-way houses are drug users. Tr. p. 67.

[8] ". . . Insofar as practical, . . . youth offenders shall be segregated from other offenders, and classes of committed youth offenders shall be segregated according to their needs for treatment." 18 U.S.C. § 5011.

[9] Tr. pp. 161, 154 and 156 (Testimony of Richard J. Heaney, Deputy Director of the Federal Bureau of Prisons).

[10] According to Mr. Heaney's testimony, in 1970, the average commitment under 5010(b) was 21.5 months whereas the average commitment under 5010(c) was 33.6 months. Tr. p. 156.

[11] Tr. p. 173.

[12] The legislative history of what is now 13 U.S.C. § 5025 is sparse. Nevertheless, it indicates that Congress's primary purpose was to transfer supervision of youths convicted

of violations in the District from the U.S. Bureau of Prisons and the Youth Corrections Division of the U.S. Board of Parole to the District of Columbia Mayor-Commissioner. There is no indication from the legislative history of this statute that Congress wanted to relieve authorities of the Department of Justice and the Bureau of Prisons from their statutory obligations in Sections 5011 and 5012 to provide treatment in proper and adequate treatment facilities. H. Rep. No. 387, 90th Cong., 1st Sess.; S. Rep. No. 912, 90th Cong., 1st Sess; Report of the President's Commission on Crime in the District of Columbia on Omnibus Anticrime Bills, 90th Cong., 1st Sess., p. 63; Hearings before the Subcommittee on the Judiciary of the Senate Committee on the District of Columbia, 90th Cong., 1st Sess., p. 75, 133–138, 250.

[13] The Superior Court faces comparable problems in dealing with both felony and misdemeanor cases and obviously that Court can assist in the present difficult circumstances if comparable emergency steps are taken to prevent gross overcrowding and encourage more knowledgeable commitments where the Act is employed.

[14] Increasingly in the area of jail and prison reform, courts are directing changes that perforce will entail additional expenditures. In the Matter of Savoy and Toney Hazel (Docket D.C. Superior Court; Landman v. Royster, Civil Action No. 170–69–R (E.D. Va., Oct. 30, 1971); Holt v. Sarver, 309 F. Supp. 362 (E.D. Ark. 1970), *affirmed*, 442 F.2. 304 (8th Cir. 1971); Jones v. Wittenberg, 323 F. Supp. 93 and 330 F. Supp. 707 (N.D. Ohio 1971); McCray v. Maryland, Misc. Pet. 4363–4430 (Cir. Ct. Montgomery Cty., Md., Nov. 11, 1971; State ex rel Ray v. Smith, 176 Oh. St. 241, 198 N.E. 2d 919 (1964). Also in the area of school desegregation, courts have required certain changes which necessitated additional expenditures. Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 and Hobson v. Hansen, 269 F. Supp. 401 (D.D.C. 1967), modified, 132 U.S. App. D.C. 372, 408 F.2d 175 (1969).

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KILLER SENT TO YOUTH CENTER

(By Winston Groom)

A federal judge here sent a 19-year-old youth convicted of murder to the Youth Center at Lorton yesterday even though the U.S. attorney's office pointed out that he may be released within a few months.

Earlier, U.S. District Judge Aubrey Robinson angrily rejected a prosecution request that he tell the jurors the youth might receive lenient treatment under the Youth Corrections Act if they did not call for the death penalty in the case.

Although the act sets a four-year maximum limit on the time an offender has to spend in actual custody. District Corrections officials have said most inmates are released within a few months.

The youth before Robinson, Richard D. Leake, was given life imprisonment by the jury for the fatal shooting of a 30-year-old grocery store owner in January during a robbery to get money for narcotics.

Before the verdict, Asst. U.S. Atty. Warren L. Miller told Robinson that a failure to explain to the jury that with a sentence of life imprisonment, Lake could be set free quickly under the Youth Act amounted to "not being truthful" to the panel.

The judge, however, said he would not issue any such explanation because it might appear that he was advocating the death penalty.

The prosecution request came on the heels of a case last week in which U.S. District Judge Joseph C. Waddy sent a 20-year-old defendant to the youth center for study after a jury convicted him of what Miller "the most brutal murder I have ever seen."

In that case the defendant, Dennis T. Butler, was founded guilty of killing an elderly landlord who discovered him selling dope to a teen-ager in a vacant apartment. According to court testimony, Butler bound and gagged Jesse K. Mears, 75, then beat and strangled him and rammed a soft drink bottle filled with water down his throat.

Officials in the U.S. attorney's office have become increasingly concerned over the upsurge in Youth Act sentences following a series of rulings by the U.S. Court of Appeals beginning early this year.

Under the rulings, District judges are practically obligated to sentence every defendant 22 years old or younger under the act. A letter from Department of Corrections officials to a District judge last year stated that the average stay for inmates at the youth center was 12 months, but the U.S. attorney's office said that figure has dropped even further to seven or eight months.

The youth center came under increased judicial scrutiny earlier this week when U.S. District Judge Gerhard Gesell ordered a hearing to determine the way the Youth Act is being administered there.

Gesell and Chief Judge John Sirica will conduct the inquiry Friday into the center's recommendation that Gesell sentence a 19-year-old defendant as an adult because of overcrowding at the Lorton facility.

Sirica and Gesell have said the hearing will extend far beyond the overcrowding problem at the center and will delve into areas areas such as how the center determines when a youth is "rehabilitated," guidelines under which inmates are released into halfway houses and given furloughs and the rate of re-arrests among those released.

The appeals court rulings have instructed District judges that they must sentence youths under the Youth Act if they can derive "any" benefit whatever from it.

The rulings also have said that judges must specifically state their reasons for not sentencing offenders under the act.

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U.S. DEPARTMENT OF JUSTICE,
*Washington, D.C., December 29, 1971.*

Hon. J. GLENN BEALL, JR.
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BEALL: This is in response to your letter to Mr. Flannery, dated December 16, 1971, inquiring about the implementation in the District of Columbia of the Federal Youth Corrections Act, 18 U.S. Code § 5005 *et seq.* Since receipt of your letter, Mr. Flannery has been sworn in as a United States District Judge and I have been appointed by the court as his successor. Mr. Flannery, now Judge Flannery, has requested me to reply to your letter.

As you correctly point out in your letter, recent decisions of the United States Court of Appeals for the District of Columbia Circuit construing the Youth Corrections Act make it extremely difficult for trial judges not to sentence young offenders under the Youth Act. These decisions are *United States* vs. *Ward*, Nos. 71–1654 and 71–1677, decided October 29, 1971, and *United States* vs. *Waters*, 437 F. 2d 722 (1970). This is of particular concern to my office because our research demonstrates that the average period of confinement for the many youthful offenders convicted of the most violent crimes of murder, rape, and robbery and sentenced under the Youth Act is only about ten months. For your information I am enclosing a copy of a pleading filed by my office in the District Court in *United States* vs. *Alsbrook*, Criminal Case Nos. 1065–71 and 1473–71, in which we have set forth the results of our research concerning implementation of the Youth Act in the District.

To remedy this situation, my office is doing the following. First, we have requested the Court of Appeals, sitting *en banc*, to reconsider its decisions of *Ward* and *Waters* in light of the legislative history of the Youth Act, legislative history which, in our view, makes it explicitly clear that the Youth Act was intended to provide no more than an optional sentencing alternative for trial judges to be used in their discretion. We also provided the Court with statistics showing that, contrary to the practice in the District of Columbia, the Youth Act has been used by federal judges throughout the country primarily for persons convicted of non-violent crimes. Enclosed for your information is a copy of the memorandum our office filed with the Court of Appeals setting forth its position. The case has been argued, but the Court has not rendered its decision.

The second step taken by our office is to bring this matter to the attention of the Department of Justice. Since what is involved is federal legislation applying throughout the country, it would be the Department which would recommend to the Congress any specific amending legislation. In this regard, I have brought your letter to the attention of the Department. Should any legislation be recommended by the Department, I shall advise you of this fact promptly.

I appreciate your expression of interest in what is for my office a matter of the utmost concern. For, should our request to the Court of Appeals to reconsider its prior decisions not be successful, corrective legislation will, in my view, be necessary. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

HAROLD H. TITUS, JR.,
*U.S. Attorney.*

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SUPPLEMENTARY MEMORANDUM OF APPELLEE

[United States Court of Appeals for the District of Columbia Circuit, No. 23,044 Cr. No. 545–68)]

(United States of America, Appellee, v. Carl M. Reed, Appellant)

The above-captioned case came on for oral argument on February 25, 1971. Since that time this Court has issued its Order on Appellant's Motion for Summary Reversal and Remand in *United States* v. *Ward*, D.C. Cir. Nos. 71–1654 and 71–1677, decided October 29, 1971 in which *United States* v. *Waters*, 141 U.S. App. D.C. 289, 437 F. 2d 722 (1970) was further considered. In both cases this Court suggested that Congress intended the Federal Youth Corrections Act, 18 U.S.C. § 5005 et seq., to receive priority over a sentence under the regular adult statutory provision. *United States* v. *Ward; supra*, slip op. at 4, *United States* v. *Waters*, supra, 141 U.S. App. D.C. at 293, 437 F. 2d at 726.

Appellee submits that the legislative history does not manifest an intent to install the Youth Act as a required primary sentencing consideration, but rather as a discretionary alternative to the regular penalty provision, for the judge in imposing sentence on the eighteen to twenty-two year old offender. As the Senate Committee on the Judiciary stated in reporting favorably on the proposed Act, "while the bill would not deprive the court of any of its present functions as to sentencing, it provides that, upon consideration, the court may place the youth offender on probation, proceed under the Juvenile Delinquency Act, or sentence under any applicable law relating to the offense." S. Rep. No. 1180, 81st Cong., 1st Sess. 1 (1949). That announcement of the bill's (S. 2609) intention is corroborated by the House Committee on the Judiciary's statement that, "the proposed legislation is designed to make available for the discretionary use of the Federal judges a system for the sentencing and treatment of persons under the age of 22 years. . . ." (emphasis supplied), H. Rep. No. 2979, 81st Cong 2 Sess. 1 (1950).

A letter from Peyton Ford, Deputy Attorney General, dated June 21, 1950, to the Honorable Emanuel Celler states:

"The measure would define a youth offender as a person under the age of 22 years who has been convicted of an offense against the United States. While it would not deprive the court of any of its present functions as to sentencing, the bill would provide that, upon conviction, the court may place the youth offender on probation, proceed under the Juvenile delinquency act, or sentence under any applicable provision of law relating to the offender. The court would be authorized, however, in lieu of any penalty of imprisonment otherwise provided by law, to sentence a youth offender to the custody of the Attorney General for treatment and supervision." S. Rep. No. 1180, 11–12.

Nowhere in the Senate or the House Committee Reports, the committee hearings, or in the Congressional debates is there any indication that a judge is precluded from imposing a regular adult sentence unless he first finds that an eligible defendant will not receive any benefit from the Youth Act sentence. Indeed the legislative history is completely to the contrary. When asked for an explanation of the bill (S.2609) Senator Harley Kilgore of West Virginia, the bill's chief sponsor and chaiman of the Senate subcommittee which held the hearings on this legislation stated "The bill does not take away from the court any of its powers but does give to the judges, in cases involving Federal offenses, the right to refer an offender under the age of 24 years to the Department of Justice for a period of 4 years, during which time the Parole Board of the Department of Justice would place the offender in a federal institution for careful examination and study to detemine whether or not he could be reformed, and if possible to reform him." S. Rep. No. 1180, 81st Cong., 1st Sess. 1 (1949). On February 1, 1950, in the Congressional Record, Senate page 1312, Senator Kilgore explained that "The bill would not be compulsory in any sense of the word; but it will give the judges of trial jurisdiction the right to refer the case of any prisoner under 24 years of age, who is not a habitual offender, to the Department of Justice . . . to determine whether a person is a criminal or whether the situation in his or her case is an incurable one, before sentence is passed."

On June 8, 1950, Senator Kilgore stated, "The judges say that the bill will give them an additional facility although use of the system provided by the bill will not be mandatory." Speaking of the imposition of an appropriate sentence, he continued, "However, when there is a case about which a judge is in doubt, if the accused is under the age of 22, the judge may refer the case to the Youth Correction Division," 1950, Cong. Record, Senate, p. 8383.

The optional nature of the Youth Corrections Act as a sentencing vehicle is clearly and repeatedly demonstrated by the testimony at the hearings on this legislation, particularly that of Federal judges who are participated in the drafting of the Youth Act. Significantly, the legislation as proposed contained subsection 5010(d), the principal subsection relied on by this Court on both *Waters* and *Ward*. The Honorable Bolitha J. Laws, Chief Judge, United States District Court for the District of Columbia, after noting that he was one of seven Federal judges appointed to study the subject of sentencing youth offenders stated:

"As to sentencing of youth offenders, in addition to the judge's present power to place on probation or to sentence under existing statutes, the bill gives him three new alternatives in handling offenders under 24.

"First, the judge may commit a youth offender of diagnosis and treatment under this act for an unspecified period up to 6 years, with provision that he be tried on conditional release within 4 years.

"Secondly, if the judge feels that a youth offender convicted of an offense calling for a long term under existing statutes might not respond to treatment within 6 years or that so short a term might have an adverse effect on enforcement of the law, he may set any maximum authorized by law but still give the offender the benefits of treatment under this act.

"Third, if the judge wants more information on a youth offender before sentencing him, he may order a thorough pre-sentence diagnosis at a classification center set up by the Bureau of Prisons.

"It should be noted that the bill in no way reduces the authority or interferes, with the sentencing power of the judges."

He went on to say:

"Now, there is one very important thing I would like to develop. I will put it simply, Senator, I have already told you that this law is purely an optional situation. A judge who feels that the present system is in all respects perfect and who does not want to use the new provisions, except perhaps rarely, does not have to use them. He still may do one of two things. He may admit the man to probation, or he may send to an institution exactly as he does now. However, with regard to those of us who are constantly puzzled and concerned and who do not know the solution, it is possible for us to adapt ourselves to this system and use it." *Hearings*, p. 15.

Judge Laws recollected that in his advocacy of the bill he had met opposition to its passage from some Federal judges.

"There is one thing I would like to say in conclusion, Senator, I have spoken on this subject before judicial conferences—I think five different ones in the United States. I have never explained it fully and completely, but what we did not get was a response from the judges that was favorable. Most of the judges who object to it have not studied it carefully.

"I regret to say that, but there are a great many objections that come when the judges have not comprehended and studied the subject very carefully. When they get the presentation fully made to them, and once they realize *it is entirely optional* and that some of us are not the types of experts that can look across a table into a man's eyes and know what sentence to give him, they say under those circumstances that they do not mind, for those of us who are frail, having the study made for us as long as they themselves are not restricted. . . .

"The way I want to argue this with my brethren who oppose it is: let me do it and let them go on in the way they do.

"When I put that up to them, they say, "All right, Judge, as long as you do not harass me." I will say to them that my prophecy is that at the end of 10 years they will all be doing it, and perhaps they will be doing it at the end of 5 years." *Hearings*, pp. 20–21.

In a dialogue between Senator Kilgore and James V. Bennett, Director, Bureau of Prisons, the motivation for making the application of the bill entirely discretionary is plainly seen.

"Mr. BENNETT. Senator, if you will permit, and for your future reference, I would like to introduce some case histories into the record that will support this viewpoint of yours and mine. They may be helpful to you at a later date. I would like to carry forward a little bit further and re-emphasize more than Judge Laws has done, that this bill is discretionary whereas the other bill which you had before did not provide that same discretion. The judge under this bill can now place the man on probation, he can sentence him, as a youth offender for a maximum of 6 years or he can sentence him as a youth offender for whatever maximum the statute will permit.

"Thus, you see it is very difficult for me to conceive of anybody who could rightfully object to the bill because they can use it or not, as they see fit, and yet it gives them all of these additional services and alternatives.

"Senator KILGORE. Mr. Bennett, to be perfectly frank with you, I still personally approve of the mandatory feature rather than the discretionary feature and I will tell you why. I think it will protect the judge from a tremendous lot of annoyance if he can say, "Here, I am going through these steps. The law provides it and I am going according to the law. I am not going to have this group over here insisting that I jack up the penitentiary, set up a prop under the corner of it. I am not going to have this group saying that I just turn him loose willy-nilly.'

"I believe that it would save a lot of the judge's time and a tremendous amount of extra work if it had been mandatory. But I am willing to go along on the discretionary feature in the hope that eventually we can get the bill through." *Hearings*, p. 25.

The Honorable John Parker, United States Circuit Judge, Fourth Circuit concurred in the idea that the Youth Act left the power of the sentencing judge as it had been before the passage of the Act.

"In the first place the act deals only with offenders under 24 years of age. In the second place, it does not interfere with the power of the judge even with respect to those offenders, but gives him merely an alternative method of treatment of those people. That is to say, under this bill the judge may still admit the youthful offender to probation. There is nothing in the bill that prevents that. He may still give the youthful offender the punishment prescribed by existing statutes, there is nothing in the bill that prevents that. All that the bill does is to provide that if in his judgment and discretion, he thinks that the offender before the court is one that can be treated with advantage under this bill, he can sentence him under this bill instead of under the existing law." *Hearings*, p. 43.

Senator Kilgore, in discussing objections to the bill voiced by Federal judges, noted, "Two objected to taking sentencing away from the court and giving it to an executive agency. But that has been answered in S. 2609 because it takes nothing away."

"That is correct; it is purely optional," responded the Honorable Orie L. Phillips, United States Circuit Judge, Tenth Circuit. *Hearings*, p. 69.

Furthermore, that it was not necessarily the intention of this bill to sentence a majority of the younger offenders pursuant to its provisions as indicated in the following colloquy between Senator Kilgore and James E. Palmer, Jr., President of the Federal Bar Association.

Senator KILGORE. "You are going to have a certain number that you will have to deal with, but if in some way we can cure 20 percent or 30 percent, or 40 percent, or 50 percent, at the source, we have done to society in this country a great service and we have saved the taxpayers a tremendous amount of money. Is not that your idea?"

Mr. PALMER. "Indeed, I agree very heartily, sir. May I make just one further brief statement?"

Senator KILGORE. "We will be glad to hear it."

Mr. PALMER. "I can hardly see how there can be intelligent opposition to a measure of this nature. Of course, I am too much of a prosecutor to want to approve anything that would result in placing the stamp of approval on youths who go out and commit serious crimes and then the Government of the United States gets the public reputation of patting them on the back and treating them not as criminals, when they should be treated as criminals.

"But that, in this bill, turns upon the caliber and efficiency of our judges, and also

on the ability of the men in charge of the program set up under the bill.

"I have enough confidence in the discretion of our judges to feel that they are not going to abuse this statute, and certainly that those who are charged with the direction of these people are not going to abuse it to the extent that it will ever redound that we are here trying to set up a structure that will give the Government a reputation of dealing too lightly with those who should be dealt with properly." *Hearings*, p. 82.

It is clear, therefore, that the framers of the bill considered that its provisions would be applied solely in this discretion of the trial judge. Nowhere is it stated that a finding of fact must be made before the sentencing judge could employ a sentence under any other applicable penalty provision.

Both the legislative history as outlined above and the implementation of the Youth Act from 1959 to 1970 by the federal judiciary clearly show that it is not only the exceptional case in which an eligible offender would not receive a Youth Act sentence. To the contrary, it was anticipated that the Youth Act would be applied only to federal offenders who had not become crime-hardened and who had not committed a crime of violence. The typical youth offender was expected by Mr. Bennett to be a Dyer Act offender.

Mr. BENNETT. "Senator, apropos of the savings which would occur under this bill, may I say, as I am sure you realize, that far and away the largest number of young offenders who could come to us under the bill are automobile theft cases—1,227 last year were committed to us for automobile thefts.

"Now most of these boys have stolen a car in some city and gone a junket. The problem in many cases is to be able to get them back home. If we could get them home under parental control they would not need to go to prison. Under present circumstances the judge has no way to cope with the problem." *Hearings*, p. 29.

This expectation was borne out by the actual use of the Youth Act.

An analysis of statistics released by the Federal Bureau of Prisons reveals that in no year between 1959 and 1970, inclusive, did commitments under the Youth Act exceed 47.4% of the total of eligible offenders from eighteen to twenty-two years old.[1]

TABLE I

| Fiscal year | YCA/adult percent | Total 18 to 22 | YCA |
|---|---|---|---|
| 1970 | 39.6 | 1,997 | 790 |
| 1969 | 41.7 | 2,250 | 938 |
| 1968 | 37.1 | 2,284 | 848 |
| 1967 | 40.3 | 2,305 | 928 |
| 1966 | 42.9 | 2,029 | 871 |
| 1965 | 42.9 | 2,007 | 862 |
| 1964 | 44.0 | 2,070 | 910 |
| 1963 | 47.4 | 2,066 | 979 |
| 1962 | 44.7 | 2,047 | 915 |
| 1961 | 47.1 | 2,149 | 1,012 |
| 1960 | 46.5 | 2,112 | 983 |
| 1959 | 46.4 | 2,124 | 986 |

Thus, it is apparent that employment of the Youth Act Commitment procedures is less common than adult commitment for the eighteen to twenty-two year age group.

TABLE II

| Fiscal year | YCA/adult percent | Total YCA commitments [2] | Number of YCA Dyer commitments [3] |
|---|---|---|---|
| 1970 | 38.2 | 1,160 | 443 |
| 1969 | 42.0 | 1,318 | 554 |
| 1968 | 53.3 | 1,138 | 607 |
| 1967 | 58.0 | 1,264 | 733 |
| 1966 | 57.7 | 1,132 | 653 |
| 1965 | 60.6 | 1,131 | 686 |
| 1964 | 63.1 | 1,149 | 725 |
| 1963 | 61.4 | 1,237 | 759 |
| 1962 | 62.4 | 1,182 | 737 |
| 1961 | 63.8 | 1,324 | 845 |
| 1960 | 56.7 | 1,326 | 752 |
| 1959 | 60.7 | 1,291 | 784 |

Additionally, auto theft was by far the offense for which the Youth Act commitments were most often imposed in the period from 1959 to 1970.

From the above tables and their underlying statistical bases it may be seen that the Youth Act was not the ordinary means of commitment used by Federal judges for eligible offenders and the most common offense for which the Youth Act was invoked was the non-violent crime of auto theft.

Finally, that section 5010(d) is not generally conceived of as requiring a finding before the penalty authorized under the applicable statute is imposed may be seen in Mr. Gottshall's article on youth sentences. He notes that:

"Section 5010(d) confers no benefits under the Act. It is generally regarded as nothing more than an affirmative statement that the court, convinced that treatment under 5010(b) or 5010(c) would accomplish no good, has resort to the penalty authorized for the substantive offense. Actually, inquiry among several who assisted in the drafting of the Act confirmed the view that the subsection was included to assure the courts that the regular sentencing provisions were available when they felt that correctional treatment under the Act was inappropriate." *Federal Probation Quarterly, supra.*

This view of the use of section 5010(d) is supported by an article on suggested sentencing procedures. That article, "Forms of Adjudication for Use in Sentencing," James M. Carter, Judge, United States Court of Appeals, Ninth Circuit and Fred Kunzel, Chief Judge, United States District Court, Southern District of California, 44 F.R.D. 197 (1968), which sets out model forms for imposing sentences was first presented to the Ninth Circuit Judicial Conference in 1960. There were three subsequent revisions; the first in 1962 was unpublished and the second, was published in 35 F.R.D. 404 (1964) as part of the papers used at the Institute on Sentencing for United States District Judges held at Denver, Colorado, in January 1964, and the third was in 1968. As the authors' commented, "Many appeals involve a sloppy sentence. In each instance the trial judge knew what he wanted to do with the defendant; in certain instances he used the wrong language." 44 F.R.D. at 198–199.

It is significant that there is no form for a sentence under an adult penalty provision for an offender between the ages of eighteen and twenty-two. The two forms (attached as Appendix C) which cover Youth Act commitments and regular sentences are Forms No. 6 and No. 17. Both forms simply state the order and judgment of imprisonment and make no mention of a finding of lack of benefit derivable from a Youth Act commitment.[4]

Since these forms were carefully developed and undoubtedly in widespread use, it must be assumed that there is scant likelihood that Federal judges included a formal finding pursuant to section 5010(d) as suggested by *Waters*.

The legislative history, as outlined above, contains no indication that an articulated finding is required before an adult sentence may be imposed. In fact, it is clear that the framers intended the Youth Act to be no more than an additional sentencing alternative to be employed in the discretion of the trial judge. Any contention that the words in subsection 5010(d), "shall find," import the requirement that a judge must make an explicit finding on lack of benefit before he can sentence under the regular adult provisions files in the face of the legislative intent. This is particularly clear in light of the fact that subsection 5010(d) was, as we have pointed out, *supra*, p. 12, included in its present form as part of the proposed legislation which, as the hearings unequivocally show, its framers intended only to point to the options available to the sentencing judge. Even should this Court construe the literal wording of subsection 5010(d) to require such a finding, without regard to the clearly discretionary language of subsections 5010(d) and (c), it has been recognized that, "The literal wording of the statute is a primary index but not the sole index to legislative intent. It cannot prevail over strong contrary indications in the legislative history or so as to command an absurd result. *Lange* v. *United States*, — U.S. App. D.C. —, 443 F.2d 720, 722–723 (1971). See also *United States* v. *Public Utilities Comm'n.*, 345 U.S. 295, 315 (1953) and 2 J. Sutherland, *Statutory Construction*, § 4706 at 339–40 (3d ed. 1943). We agree with Mr. Gottshall that the only purpose of subsection 5010(d) was to assure that judges could utilize the regular adult sentencing provisions.

The likely impact of this procedure on the administration of justice will be interminable hearings and the probable defeat of the purposes of the Youth Act. This result seems foreshadowed by the direction of the *dicta* in *United States* v. *Ward*, *supra*, and Appellant's Supplemental Memorandum in Support of the Motion for Summary Reversal in that case filed subsequent to the remand order. Appellant therein contends (Supplemental Memorandum, pp. 12–13). "First, the Youth Act is not to be limited to those who are most 'desirable' for Youth Act commitments. Although an individual might not benefit as much as others from a Youth Act sentence, unless the Court can make a finding that he will receive no benefit whatsoever, he cannot be denied a Youth Act sentence." Since it is inconceivable that even the most hardened criminal would not derive *some* benefit from treatment under the Youth Act, even if only more pleasant surroundings, the purpose of the Youth Act to rehabilitate suitable candidates while isolating them from crime-hardened individuals would inevitably be vitiated, as is readily apparent.

Speaking of the resort of the sentencing judge to the Youth Act is a misdemeanor case, this Court determined that, "[The Youth Act sentence] was to carry out the congressional purpose represented by the Act—to serve the interests of society and of *selected* youth offenders in preference to the statutory sentence for the misdemeanor." *Harvin* v. *United States*, D.C. Cir. No. 22,317, decided May 7, 1971, (*en banc*), slip op. at 7. (emphasis added). This selection process, which is vital to the survival of the Youth Act as a rehabilitative vehicle, necessarily envisages the culling of those individuals deemed suitable for the Youth Act program and rejecting those who would detriment it. To adopt a standard requiring that priority be given to eligible individuals, so long as they would derive *any* benefit from the Act, would result in the very integration of hardened and non-hardened criminals that the Youth Act sought to prevent.

That underlying legislative intent not to require findings is fully supported by the well-accepted procedures for sentence imposition suggested by Judges Carter and Kunzel (*supra*, p. 13). The adoption of those procedures by the Ninth Circuit Judicial Conference and the Institute on Sentencing in 1964, certainly give incontrovertible legitimacy to the legislative intent which mitigates against the imposition of formal findings.

Footnotes at end of article.

The absence of a requirement imposed by Congress of formal findings in imposing sentence under the Youth Act is consistent with its traditional approach to sentencing. That has always been to leave sentencing to the discretion of the trial judges. Under this approach by Congress, "If the sentence is within the latitude granted by statute and is imposed in a procedurally correct manner, the court has a well-nigh unreviewable discretion. The heavy burden on the court is a reflection of the importance of the sentence to the public interest as well as to the defendant who is most directly affected." *United States* v. *Bryant*, — U.S. App. D.C. —, —, 422 F. 2d 775, 772 (1971).

It is axiomatic that where the imposition of a sentence falls within the statutory limits, the severity of such a sentence does not warrant interference by an appellate court. *Blockburger* v. *United States*, 233 U.S. 299 (1932); *Wilson* v. *United States*, 233 U.S. 299, 335 F. 2d 988 (1963). In *Wilson* this Court recognized that the imposition of a sentence is in the sound discretion of the District Judge. The sentence seems to us unduly harsh but circumstances not disclosed by the record may justify it. 118 U.S. App. D.C. at 320, 335 F. 2d at 983.

Recently the Supreme Court grappled with a similar problem involving the establishment of standards by which a jury could arrive at its sentencing decision. While the case dealt with the imposition of the death penalty, its approach is quite instructive on the general matter of setting up criteria for sentencing. The Court stated,

"Those who have come to grips with the hard task of actually attempting to draft means of channeling capital sentencing discretion have confirmed the lesson taught by the history recounted above. To identify before the fact those characteristics of criminal homicides and their perpetrators which call for the death penalty, and to express these characteristics in language which can be fairly understood and applied by the sentencing authority, appear to be tasks which are beyond human ability." *McGautha v. California*, 402 U.S. 183, 204 (1971).

The Court concluded that,

"In light of history, experience, and the present limitations of human knowledge, we find it quite impossible to say that committing to the untrammelled discretion of the jury the power to pronounce life or death in capital cases is offensive to anything in the Constitution. The States are entitled to assume that jurors confronted with the truly awesome responsibility of decreeing death for a fellow human will act with due regard for the consequences of their decision and will consider a variety of factors, many of which will have been suggested by the evidence or by the arguments of defense counsel. For a court to attempt to catalog the appropriate factors in this elusive area could inhibit rather than expand the scope of consideration, for no list of circumstances would ever be really complete. The infinite variety of cases and facets to each case would make general standards either meaningless 'boiler-plate' or a statement of the obvious that no jury would need." 402 U.S. at 207–6 (footnotes omitted).

The exercise of that sound discretion would be obstructed if a requirement of findings were imposed on the trial judge. In order to make such findings properly, a hearing would have to be held. The burden such a procedure would entail was recognized by the Supreme Court in a case involving the disclosure of a pre-sentence report. The Court remarked, "The type and extent of this information (the probation report) make totally impractical if not impossible open court testimony with cross examination. Such a procedure could endlessly delay criminal administration in a retrial of collateral issues." *Williams* v. *New York*, 337 U.S. 241, 250 (1949). Compare, *Specht* v. *Patterson*, 386 U.S. 605 (1957).

In *Waters*, as well as *Ward*, the sentencing procedure found erroneous was a sentence under the regular penalty provisions plus a recommendation for confinement in a youth institution. The Court concluded that the recommendation was an implicit finding of benefit from treatment under the Youth Act. It was then held that, "The statutory scheme does not envisage this particular combination of rehabilitation and deterrence." *United States* v. *Waters*, 141 U.S .App. D.C. at 293, 437 F 2d at 726.

In the instant case, there was no improper combination of rehabilitation and deterrence as was found to be present in *Waters*.

Since the imposition of sentence under the Youth Act is optional with the judge without a requirement of formal findings, since there was no ambivalent sentence as in *Waters* and *Ward*, since the District Judge fully complied with the proper sentencing procedures, and since there is no indication of an abuse of discretion, appellee submits that the judgment should be affirmed.[6]

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JOHN A. TERRY,
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FOOTNOTES

[1] The tables from which these analyses are extracted are attached hereto as Appendices A and B.

[2] YCA commitments include offenders from 18 to 26.

[3] Denominated as "Theft of Motor Vehicle" from 1959 to 1964.

[4] Form No. 17, which is for a sentence after a § 5010(e) study subsumes the requisite finding for imposition of a Youth Act sentence previously made by Form No. 18, commitment for the section 5010(e) study.

[5] Cf. *Mordecai* v. *United States*, 137 U.S. App. D.C. 198, 204, 421 F. 2d 1133, 1139 (1969); *Cox* v. *United States*, C.A. No. 1206–71 (E.D.N.C., Feb. 18, 1971) (Memorandum Opinion).

[6] Appellee respectfully directs the Court's attention to appellee's *Response to Supplementary Memoranda* filed in this case on January 21, 1971, wherein the issues of the applicability of *North Carolina* v. *Pearce*, 395 U.S. 711 (1969), and the possible retroactivity of *Pearce* and *Waters* are discussed.

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By Mr. HOLLINGS:

S. 1200. A bill to amend title II of the Social Security Act to provide for the payment of monthly insurance benefits to the aged dependent brothers and sisters of a deceased fully insured individual. Referred to the Committee on Finance.

Mr. HOLLINGS. Mr. President, at a time when we are becoming increasingly aware of the problems facing the elderly in our country, it becomes necessary to do what we are able to equalize the social security laws.

Accordingly, I am introducing a bill which would entitle a dependent brother or sister to receive social security benefits to which a predeceased sibling would have been entitled. Under the present law, a parent who is dependent upon his child for support may receive 82.5 percent of the social security benefits to which the child is entitled should the child predecease the parent. Also, the most commonly known change accomplished by H.R. 1 was to increase widow's benefits at age 65 to 100 percent of earner's entitlement. However, a brother or sister who is dependent for support upon a sibling is not eligible for this sibling's benefits should that sibling predecease him. I feel this presents quite an unfair situation, particularly since there is no apparent reason for making such a distinction between a dependent parent and a dependent sibling.

I ask unanimous consent that the bill be printed in its entirety in the RECORD.

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

S. 1200

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 202 of the Social Security Act is amended by adding after subsection (w) the following new subsection:

"BROTHER'S AND SISTER'S INSURANCE BENEFITS

"(x)(1) Every brother or sister (as defined in this subsection) of an individual who died a fully insured individual if such brother or sister—

"(A) has attained age 62,

"(B)(i) was receiving at least one-half of his support from such individual at the time of such individual's death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,

"(C) has not married since such individual's death,

"(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than 82½ per centum of the primary insurance amount of such deceased individual if the amount of the brother's or sister's insurance benefit for such month is determinable under paragraph (2)(A) (for 75 per centum of such primary insurance amount in any other case), and

"(E) has filed application for brother's or sister's insurance benefits,

shall be entitled to a brother's or sister's insurance benefit for each month beginning with the first month after December 1973 in which such brother or sister becomes so entitled to such brother's or sister's insurance benefits and ending with the month preceding the first month in which any of the following occurs: such brother or sister dies, marries, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual if the amount of the brother's or sister's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case).

"(2)(A) Except as provided in subparagraphs (B) and (C), such brother's and sister's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of such deceased individual.

"(B) For any month for which more than one brother or sister is entitled to brother's and sister's insurance benefits on the basis of such deceased individual's wages and self-employment income, such benefit for each such brother or sister for such month shall

(except as provided in subparagraph (C)) be equal to 75 percent of the primary insurance amount of such deceased individual.

"(C) In any case in which—

"(i) any brother or sister is entitled to a brother's and sister's insurance benefit for a month on the basis of a deceased individual's wages and self-employment income, and

"(ii) another brother or sister of such deceased individual is entitled to a brother's and sister's insurance benefit for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the brother's and sister's benefits referred to in clause (i) was filed,

the amount of the brother's and sister's insurance benefit of the brother or sister referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the brother's and sister's insurance benefit of a brother or sister referred to in clause (ii) for such month shall be equal to 150 percent of the primary insurance amount of the deceased individual minus the amount (before the application of section 203(a)) of the benefit for such month of the brother or sister referred to in clause (i).

"(3) As used in this subsection, the term 'brother' or 'sister' includes a stepbrother or stepsister, or a brother or sister by adoption.

"(4) In the case of a brother or sister who marries—

"(A) an individual entitled to benefits under this subsection or subsection (b), (e), (f), (g), or (h), or

"(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d),

such brother's or sister's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that in the case of such a marriage to a male individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death."

(b)(1) Section 202(b)(3)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof ", (h), or (x)".

(2) Section 202(c)(2)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

(3) Section 202(e)(3)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

(4) Section 202(f)(4)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

(5) Section 202(g)(3)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

(6) Section 202(h)(4)(A) of such Act is amended by striking out "or (g)" and inserting in lieu thereof "(g), or (x)".

(7) Section 202(j)(1) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

(8) Section 202(o) of such Act is amended by striking out "or (h)" each place that it appears and inserting in lieu thereof "(h), or (x)".

(9) Section 216(b)(3)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

(10) Section 216(c)(6)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

(11) Section 216(f)(3)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

(12) Section 216(g)(6)(A) of such Act is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (x)".

SEC. 2. (a) The amendments made by the first section of this Act shall apply only with respect to monthly insurance benefits which are payable under title II of the Social Security Act for months after December 1973 on the basis of applications filed on or after the date on which this Act is enacted.

(b) The requirement in section 202(x)(1)(B) of the Social Security Act that proof of support be filed within two years after a specified date in order to establish eligibility for brother's or sister's insurance benefits shall not be applicable if such proof of support is filed within two years after the date of the enactment of this Act.

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

S. 1201. A bill to amend the act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to amend the act of October 15, 1966, as amended, establishing a program for the preservation of additional historic properties throughout the Nation.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

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

U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., February 28, 1973.*

Hon. SPIRO T. AGNEW,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed is a draft of a bill "To amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The Act of October 15, 1966 (80 Stat. 915; 16 U.S.C. 470), popularly referred to as the "National Historic Preservation Act", authorized a program of matching Federal grants to States and the National Trust for Historic Preservation for purposes of preserving properties significant in American history, architecture, archeology, and culture. The Act also established an Advisory Council on Historic Preservation to advise the President and Congress on matters relating to historic preservation.

The 1966 Act authorized a total of $32 million for grants to States and the National Trust, ending after fiscal year 1970. The Act of May 9, 1970 (84 Stat. 204), amended the 1966 Act to extend the appropriation authorization for grants from fiscal years 1971 through 1973, at an additional total authorization of $32 million.

The Act of May 9, 1970, also added three *ex officio* members to the Advisory Council on Historic Preservation, and it provided for United States participation in the International Centre for the Study of the Preservation and the Restoration of Cultural Property (Rome Centre), authorizing the appropriation of not more than $100,000 annually for fiscal years 1971, 1972, and 1973 for that purpose.

The enclosed draft bill would further amend the National Historic Preservation Act of 1966 by (1) extending indefinitely the funding authorization for matching grants and by (2) extending indefinitely the funding authorization for participation in the Rome Centre.

*Extension of funding for matching grants.* Existing funding authority for matching grants to States and the National Trust will expire on June 30, 1973. It is essential, therefore, that the funding authority be extended before that date to permit proper programming. We propose a permanent appropriation authorization, instead of the current 3-year authorization.

*Extension of funding for Rome Centre.* Existing funding authority for United States participation in the activities of the Rome Centre will also expire on June 30, 1973. The enclosed draft bill will extend the current appropriation authorization indefinitely. The Rome Centre is an independent, intergovernmental body of 52 member nations, established under the auspices of UNESCO in 1958. It is the continuing, intergovernmental organization of professional conservators and restorationists. Participation by the United States, as authorized in the 1970 amendments to the National Historic Preservation Act of 1966, is an international expression of this Nation's interest in world-wide historic preservation.

United States membership, which became effective January 20, 1971, is guided by the Advisory Council on Historic Preservation and its Rome Centre Committee, a body consisting of representatives of 25 national institutions and Federal agencies whose programs and interests parallel those of the Rome Centre. Member institutions and agencies of the Rome Centre Committee are (1) the National Park Service, (2) the Smithsonian Institution, (3) the National Trust for Historic Preservation, (4) the Library of Congress, (5) the International Council of Museums (United States National Committee), (6) the Henry Francis du Pont Winterthur Museum, (7) the Cooperstown Graduate Programs, (8) the International Institute for Conservation of Historic and Artistic Works (American Group), (9) the Conservation Center, Institute of Fine Arts, New York University, (10) the Intermuseum Conservation Association, (11) the American Society of Civil Engineers, (12) the Association for Preservation Technology, (13) the Society of Architectural Historians, (14) the School of Architecture, Columbia University, (15) the American Association of Museums, (16) the Society for American Archeology, (17) the American Association for State and Local History, (18) the International Council on Monuments and Sites (U.S. National Committee), (19) Colonial Williamsburg, (20) the National Gallery of Art, (21) the American Institute of Architects, (22) the United States National Commission for UNESCO, (23) the Department of State, (24) the National Endowment for the Arts, and (25) the National Endowment for the Humanities.

Although the period of membership in the Rome Centre has been brief, substantial benefits have accrued. Initiated by the Rome Centre Committee, a traveling summer school for training of architects in restoration work was established, beginning in July 1972. More than half of the 22 participants in 1972 were Americans. The Rome Centre will also sponsor a conference on the preservation and restoration of cultural property in the United States. Held in Williamsburg and Philadelphia, the conference will enable conservators and architect-restorers from the United States and selected western hemisphere countries to consider mutual problems

and consider ways in which their disciplines and programs might be integrated. Specifically, the conference will enable National Park Service personnel to benefit from the expertise of foreign participants in the concepts and techniques of historic preservation as they may be applied to the restoration and preservation of historic properties in the National Park System. Beginning in January 1972, an American on special assignment became one of the three program directors for the Rome Centre. Six American students were selected to attend regular Rome Centre training courses on the restoration of ancient monuments and the conservation of mural paintings during fiscal year 1972.

The National Historic Preservation Act of 1966 has already done much to stimulate State, local, and private activity in the preservation of the Nation's historic and cultural heritage. We believe a vigorous extension of the program, in accordance with the authorities proposed herein, is necessary to assure the fulfillment of national aspirations in the preservation of that heritage.

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

Sincerely yours,

NATHANIEL REED,
*Assistant Secretary of the Interior.*

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By Mr. FANNIN (for himself, Mr. HANSEN, and Mr. THURMOND):

S. 1204. A bill to revise section 801 of the Revenue Act, 1916, to increase the penalty for violation thereof, and for other purposes. Referred to the Committee on Finance.

Mr. FANNIN. Mr. President, today I am introducing a bill which would revise section 801 of the Revenue Act of 1916—Antidumping Act—to make the act conform with the standards of our antitrust laws.

This bill was introduced by me in the 92d Congress.

I am pleased that my colleague from Pennsylvania, Senator SCHWEIKER, incorporated the bill as title IV in the Fair International Trade Act of 1972 and the Fair International Trade Act of 1973, which was recently introduced.

When this bill was introduced in 1971, our balance of trade was a negative $2.7 billion, and the need for such legislation as protection against international price discrimination was crucial. I pointed out that it was obvious that we in Government cannot continue to allow the erosion of the American position in world trade.

The continuing deficit in our balance of payments, the dramatic trade deficit for 1972 which reached $6.9 billion, and the two currency devaluations since that time leads me to conclude that many authorities at that time did not appreciate the seriousness of the problem.

Mr. President, I am confident that is not the case today.

The purpose of this bill is to implement the intent of Congress when it enacted the Revenue Act of 1916.

The purpose of that act was to condemn price discrimination by foreign manufacturers and importers which involves sales for export to the United States at prices lower than those charged at the same time and under like circumstances to buyers in the foreign manufacturer's home market when such discrimination is injurious to competition in the United States. This type of price discrimination is called "dumping."

Although it was not the Congress view that such dumping was not already proscribed under the Sherman Act, it was thought necessary to prohibit this particular practice in restraint of trade specifically—just as certain practices already illegal under the Sherman Act became the subject of specific prohibitions under the Clayton Act—and to provide remedies against this illegal practice. The act has not been so successful in accomplishing these specific goals as have the antitrust laws in general, because the standards of proof of illegality have been held to be more stringent than those of the antitrust laws, and because the procedural advantages conferred upon the Government and upon injured parties under the antitrust laws were not, in substantial part, conferred on the Government or on injured parties under the Revenue Act.

This bill will place the Revenue Act of 1916 upon a par with the other antitrust laws, by increasing its effectiveness and viability to that of actions brought under the Sherman and Clayton Acts.

The effectiveness of the Revenue Act of 1916 has been severely crippled by the requirement of specific intent. The act prohibits only dumping carried out "with the intent of destroying or injuring an industry in the United States, or of preventing the establishment of an industry in the United States, or of restraining or monopolizing any part of trade and commerce in such article in the United States." Such a showing of specific intent is not required in order to recover or to obtain relief under the Sherman Act or the Clayton Act. The bill amends the Revenue Act of 1916 by deleting the requirement of specific intent and substituting the traditional, well established and thoroughly understood test of effect upon competition; that is, "the effect of such importation or sale of such articles may be to substantially lessen competition or to tend to create a monopoly:" Furthermore, this test of effect upon competition is given the market definition standard applied in Clayton Act and Sherman Act cases by requiring only that the effect be "in any line of commerce in any section of the United States or its territories."

By substituting the well-tested Sherman Act and Clayton Act criteria of effect upon competition in any line of commerce in any section of the country, the bill ends differentiation or discrimination in the law between foreign manufacturers or importers and domestic businessmen. All would in the future be held to the same antitrust standards.

It should be noted that by removing the requirement of a showing of specific intent, the problem does not arise that the Revenue Act would violate the requirements of due process by imposing criminal sanctions where no intent is shown. As under the Sherman Act, where no specific intent is required, the courts have inferred a requirement of a showing of general intent before criminal sanctions can be imposed.

The bill amends the Revenue Act in a number of ways to place it on a par with the antitrust laws in the imposition of criminal and civil sanctions and in the establishment of procedural standards. For example, criminal sanctions are changed. Whereas violations under the act were subject to a penalty of up to $5,000, the violations in the future would be subject to penalties of up to $50,000, in line with the Sherman Act.

The bill amends the Revenue Act to confer upon the act the liberal venue provisions available to actions under the antitrust laws. Whereas the act allows a party injured to sue a defendant where "defendant resides or is found or has an agent" the bill would add the provision that the defendant could also be sued wherever he "transacts business" to conform to the tests of section 12 of the Clayton Act.

Another amendment to the act confers upon the U.S. attorneys, under the direction of the Attorney General, the duty to prosecute violations of the act. This is in line with actions brought under the Sherman and Clayton Acts. The bill makes it clear that the Government in such actions is entitled upon proper showing to any preliminary relief necessary to prevent further violations until final judgment, up to and including a ban on further importation into the United States of the products subject to discriminatory pricing and dumping.

The bill recognizes the importance of the liberal rules of discovery made available to parties in private actions by the Federal Rules of Civil Procedure. It confirms the equal power of the Federal courts to order discovery of foreign manufacturers and importers alleged to be dumping in the U.S. market in violation of U.S. law to the same extent that the courts can order discovery and enforce their orders addressed to domestic parties. As such, failure to conform to a discovery order could subject an alleged dumper to the sanctions which a court may impose under rule 37(b) of the Federal Rules of Civil Procedure. These sanctions include the imposition of an order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the complainant who has obtained the order, or an order enjoining further importation into the United States of those articles alleged to be the subject of dumping.

The Revenue Act of 1916 at present does provide for private treble damage actions by parties injured by those intentionally dumping. The purpose of these proposed amendments to the act is to confer upon injured parties an effective means of obtaining equitable and treble damage relief, to realize not only in theory but also in reality the general advantages of the Federal Rules of Civil Procedure and the specific advantages of actions for relief under the antitrust laws.

Making the Revenue Act of 1916 formally part of the antitrust laws has a distinct advantage: Private enforcement of the antitrust laws can be quite expensive. Most parties cannot afford the enor-

mous expenses involved in proof of antitrust violations. Section 5 of the Clayton Act provides that a final judgment or decree resulting from any civil or criminal antitrust action instituted by the United States which affirms that the defendant has violated the antitrust laws can be used in other, private actions as proof of those facts necessarily proved in the Government's action. Proclaiming that the Revenue Act of 1916 is part of the antitrust laws confers this "prima facie effect" advantage on private litigants in actions under this statute as well.

The overall purpose of the bill is to bring the Revenue Act of 1916 into line with the antitrust laws. Its goal is to abolish artificial distinctions between foreign manufacturers and importers on the one hand, and domestic businesses on the other, to apply the same standards of legality to both, and in actions against them to afford to private litigants the same standards of proof and avenues of relief.

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

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

S. 1204

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 801 of the Act of September 8, 1916, entitled "An Act to raise revenue, and for other purposes" (39 Stat. 798; 15 U.S.C. 72), (hereinafter referred to as the "Revenue Act, 1916"), is amended by—

(1) amending the first sentence of the text of such section to read as follows:

"(a) No person importing or assisting in importing any articles from any foreign country into the United States shall import, sell or cause such articles to be imported or sold within the United States at a price substantially less than the actual market value or wholesale price of such articles, at the time of their importation into the United States, in the principal markets of the country of their production, or of other foreign countries to which they are commonly exported, after adding to such market value or wholesale price, freight, duty, and other charges and expenses necessarily incident to the importation and sale thereof in the United States, where in any line of commerce in any section of the United States or its territories the effect of such importation or sale of such articles may be to substantially lessen competition or to tend to create a monopoly.";

(2) inserting the subsection designation "(b)" before the second paragraph of such section, and striking out "$5,000" in such paragraph and inserting in lieu thereof "$50,000";

(3) inserting the subsection designation "(c)" before the third paragraph of such section, and striking out "defendant resides or is found or has an agent" and inserting in lieu thereof "defendant resides, is found, transacts business, or has an agent";

(4) inserting, before the last paragraph of such section, the following new subsections:

"(d) The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several United States Attorneys in their respective districts under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises, including but not limited to enjoining the further importation into the United States, or distribution in interstate commerce within the United States, by such defendant of articles which are the same as, or similar to those articles which are alleged in such proceeding to have been sold or imported in violation of the provisions of subsection (a) of this section.

"(e) If a defendant, in any proceeding brought under subsection (c) of this section in any court of the United States, fails to comply with any discovery order, or other order or decree, of such court, the court may find for the purposes of such proceeding that the dumping alleged has been established and in addition to any powers which it may have under this or any other provision of law shall have power to enjoin the further importation into the United States, or distribution in interstate commerce within the United States, by such defendant of articles which are the same as, or similar to, those articles which are alleged in such proceeding to have been sold or imported in violation of the provisions of subsection (a) of this section, until such time as the defendant complies with such order or decree.

"(f) Whenever it shall appear to the court before which any proceeding under subsection (d) or (e) of this section may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

"(g) This section shall be held and considered to be one of the 'antitrust laws' of the United States within the meaning of section 1 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', of October 15, 1914, 38 Stat. 730, as amended, 15 U.S. Code Section 12, and any law of the United States which is applicable to the enforcement of the antitrust laws shall be applicable to the enforcement of this section, except to the extent that any provision of this section is inconsistent with such application."; and

(5) inserting the subsection designation "(h)" before the last paragraph of such section.

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By Mr. HANSEN:

S. 1207. A bill to amend section 311(d)(2)(A) of the Internal Revenue Code of 1954. Referred to the Committee on Finance.

Mr. HANSEN. Mr. President, I am reintroducing today a bill which I initially introduced in the last session of the Congress.

The bill, identical to S. 3542 of the 92d Congress, provides for technical changes in the income tax laws of the ownership rules applicable to certain situations in which a corporation uses its own appreciated property to redeem a part of its outstanding stock.

My bill of the last Congress, S. 3542, was not reported out by the Senate Finance Committee because revenue measures must originate in the House. However, the text of S. 3542 was adopted, after recommendation by the Senate Finance Committee, as an amendment to H.R. 7577 on the Senate floor.

As will be recalled, H.R. 7577, as amended, passed the Senate late in the last session on October 16, 1972.

However, the Senate version of H.R. 7577 was not taken up by the House before it adjourned.

An objection was made to the request by Chairman WILBUR MILLS of the House Ways and Means Committee for unanimous consent to send the bill to a House-Senate conference and the Congress adjourned shortly thereafter without taking further action. To my knowledge, the objection made on the House floor to the unanimous-consent request was not related to the specific Senate amendment which I have reintroduced in this bill.

I have been informed by the Treasury Department that the present law under consideration is illogical and that they are inclined to support the change which would be made by my bill. I continue to believe that this section of the tax law contains a serious technical defect and I urge the Senate to give the matter its early consideration.

I would like to review again the changes which the amendment in my bill would make. The amendment corrects a technical defect in section 311(d)(2)(A) of the Internal Revenue Code of 1954, which was added by the Tax Reform Act of 1969. The amendment would apply constructive ownership rules in determining whether a shareholder owns at least 10 percent in value of the stock of a corporation which redeems all of his stock so as to protect the corporation from being taxed on any appreciation in property distributed by it in complete redemption of the shareholder's stock.

The bill would amend section 311(d)(2)(A) by inserting after the word "owns" and before the words "at least 10 percent" the following:

"(directly or constructively under the rules of section 318(a) which shall apply in determining ownership of stock for purposes of this subparagraph to the same extent and in the same manner as such rules apply for purposes of section 302(b)(3))".

The general rule of section 311 is that no gain or loss is recognized to a corporation on the distribution of property with respect to its stock. The Tax Reform Act of 1969 made several changes in this general rule. However, section 311(d)(2)(A) continued this protection against recognition of gain to the distributing corporation if the distribution meets two tests. First, the distribution must be in complete redemption of all of the stock of a shareholder who owns at least 10 percent in value of the outstanding stock of the corporation. Second, the redemption must qualify as a complete termination of the shareholder's interest in the corporation.

Section 311(d)(2)(A) applies constructive ownership rules in determining whether the second test of completely terminating the shareholder's interest is met. However, it fails to apply those same constructive ownership rules in determining whether the shareholder owns the requisite 10-percent stock interest.

The amendment merely corrects this situation, and applies the same constructive ownership rules for determining both the termination of interest requirement and the 10-percent stock ownership requirement.

One illustration of the existing problem involves a trust which directly owns 12 percent of the stock of a corporation and which constructively owns an additional 8 percent of the stock which is directly owned by an individual who is sole beneficiary of the trust. Both the trust and the individual desire to have their stock redeemed in a redemption which qualifies as a complete termination of interest. To effect this, all of the stock owned by each must be redeemed because each is treated as a 20-percent shareholder under the constructive ownership rules. The problem is that section 311(d)(2)(A) does not apply the constructive ownership rules in determining whether the individual qualifies as a 10-percent shareholder, so that the corporation will recognize gain if it distributes appreciated property in redemption of the individual's stock. Under the amendment, the individual will be treated as owning the stock held by his trust so as to qualify him as owning at least 10 percent of the stock. If in the above case more than one individual were a beneficiary of the trust, each beneficiary owning stock of the corporation would also have to completely dispose of his stock to enable the trust to attain complete termination of interest.

The amendment applies the constructive ownership rules in applying the 10-percent shareholder test to the same extent and in the same manner as such rules apply for purposes of the complete termination test of section 302(b)(3). This rule precludes an individual from taking into account stock held by another family member for purposes of meeting the 10-percent shareholder test unless he is also treated as constructively owning the other family member's stock in applying section 302(b)(3). For example, if a father directly owns 8 percent of the stock of a corporation and his son directly owns 9 percent of the stock of a corporation, the father would be treated as constructively owning his son's stock to meet the 10-percent shareholder test only if the son's stock is also redeemed in the transaction.

Again, Mr. President, this is a technical type of amendment; and I hope that it will receive expeditious consideration by the Senate.

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By Mr. HATFIELD:

S. 1209. A bill to amend the Internal Revenue Code of 1954 to permit the deduction of household and dependent care expenses by a married couple when one spouse is a full-time student to the same extent that such expenses could be deducted if both spouses were employed. Referred to the Committee on Finance.

Mr. HATFIELD. Mr. President, I introduce a bill designed to alleviate an injustice which has been perpetrated against student parents under the present structure of the Internal Revenue Code. That law provides in part that up to $400 per month may be deducted from the personal income tax of married couples for dependent care expenses when both spouses are working full-time or seeking gainful employment, or when one spouse is qualified as disabled.

The intention of that statute is laudable—to enable married persons to work while concurrently providing care for their dependents. But, as presently written, it excludes many thousands of families in which one spouse is working while the other is occupied as a full-time student. As with families where both spouses are employed, these student couples commonly must contract for outside assistance to care for their dependents. But, unlike working parents, they do not enjoy the benefit of a tax deduction which would allow them to bear the burden of that assistance more easily.

Mr. President, my bill will remedy this needless inequity in the law. In submitting it for consideration, I wish to give much deserved credit to my constituent, Mr. Louis Russell of Corvallis, Oreg., who, in articulating his concern over this matter first called it to my attention.

Mr. President, I ask unanimous consent that the text of my 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. 1209

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 214 (e) (2) of the Internal Revenue Code of 1954 (relating to gainful employment requirement) is amended by—

(1) striking out "or" at the end of subparagraph (A),

(2) striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma and "or", and

(3) adding at the end thereof the following new subparagraph:

"(C) the spouse is a student (as defined in section 151 (e) (4)).".

(b) The amendments made by this Act shall apply with respect to taxable years beginning after the date of enactment of this Act.

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By Mr. BIBLE (for himself and Mr. CANNON):

S. 1210. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for transportation expenses of certain individuals employed at remote Federal installations. Referred to the Committee on Finance.

Mr. BIBLE. Mr. President, for myself and my colleague, Senator CANNON, I introduce for appropriate reference a bill to amend the Internal Revenue Code to allow a deduction from gross income for transportation expenses of certain individuals employed at remote Federal installations.

Generally, under existing law the expense of commuting to and from an individual taxpayer's home and place of employment are not deductible on one's income tax return. Such costs are treated as "personal, living, or family expenses."

No distinction is made between the urban or suburban commuter for whom housing is available conveniently near his place of employment and taxpayers for whom no housing is available within a reasonable distance of his employment; the individual who must travel long distances to and from his worksite each day and who must incur unusually heavy expense to do so.

A case in point is that involving some 4,500 taxpayers employed at the Atomic Energy Commission's test site in Nevada. The Nevada test site encompasses an area of more than 1,300 square miles. It is situated in a vast desert area unfit for habitation and remote from any community capable of providing residential housing for employees and their families. For security reasons, entrance to the test site is strictly controlled. No one is allowed there except on business, and no family living accommodations are provided.

Las Vegas—the only community capable of providing housing for employees and their families—is located 60 miles from the entrance to the test site at Mercury, Nev. Actual job locations within the test site are often 30 miles and more beyond the entrance point. The majority of the employees must travel 90 miles one way to their jobs each day—a round trip of 180 miles. Some travel as much as 140 miles one way, or a distance of 280 miles to and from work.

The magnitude of this travel burden was well illustrated in a letter I received from one test site employee. He reported that the distance from his home in Las Vegas to his forward work area is 90 miles; that based on a 3¾ hour round trip of 180 miles and a 240-day workyear, he must travel 43,200 miles and spend 37½ full 24-hour days getting to and from his job each year.

Needless to say, this is an extraordinary situation.

The work force at the Nevada test site consists principally of contract workers—that is, employees of private contractors. In addition, there is a relatively small group of Federal Government employees and a limited number of military personnel. Both the private contractors and the Federal Government recognize the unusual expense involved in traveling to and from such isolated worksites. In addition to their regular wages, private employees receive a per diem allowance designed to help defray the added expense, which, I am informed, averages about $5 a day. Under regulations prescribed by the Office of Management and Budget, title 5, section 5942 of the United States Code authorizes a special allowance not exceeding $10 a day for civilian Government employees. No comparable provision is made for permanently assigned military personnel—a situation that should be remedied since they confront the same transportation problems.

Under existing tax law and current rulings of the Internal Revenue Service, the travel allowances received by these employees is not deductible from gross income for income tax purposes. But this has not always been the case. In *Wright* v. *Hartsell* (305 F. 2d 221) decided in 1962 by the U.S. Court of Appeals for the Ninth Circuit, the court held that a taxpayer who was unable to live near his remote jobsite was entitled to a deduction for his transportation expenses from a point as near to the jobsite as he could

have reasonably lived. Nevada is part of the ninth judicial circuit. Pursuant to that decision, the Internal Revenue Service allowed transportation deductions by test site employees until late in 1969 when the Supreme Court denied certiorari in *U.S.* v. *Lee W. Tauferner* (407 F. 2d 243), a decision of the 10th circuit upholding the Government's position that such expenses are not deductible, contrary to the ruling in Hartsell. Also, in 1971 in the case of *Sanders et al.* v. *Commissioner of Internal Revenue* (439 F. 2d 296) the ninth circuit departed from its ruling in Hartsell and held transportation expenses to distant worksites to be nondeductible. Both the Tauferner and Sanders cases involved travel distances and hardships substantially less than those confronting employees of the Nevada test site. Based on these later decisions, the Internal Revenue Service now denies transportation deductions claimed by test site employees.

The courts have produced divergent results on this subject. First the deduction is allowable. Then it is not. The cases seem to proceed on the assumption that there is no convincing way to distinguish the burden borne by remote area employees from those of the suburban commuter. The rule contended for by the Government and adopted by the ninth and tenth circuits—in their recent decisions, at least—seems calculated to serve administrative convenience.

I submit that the two situations are clearly distinguishable—on the facts of distance, expense, and hardship. And I think the tax statute should be tailored so as to take account of the facts and the hardships endured by citizens employed in the Government's work at unusually remote Federal installations.

I first introduced this legislation in September, 1971 as S. 2624 of the 92d Congress and I have been pressing for action on it ever since. In February, 1972, the Treasury Department submitted an adverse report on the bill to the Senate Finance Committee insisting that the costs of transportation to and from work are personal expenses and are not deductible for income tax purposes. Relying on the Sanders decision—a case that involved vastly different facts and circumstances from those obtaining at the test site—the Treasury argued that there is no convincing way to distinguish the expenses incurred by test site commuters from those of other suburban commuters. I reject that argument and submit that the Senate should as well. Taxpayers who must travel 180 miles and more a day because they are unable to live any closer to their work sites incur extraordinary transportation expenses experienced by few other commuters. Their gasoline expense alone is excessive. They must replace their tires more often. The wear and tear on their automobiles is unusually heavy and necessitates more frequent and costly repairs. Their expense burden is far heavier than that of the ordinary commuter—a fact the law can and should recognize.

I am reintroducing that bill today. My bill would not open the door to any general deductibility of commutation expenses. It is carefully drawn to provide relief only in the extraordinary kind of situation that exists at the Nevada test site. Nor would it result in any significant loss of tax revenues. It would allow individuals employed at remote Federal job sites to deduct the expenses paid or incurred for transportation to and from his residence and his jobsite. A location would qualify as a "remote Federal jobsite" only if there is a lack of suitable housing for 70 percent of the employees within 50 miles of the jobsite. And an individual would qualify for the deduction only if his employer pays him a per diem allowance, travel allowance, remote area allowance, or similar allowance separate and apart from his regular compensation.

I submit that this legislation provides a reasonable, workable, and proper basis for distinguishing the expenses of the ordinary urban or suburban commuter from those of the remote area employees. Enactment of this kind of legislation is already overdue, and I again urge prompt favorable action by the Senate.

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By Mr. BIBLE (for himself and Mr. CANNON):

S. 1211. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Northern Paiute Nation by the Indian Claims Commission in docket numbered 87, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of myself and my distinguished colleague, Senator CANNON, I introduce for proper reference a bill to provide for the disposition of funds appropriated to pay judgments in favor of the Northern Paiute Nation by the Indian Claims Commission in docket numbered 87, and for other purposes.

The satisfaction of the $21 million plus interest judgment awarded our Indian constituents in Nevada has been delayed for a long time—over 9 years to be exact—pending a determination by the tribes involved as to how best the judgment funds should be distributed.

I am well aware that there are still those who are not satisfied with the proposal submitted by a large majority of those who will be affected by the payment of this long-delayed obligation of the United States to its Indian citizens. However, I am firmly of the belief that the only way this matter can be settled is through a proper presentation before the Congress, and it is my belief that this can best be accomplished by thorough consideration of our proposed bill.

I ask unanimous consent that the letter dated February 23, 1973, signed by our good friend, Melvin D. Thom, chairman of the Walker River Paiute Tribe of Nevada, be included as a part of my remarks at this time.

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

WALKER RIVER PAIUTE TRIBE, WALKER RIVER INDIAN RESERVATION,
*Schurz, Nev., February 23, 1973.*

Senator ALAN BIBLE,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BIBLE: Reference is made to proposed legislation, S. 3667 of June 5, 1972, which you and Senator Cannon graciously introduced on behalf of the Northern Paiute Nation authorizing the Secretary of the Interior to make final distribution of judgment funds awarded in favor of the Northern Paiute Nation by the Indian Claims Commission in Docket 87. We have been informed that the bill will have to be re-introduced this session and hereby respectfully request that you again re-introduce the bill on behalf of the Northern Paiute Nation. No changes have been made to the proposed legislation originally submitted.

The tribes still wish to be notified in ample time before the congressional subcommittee hearings on the bill so they may have an opportunity to testify at such hearings.

Respectfully yours,

MELVIN D. THOM,
*Chairman, Walker River Paiute Tribe.*

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By Mr. ROTH:

S. 1212. A bill to amend the Outer Continental Shelf Lands Act, as amended, to require a study of the environmental impact of mineral exploration in the Atlantic Ocean. Referred to the Committee on Interior and Insular Affairs.

Mr. ROTH. Mr. President, I am introducing a bill to require a full and complete evaluation of the environmental impact of any oil exploration in the Atlantic Ocean.

The Continental Shelf off the Atlantic coast of our Nation holds a reserve of petroleum and other minerals that may have great potential for this Nation and mankind. But I have grave reservations about embarking upon a major exploration and development program which will have an impact for the rest of our lives—and probably the lives of our children and grandchildren as well—upon the marine environment, the fishing and recreation industries, and upon coastal development, to mention only a few. Hasty action here is a course we could all live to regret.

This legislation adds a new section to the Outer Continental Shelf Lands Act. That new section directs the Secretary of Interior, in conjunction with the Administrators of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, to undertake a study on the adverse environmental impact of mineral exploitation on the Continental Shelf.

The Secretary would evaluate the impact of mineral exploitation on sealife and the ecology of the ocean. In addition, the study would evaluate the impact of this exploitation on the shorelines of the Nation, including recreational beaches. As part of the study, the Secretary shall also consider whether to ban all mineral development in the sea, if it occurs within 100 miles of the coast.

The area to be covered would extend from the Canadian border to the Georgia-Florida border and eastward from the coast of the United States to the edge of the Continental Shelf.

The bill requires that the findings of this study be reported to Congress within 2 years of the bill's date of enactment.

Subsection (b) of the new section prohibits the issuance of any mineral leases on any of these submerged lands for a period of at least 1 year following the submission of the study report to Congress. Such a 1-year interim period should provide sufficient time for the

public to debate fully the findings by the Secretary. It will give the Nation time to restrict mineral exploitation permanently in certain areas, if that is necessary.

I am not saying that this area should not be explored or that it should not be developed. I am saying only that we should find out what lies before us before we proceed at break-neck speed upon a course of exploration and development. All too often, we have failed to investigate these problems in advance, only to find that we have worked irreversible and unnecessary harm. For instance, we permitted massive, uncontrolled ocean dumping in the Atlantic Ocean for years only to discover recently that the dumping had created a "dead sea" off New York, contaminated beaches in New Jersey, and closed valuable shell-fishing beds off Delaware. At this late stage, we simply cannot afford to spoil priceless and irreplaceable natural resources in our rush to develop new sources of petroleum.

I am proud to say that Delware has led the Nation in efforts to preserve, protect, and enhance the coastal environment. We have passed a tough and effective coastal zone management bill and we have set aside extensive land as wildlife sanctuaries, and public recreation areas. These efforts, together with our coastal environment could be lost forever by hasty or improper development of the mineral resources of the seabed beyond the jurisdiction of Delaware.

This is a serious problem, which I hope will be given full and immediate attention by members of the committee so we can proceed quickly toward its solution. I ask unanimous consent that the text of the bill be printed at this point in the CONGRESSIONAL RECORD.

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

S. 1212

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Outer Continental Shelf Lands Act (67 Stat. 462) is amended by the addition of a new section, as follows:

"SEC. 16. (a) The Secretary, in conjunction with the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, shall conduct an accelerated study on environmental and other factors related to the exploitation of minerals, with emphasis on petroleum, in that portion of the Outer Continental Shelf in the Atlantic Ocean that extends from the territorial border between the United States and Canada southward to the territorial border between the States of Georgia and Florida. The study shall include an evaluation of the effect of such exploitation on fish, shellfish, and other forms of marine life in such region, the probability of any accident associated with such mineral exploitation that could cause an adverse impact on marine ecosystems, of the territorial seas or shorelines of the United States, an assessment of the public interest in the immediate exploitation of such minerals, and the economic and environmental effect of any prohibition on mineral exploitation within one hundred miles of the United States. In preparing such a study, the Secretary shall consult with interested industrial, environmental, and educational groups, and then report the results of such study to the Congress within two years of the date of enactment of this section.

"(b) Notwithstanding any other provision of this Act, the Secretary shall not award any mineral leases covering the submerged lands described in subsection (a) until at least one year following the submission of the report required by subsection (a)."

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By Mr. SCHWEIKER:

S. 1213. A bill to establish a Joint Committee on Federal Spending, to require the Congress to establish a limit on expenditures for each fiscal year, and for other purposes. Referred to the Committee on Government Operations.

THE FEDERAL SPENDING CONTROL ACT OF 1973

Mr. SCHWEIKER. Mr. President, I introduce a bill to establish a Joint Committee on Federal Spending, to require Congress to establish a limit on expenditure for each fiscal year, and for other purposes, and ask that it be appropriately referred.

The purpose of this legislation is to provide a mechanism for Congress to get a handle on the continuing growth of Federal spending. President Nixon has submitted a budget request for fiscal year 1974 to Congress of $269 billion. This is a very healthy request, which includes an increase in the budget of about $19 billion over fiscal year 1973. The estimated budget deficit will be about $13 billion in fiscal year 1974, in comparison to a deficit of about $25 billion for fiscal year 1973.

The amount of the increase in the budget for next year is fairly consistent with budget increases in recent years. Although the annual increment may not seem unusually large, if you compare the budget 10 years ago to the budget for the upcoming fiscal year, you can readily see how Federal spending has increased. In 1964, the budget was $119 billion. It will now be $269 billion.

This amounts to a $150 billion increase in Federal spending in 10 short years. The increase over the 10-year period of $150 billion is more than the total budget of $119 billion in 1964. The gross national product has doubled during that period of time, but Government spending accounts for an increasing share of the economic pie.

The budget level for fiscal year 1974 is designed to avoid the need of any tax increase this year. I certainly support the President in his efforts to avoid tax increases. Furthermore, I think that it is generally felt among Members of Congress that the amount of the fiscal 1974 budget request is adequate, even perhaps too generous.

The real concern is over priorities—how to slice the pieces of the budgetary pie.

Last year, there was a vigorous debate in Congress over the President's request for $250 billion spending ceiling. I strongly supported settling that ceiling, and voted for it. In fact, legislation to establish a $250 billion ceiling passed both Houses of Congress.

That spending ceiling never became law, however, mainly because of disagreement as to who would decide where and how the spending cuts would be made—the President or the Congress.

The Constitution gives the power of the purse to Congress. While I strongly support the President's efforts to establish firm limitations on the huge increase in Federal spending, I also believe that the authority to determine which programs will be funded and which will be cut must remain in Congress.

This is a serious constitutional problem, but it is important that we not lose sight of the urgent need to control Federal spending while we are debating the Constitution.

In the past, Congress has had no clear-cut mechanism for establishing limits on appropriations. We have simply appropriated on a piecemeal basis, without having any real idea as to where we are going to end up after the appropriations process has been completed.

The President's budget message anticipates another $19 billion increase for fiscal year 1975 to a Federal budget level of $288 billion. Furthermore, the $269 billion figure for fiscal year 1974 does not include funds for the reconstruction of Vietnam and other countries in Indochina. It seems likely that before long a substantial request will be made to Congress for funds for that purpose. Thus, Federal budget continues to increase dramatically year by year.

The national debt is about $465 billion at the present time. By the end of fiscal year 1974, it will be approximately $505 billion. This means that the national debt will have increased 25 percent in 5 short years. One-fourth of the total national debt will have been incurred in only 5 years. The other 75 percent accumulated over a 100-year period, which included World War I, World War II, and the Korean war.

It is long past time for some real restraint.

It is time for Congress to take up the challenge and establish some fiscal responsibility.

The bill I introduce today, the Federal Spending Control Act of 1973, provides for the establishment of a permanent Joint Committee on Federal Spending composed of five members of each Appropriations Committee—Senate and House—three of the majority party and two of the minority party respectively, and three members each fom the House Ways and Means Committee and the Senate Finance Committee, two of the majority party and one of the minority party, respectively. The members of the Joint Committee on Federal Spending will be selected by the membership of their respective committees.

By March 1 of each year, the joint committee will make a report to the Congress on the President's budget proposal. Additionally, the joint committee will report a concurrent resolution to each House recommending a limit on the total amount of outlays to be made during the ensuing fiscal year.

No appropriations bill can be adopted by either House until the concurrent resolution has passed both Houses.

The limit on the total amount of outlays agreed to in the concurrent resolution can be changed only by two-thirds vote of each House. In other words, once

the limit has been set, it can be changed only by a two-thirds vote of each House.

In carrying out the will of Congress, the President is given authority to reserve from expenditure and net lending such amounts as may be necessary to keep outlays during the fiscal year within the limit prescribed by the Congress. However, the President may not make cuts in so-called "uncontrollable items" such as interest on the national debt, veterans benefits and services, payments from social insurance trust funds, medicaid, public assistance maintenance grants, social services grants under title IV of the Social Security Act, food stamps, military retirement pay, and judicial salaries.

In addition, no program can be cut by more than 10 percent in order to meet the congressionally-imposed level of spending.

These latter provisions are in accordance with the Jordan amendment, adopted by the Senate last year as part of the debt ceiling bill.

Mr. President, the present controversy over the budget is being portrayed by many as a battle between the savers in the administration and the spenders in the Congress. I disagree with this conclusion. It is not accurate. I am confident that Congress wants to limit Federal spending fully as much as the President does. The question is whether Congress will live up to its responsibility to make appropriations in a responsible way so that we can avoid additional tax increases, fund only programs that are working, and cut the fat out of wasteful programs.

I am confident Congress wants to do this and can do it. The Federal Spending Control Act of 1973 offers a practical way of accomplishing this goal.

Mr. President, I ask that the full text of the Federal Spending Control Act of 1973 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. 1213

*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 Spending Control Act of 1973".

TITLE I—JOINT COMMITTEE ON FEDERAL SPENDING; ANNUAL EXPENDITURE CEILINGS

DEFINITIONS

SEC. 101. For purposes of this title—

(1) "Budget" means the Budget of the United States Government transmitted to the Congress by the President pursuant to the Budget and Accounting Act, 1921;

(2) "Joint committee" means the Joint Committee on Federal Spending established under section 102; and

(3) "Outlays" has the same meaning as used in the budget.

ESTABLISHMENT OF JOINT COMMITTEE

SEC. 102. (a) There is established a joint committee of the Congress which shall be known as the Joint Committee on Federal Spending. The joint committee shall be composed of 16 members as follows:

(1) Five members who are members of the Committee on Appropriations of the Senate, three from the majority party and two from the minority party, to be chosen by such committee;

(2) Three members who are members of the Committee on Finance of the Senate, two from the majority party and one from the minority party, to be chosen by such committee;

(3) Five members who are members of the Committee on Appropriations of the House of Representatives, three from the majority party and two from the minority party, to be chosen by such committee; and

(4) Three members who are members of the Committee on Ways and Means of the House of Representatives, two from the majority party and one from the minority party, to be chosen by such committee.

(b) The joint committee shall select a chairman and vice chairman each Congress from among its members. In each even-numbered Congress the chairman shall be a Member of the House of Representatives and the vice chairman shall be a Member of the Senate. In each odd-numbered Congress the chairman shall be a Member of the Senate and the vice chairman shall be a Member of the House of Representatives.

(c) A quorum of the joint committee shall consist of nine members, except that the joint committee may fix a lesser number for the purpose of taking sworn testimony.

(d) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection.

(e) No person shall continue to serve as a member of the joint committee after he has ceased to be a member of the committee by which he was chosen, except that members chosen by the Committees on Appropriations and Ways and Means of the House of Representatives who have been reelected to the House may continue to serve as members of the joint committee notwithstanding the expiration of the Congress.

(f) For purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the joint committee, or as chairman of the joint committee, shall not be taken into account.

POWERS

SEC. 103. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (for periods not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (1) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the House or Senate, or any joint committee of the Congress, the joint committee may utilize the services of any staff member of such House or Senate committee or joint committee of the Congress whenever the chairman of the joint committee determines that such services are necessary and appropriate.

(d) The head of each department and agency of the executive branch (including the Office of Management and Budget) shall furnish to the joint committee such information and data as the joint committee may request.

(e) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers approved by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

(f) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

FUNCTIONS

SEC. 104. Upon the submission of the Budget by the President for each fiscal year (beginning with the fiscal year ending June 30, 1975), the joint committee shall promptly review the Budget (including estimates of revenue receipts) and receive testimony from the executive branch and other interested parties concerning the impact of the submitted Budget, if adopted, on the state of the economy of the United States and existing economic problems. The joint committee shall report the results of such review and shall recommend, in the manner provided in section 105, a limit on the total amount of outlays to be made during such fiscal year.

CEILING ON OUTLAYS

SEC. 105. (a) Not later than March 1 of each year (commencing in 1974), the members of the joint committee who are Members of the Senate shall report to the Senate, and the members of the joint committee who are Members of the House of Representatives shall report to the House, by concurrent resolution, the recommendation of the joint committee specifying a limit on the total amount of outlays to be made during the ensuing fiscal year.

(b)(1) A concurrent resolution reported pursuant to subsection (a) shall be highly privileged in each House. It shall be in order at any time after the third day following the day on which such a resolution is reported to move to proceed to the consideration of the resolution (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the concurrent resolution, and all amendments thereto, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. A motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(3) Motions to postpone, made with re-

spect to the consideration of the concurrent resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the concurrent resolution shall be decided without debate.

(c) If, prior to the passage by one House of a concurrent resolution of that House, such House receives a concurrent resolution passed by the other House—

(1) the procedure with respect to the concurrent resolution reported to the first House shall be the same as if no concurrent resolution had been received from the other House, but

(2) on any vote on final passage of the concurrent resolution of the first House, the concurrent resolution received from the other House shall be automatically substituted for the concurrent resolution of the first House.

(d) If the amount specified in the concurrent resolution with respect to a fiscal year agreed to by the Senate and House of Representatives is not the same, conferees on the part of the Senate and the House of Representatives shall be appointed not later than 2 days after the House of Congress passing the resolution last passes such resolution, unless within those 2 days both Houses of Congress agree upon the same amount without the convening of a committee of conference. Upon appointment of conferees, the committee of conference shall meet immediately to resolve their differences. The provisions of subsection (b) shall be applicable with respect to the consideration of any report of a committee of conference on any such resolution.

(e) After the Senate and House of Representatives have agreed to a concurrent resolution specifying a limit on the total amount of outlays to be made during a fiscal year, the amount so specified shall be effective for purposes of this Act unless the two Houses subsequently agree, by a two-thirds vote of the members of each House present and voting (a quorum being present), to a concurrent resolution with respect to such fiscal year specifying a different amount. If the two Houses do subsequently agree to such a concurrent resolution, the amount specified in such subsequent resolution shall be effective for purposes of this Act for such fiscal year. The provisions of subsections (b), (c), and (d) shall apply with respect to the consideration of any such subsequent resolution.

CONSIDERATION OF APPROPRIATIONS MEASURES

SEC. 106. (a) It shall not be in order in either the Senate or the House of Reprsentatives to consider any measure providing new obligational authority for any fiscal year (beginning with the fiscal year ending June 30, 1975) until the two Houses have agreed to a concurrent resolution pursuant to section 105 specifying a limit on the total amount of outlays to be made during such fiscal year.

(b) The provisions of subsection (a) shall not prevent the conduct of hearings or other consideration of the Budget by any committee of the Senate or the House of Representatives, or any subcommittee thereof, or by any joint committee of the two Houses, or any subcommittee thereof.

EXERCISE OF RULE-MAKING POWERS

SEC. 107. The provisions of sections 105 and 106 are enacted by the Congress—

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

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

TITLE II—PRESIDENTIAL AUTHORITY

AUTHORITY TO RESERVE FROM OUTLAY

SEC. 201. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with subsections (b) and (c), reserve from expenditure and net lending, from appropriations or other obligational authority otherwise available, such amounts as may be necessary to keep outlays during each fiscal year (beginning with the fiscal year ending June 30, 1975) within the limit prescribed for such year under title I of this Act.

(b) In carrying out the provisions of subsection (a) the President may reserve amounts from appropriations or other obligational authority available for all programs and activities, except for expenditures and net lending for—

(1) interest;

(2) veterans' benefits and services;

(3) payments from social insurance trust funds;

(4) medicaid;

(5) public assistance maintenance grants;

(6) social services grants under title IV of the Social Security Act, as amended;

(7) food stamps;

(8) military retirement pay; and

(9) judicial salaries.

(c) In carrying out the provisions of subsections (a) and (b), no amount specified in any appropriation, or any activity, program or item within such appropriation, may be reduced by more than 10 percent.

APPLICATION OF CERTAIN FORMULAS

SEC. 202. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to section 201, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (as determined by the President) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

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By Mr. MUSKIE (for himself and Mr. ERVIN):

S. 1214. A bill to amend the Budget and Accounting Act, 1921, so as to provide the Congress with information relating to budget requests of the various departments and establishments of the Government. Referred to the Committee on Government Operations.

Mr. MUSKIE. Mr. President, I introduce today with Senator ERVIN a bill to amend the Budget and Accounting Act of 1921 so as to provide the Congress with information relating to budget requests of the various departments and establishments of the Government. On January 31 of this year, I introduced S. 676, the Public Budgeting and Rulemaking Act of 1973, which contains the same objectives as the bill I am introducing today. Since January 31 I have worked with Senator ERVIN in drafting this legislation to formulate a simpler and more effective method of providing Congress the budget information it needs to perform its constitutional role.

This bill would further the objective of open government by opening budget activities to the appropriate committees of Congress. In addition, this legislation would enable Congress to be involved in the budgetary process from its inception. While it would not interfere with the process of preparing the budget it would permit Congress to monitor OMB contact with an agency or department prior to the submission of their final budgets to Congress.

The present practice allows OMB, through the review and comment process, to decide alone how a program is to be run and funded. The Congress enters the process only when it is nearly complete. In order for Congress to exercise its proper constitutional role it must have available to it the "original thinking" of the agencies. What we get now is deceptive information, ground into pablum and spoon fed to us by the OMB.

This bill establishes a procedure for the timely review of this information, a right which Congress was clearly given in section 206 of the Budget and Accounting Act of 1921. Without such timely and complete information the Congress will have a very difficult time in implementing the thoughtful reform proposals for a responsible legislative role in the budget making process outlined by the Joint Study Committee on Budget Control in their recent recommendations.

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By Mr. METCALF:

S. 1215. A bill to amend title II of the Legislative Reorganization Act of 1970 to improve the ability of Congress to specify, obtain, and use the Federal fiscal, budgetary, and program-related data it requires from the executive branch, and for other purposes. Referred to the Committee on Government Operations.

FEDERAL FISCAL AND BUDGETARY INFORMATION ACT OF 1973

Mr. METCALF. Mr. President, expansion of congressional capability to command sources of Federal fiscal, budgetary, and program-related data and information—relevant, reliable, and readily available for uses—is a precondition of effective legislative budgetary control.

Our ability to acquire and process such information, most of which must be obtained from the executive branch, today is woefully inadequate. A legislative budget mechanism, as envisioned in the various bills which have been introduced in this Congress, will impose yet another set of demands, which we are by no means in a position to meet.

We do not now have the capability, for example, to meaningfully subdivide budget authority on a program basis. This is a central issue: We cannot establish overall budget authority and expenditure ceilings without first providing for congressional determination of priorities. Without provision for congressional choices between competing program priorities and interests, we would be giving the Executive a license to determine the course of our national life. Depending solely—or even primarily—on existing fiscal, budgetary and program-related data and information such as that contained in the President's budget document, and attempting to reshuffle this in some fashion, will not move us very far toward a more rational congressional budget process and more effective congressional control of Federal expenditures.

I am convinced that the time has come for Congress to create modern information handling facilities of its own to meet demands imposed on it by the continuing growth in size and complexity of Federal programs and activities.

As Senators will recall, in formulating what became the Legislative Reorganization Act of 1970, Congress foresaw the need for improvement of executive branch information systems, and for provision for consideration of congressional needs in their development and use. Briefly stated, the intent of title II of that act was to insure, first, congressional participation in the design of and the benefits from establishment of an improved Federal fiscal and budgetary information system, and second, congressional access to such information, when and as needed, in the executive branch.

The Joint Committee on Congressional Operations, of which I am chairman in this Congress, has monitored implementation of the title II provisions on a continuing basis since early 1971. Our joint committee has held hearings on this and issued a report describing in detail gaps in existing executive branch reporting practices and capabilities that have serious consequences for congressional review and control of Federal expenditures. Throughout, we have had the fullest cooperation—within Congress—of all the committees, their members, and staffs, with whom we have worked in planning for effective implementation of title II. The same cannot be said for the Office of Management and Budget, which has primary responsibility under the 1970 act for development and maintenance of standardized fiscal and budgetary information systems designed to meet the needs of the various branches of the Federal Government—including Congress.

To date, we have had no evidence that OMB intends to comply with the letter and spirit of the title II provisions. That Office is simply going ahead with its work on budget preparation and related systems intended solely to support Presidential program and budget proposals. In his report of February 7, 1973, for example, the Comptroller General concludes that "the system contemplated by the executive branch will not fulfill the information needs of the Congress."

To get off dead center—to create a congressional facility for acquiring and processing fiscal, budgetary, and program related information—I believe we must now shift the responsibility for building congressional requirements into Federal information systems. Accordingly, I have introduced today a bill amending title II of the 1970 Legislative Reorganization Act to insure that Congress has full access to the information it requires.

My bill will give a congressional agency, the General Accounting Office, responsibility for developing the standards that determine what kinds of information can be generated by executive branch systems. Moreover, it directs the Comptroller General to develop and maintain an up-to-date inventory of information sources and systems, so that we will not have to rely so completely on the Executive's legislative liaison representatives—or on sympathetic employees in the agencies—to identify sources of relevant data and information. And, finally, it directs the Comptroller General to establish a central data bank of fiscal, budgetary, and program-related data and information to meet recurring congressional requirements, a facility to be available to the committees of both Houses though the use of automatic data processing and modern communications techniques.

In short, my bill is designed to reduce congressional reliance on the executive branch middlemen in the information brokerage business. Such a congressionally based and controlled information system is not an alternative to organization and procedural changes presently being suggested to improve the congressional budget process. Its proper development is, however, essential if we are to deal effectively with the problem of establishing congressional budget priorities.

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By Mr. GRAVEL:

S. 1217. A bill to phase out the operation, construction, and export of civilian nuclear-fission powerplants by January 1980. Referred to the Joint Committee on Atomic Energy.

THE NUCLEAR POWER MORATORIUM ACT OF 1973

Mr. GRAVEL. Mr. President, my colleagues and other people ask, "If we shut down atomic powerplants, would not we have blackouts?" Absolutely no blackouts will result from the kind of moratorium on atomic power which I am proposing today in the Nuclear Power Moratorium Act of 1973.

Moreover, a very positive benefit would result from this legislation. It would protect American life, property, and national security from the hazards of nuclear-fission powerplants. In 1972, fewer than 30 nuclear powerplants provided a huge amount of the country's danger, but less than 1 percent of the country's total energy. The Moratorium Act would phase out the operation, construction, and export of civilian nuclear-fission powerplants by January 1980.

Mr. President, I ask unanimous consent that the text and number of the moratorium 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. 1217

*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 "Nuclear Power Moratorium Act of 1973".

SEC. 2. (a) The Congress herewith declares that the deployment of civilian nuclear-fission powerplants is presently inconsistent with national security and public safety, as required by Section 3.d. of the Atomic Energy Act of 1954, and the Atomic Energy Commission is herewith directed under the authority of Section 187 of that Act to enforce an immediate moratorium on the operation, construction, and export of all civilian nuclear-fission powerplants, with allowance for temporary exceptions where time is required to activate non-fission substitutes, provided that operation of every plant shall be terminated no later than January 1980.

(b) The moratorium described in Section 2(a) shall last indefinitely, or until the electric utilities have demonstrated to Congress and to their respective customers that the use of nuclear fission to generate electricity will not constitute a significant hazard to the health and safety of the public, or render this country vulnerable to blackmail, terrorism, or economic chaos.

SAFE SUBSTITUTES WILL PREVENT BLACKOUTS

Mr. GRAVEL. It bears repeating that atomic powerplants contributed less than 1 percent of the country's total energy in 1972. If we speak of just electrical energy, the 1972 contribution from atomic power was only 4 percent of the country's supply. By 1980, if there were no moratorium enacted, the figures would be less than 7 percent of the country's total energy, or about 20 percent of the country's electric energy.

The nuclear power moratorium bill clearly allows plenty of time to put substitutes for atomic power into operation. We can shut down every atomic powerplant in the country by January 1980 without causing a single blackout.

On the basis of our coal supplies alone, no threat of blackouts can be justified. We have enough coal in this country to last at least 200 years, and maybe much longer. It takes only 5 years or less to open underground coal mines, and only 5 years to build a modern and relatively clean electric powerplant to burn coal, gasified coal, or oil made from coal.

We can do better than coal, however. We can get at least 10 percent of our electricity from burning trash along with coal in our powerplants. It has been done since May 1972 at a Union Electric Co. plant in St. Louis, and tests are underway to see if an even higher percent of electric power can be made from burning trash. Perhaps we can phase out fission by 1980 on just trash power alone.

INSTANT GAS AND OIL

And we can do even better. We can grow our own clean gas to make electricity. What I mean is that we would use the sun's energy to grow tiny algae plants which can be converted to methane gas naturally, by fermentation. It might be called solar gas or instant gas, to distinguish it from natural gas which may have taken millions of years to make. Some people are calling it synthetic gas.

The conversion of algae and other plants to methane is a technology which was demonstrated long ago. Methane kits suitable for individual farms are available today. The large-scale production of instant gas could be achieved if farmers were encouraged to cultivate algae on some of the land which we pay to keep idle under our farm subsidy program.

A panel appointed by the President's Office of Science and Technology concluded in the summer of 1972 that—

> If solar development programs are adequately supported. . . synthetic fuels from organic materials [could reach public use] in 5 to 8 years.

The algae-to-methane trick is a fundamentally simple technology with a huge potential in a country crying for clean gas. In addition, algae can be burned as fuel directly. In 1972, the National Science Foundation said—

It has been estimated that all the world's energy requirements in the year 2000 could be met by combustion of high-energy plants cultivated on only about 4% of the world's land surface.

Since the combustion of solar gas puts back into the environment the same things it takes out, it would be hard to do better than instant solar gas.

On the other hand, you can let people and animals go about their daily business of eating plants, and then you can convert their sewage and manure into low sulfur oil. It is a proven capability, thanks to the Department of the Interior, among others. In 1970, the Department put out a little-publicized study saying that the domestic animals in this country—cattle, chickens, pigs—produce enough waste every year to make 2 billion barrels of low-sulfur oil—or nearly 40 percent of our consumption. In addition, our cities generate enough organic garbage each year to make another 400 million barrels.

HYDROGEN FUEL FROM THE WIND

Still, we might do even better than solar gas and oil by producing solar hydrogen with modern windmills, on land or off shore. Windmills attached to generators just suck the power right out of the sky. The power can be stored as hydrogen gas. You use the wind-power to electrolyze water, which separates into hydrogen and oxygen. You can either burn the hydrogen whenever and wherever you need it and get back heat plus water, or you can feed it into fuel cells and get back electricity plus water. Hydrogen is considered by many experts to be an ideal fuel for the future.

Testimony about wind power as an immediate alternative to atomic power was given in January 1973 at Atomic Energy Commission hearings by Prof. William E. Heronemus from the department of civil engineering at the University of Massachusetts, Amherst. He showed how the Long Island Lighting Co. could get 19 billion kilowatt-hours of new power per year from offshore windmills in 1977, instead of from a nuclear powerplant which the company claims it must have in operation by 1977. In Oregon, several utilities have provided a grant to meteorologist E. Wendell Hewson of Oregon State University to make a 3-year study of windpower potential along the coast there.

SUNLIGHT AND OTHER OPTIONS

Then there are also the better-known solar energy systems. Sunlight hitting a photoelectric cell, for instance, makes electricity directly. Solar cells have been used with great reliability in the space program for 12 years already. The President's solar energy panel stated that the total electric energy consumed in the United States during 1969 could have been supplied by the solar energy falling on 0.14 percent of the land area, based on a 10-percent conversion efficiency for solar cells.

Solar cells are too expensive to use today, but the solar energy panel estimated that they could reach public use in 10 to 15 years if some effort is made to reduce their cost.

In addition to all these replacements for atomic power, there is natural geothermal hot water which can be tapped with today's technology in the West and the South. In June 1972, James Hilbert Anderson, Jr. testified to the Senate Interior Committee that such plants would require only 2 years to build.

Last but not least, blackouts could be avoided by increasing the efficiency of the equipment and buildings which use electricity. According to the report called "The Potential for Energy Conservation," put out by the President's Office of Emergency Preparedness in October 1972, industry as a whole could easily cut its energy demand by 10 to 15 percent of the projected demand in 1980 by cutting waste. This would cut the need for new powerplants, nuclear or non-nuclear. Improved efficiency in commercial and household equipment and buildings could also start making a significant difference by 1980.

In summary, shutting down all atomic powerplants by 1980 will cause no blackouts and will require no change in life style. There are so many safe energy-systems—especially solar energy systems—that we do not need nuclear fission now, or ever.

AN INDEFINITE MORATORIUM WILL SAVE MONEY

Nuclear power is a big waste of money. It creates lots of special costs which would never occur if we used only nonfission energy.

Consider just the extra costs for repairs and standby equipment. In November 1972, Consolidated Edison of New York admitted that it took 7 months and 700 men to repair a pipe at its atomic powerplant in 1970. In order not to exceed radiation exposure limits, every qualified welder in the Con Ed system had to be used. Said Con Ed's president—

A similar repair effort, if made in a conventional plant, would have required 2 weeks and would not have involved more than 25 men.

Savings from an indefinite moratorium on atomic powerplants would also include the following:

The extra cost of having to dismantle 800 radioactive powerplants at the end of their 40-year service;

The budgets—40 years at least—which would be required to build and operate Federal, State, and local monitoring networks for radioactive pollutants;

The budgets—40 years at least—for the Atomic Energy Commission's licensing and regulatory and litigation staffs;

The budgets—40 years at least—for the AEC's research program on radioactive pollutants in the environment;

The huge "contributions" from taxpayers for nuclear breeder research and demonstration plants;

The huge costs of improving and expanding uranium enrichment facilities;

The cost of extra cooling towers for inefficient nuclear fission powerplants;

All other expenses which could simply be skipped forever by taking 100 percent of our power from nonfission technologies; a giant investment in solar energy, geothermal heat, and modern coal technology must be made anyway in order to supply the great bulk—75 percent—of U.S. energy which nuclear fission could not provide even in the year 2000. Since the nonfission energy—sources could easily do the whole job without any contribution from fission, the special expanses of fission are all unnecessary.

The savings achieved by an indefinite nuclear power moratorium shall far exceed its costs, so there is no excuse for electric customers to be threatened with higher electric bills by a utility affected under the moratorium. The costs of a moratorium can be paid from the savings achieved by the moratorium. Additional legislation will be needed when the moratorium is enacted to handle the indemnification in detail.

WILL A MORATORIUM CAUSE UNEMPLOYMENT?

An indefinite nuclear power moratorium will cause no reduction in jobs. It will take just as many people to produce the necessary amount of solar power, geothermal power, or coal power as it would to produce the same amount of nuclear power.

What will be necessary, however, is additional legislation when the moratorium is enacted to make sure that it creates no hardship for people who were working in nuclear fission. They must be guaranteed jobs and appropriate training in nonfission energy systems. We must do away with the callous idea that human beings can be thrown on the junk pile whenever we junk a bad idea. If people do not count, then nothing at all is worth doing.

ADDITIONAL MATERIAL

Elsewhere in the RECORD today, I have placed additional material which explains the urgency of a nuclear power moratorium. I hope that my colleagues will read it and become cosponsors of the nuclear power moratorium bill this year. In order to provide everyone with easy reference to the two sections of the 1954 Atomic Energy Act which are cited in the moratorium bill, I shall quote them here:

Purpose, Section 3.d. "It is the purpose of this Act to effectuate the policies set forth above by providing for a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public".

Modification of license, Section 187, "The terms and conditions of all licenses shall be subject to amendment, revision, or modification, by reason of amendments of this Act or by reason of rules and regulations issued in accordance with the terms of this Act."

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By Mr. GRAVEL:

S. 1218. A bill to amend title II of the Communications Act of 1934 to authorize common carriers subject to such title to provide certain free or reduced rate service for individuals who are deaf or hard of hearing. Referred to the Committee on Commerce.

Mr. GRAVEL. Mr. President, today I am introducing a bill which would amend the Communications Act of 1934 to allow common carriers to offer re-

duced rates for long distance telephone calls to the deaf or hard of hearing.

At first blush it may be difficult to understand the purpose of my bill. I will explain. For the half million or more people in the United States who cannot use the telephone because they are unable to hear, communications over distance is a very difficult matter.

Recently some civic groups around the country have taken it upon themselves to supply teletypewriters to the deaf and hard of hearing, to enable them to use the telephone system by typing to other owners of teletypewriters. Their work in expanding the world of these people is to be applauded. It is my hope that the Congress may see fit to aid them in their work.

While the deaf and hard of hearing can use their teletypewriters for local calls, long distance calls are very expensive. This is because speaking is much faster than typing.

My bill would allow any common carrier to reduce the long distance rates for the deaf and hard of hearing who use teletypewriters. I would hope that the companies will voluntarily reduce these rates after the Congress has passed this legislation. At the same time. I would hope that the common carriers will see fit to supply long distance and information operators equipped to enable the deaf and hard of hearing. This will enable them to participate fully in the advantages which our modern communications system has to offer.

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. 1218

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 210 of the Communications Act of 1934 is amended by inserting at the end thereof the following:

"(c) Nothing in this Act or in any other provision of law shall be construed to prohibit common carriers from providing free or reduced rate service necessary for the operation of teletypewriters for personal use to individuals who are deaf or hard of hearing."

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

S. 1219. A bill to amend the Communications Act of 1934 to provide for loan assistance to certain cable television systems. Referred to the Committee on Commerce.

Mr. GRAVEL. Mr. President, the solution to our educational, cultural, and transportation problems may lie in a copper wire which will connect the student to the classroom or computerized learning center of his choosing, the sports fan or music lover to the event or recital which he wishes to see, or the worker to his coworkers and his office.

The potential benefits to our society from two-way cable television are virtually limitless. Today I am introducing a bill which will enable all Americans to experience the new age we are about to enter.

The Nation is already being wired at a remarkable rate. Today over 15 million people enjoy the benefits of cable television—CATV. By 1980 reliable estimates indicate that over half of the households in the United States will be linked to cable systems. For the person whose home is connected to cable, life will be much more pleasant and productive. Less time will be spent shopping, banking, finding a physician, making appointments, or rushing about for last-minute needs. The office worker will not be forced to spend an hour a day sitting in his car burning gasoline and polluting the air. The sick child will be able to attend school by staying home in bed. There are already experimental CATV systems in existence which accomplish all of what I have suggested.

The rural American should not be forgotten in this rush to tomorrow. Indeed, the rural American stands to have his life improved more significantly by cable television than does the urbanite. But because he and his neighbors do not live in close proximity, a cable system may prove to be uneconomical for him.

My bill will help assure rural Americans participation in the benefits to be derived from cable television. It authorizes the Secretary of Commerce to make loans to eligible rural cable systems at 4 percent interest.

If there are no objections I ask that the text of my 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. 1219

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That part I of title III of the Communications Act of 1934 is amended by adding to the end thereof the following new section:

"LOAN ASSISTANCE IN CERTAIN CABLE TELEVISION SYSTEMS

"SEC. 331. (a) For purposes of this section:

"(1) The term 'Secretary' means the Secretary of Commerce.

"(2) The term 'cable television' means a system for cable transmission of television signals to the public.

"(3) The term 'eligible cable television system' means a cable television system in the United States whose proposed system (with an optimal arrangement of the system) can reasonably be expected to pass less than a system average of sixty potential consumers per linear mile during the first five years of its operation or which because of a small population base or geographical features a cable system is not otherwise economical. For the purpose of this clause 'economic' means able to make a reasonable rate of return on invested capital after deducting operating costs, depreciations and maintenance.

"(b)(1) The Secretary may make loans in accordance with subsection (c) to any eligible cable television system to enable such system to furnish cable television service or to improve cable television service furnished by it.

"(2) The Secretary shall make, or cause to be made, studies, investigations, and reports concerning cable television, and to publish and disseminate information with respect thereto; and he shall conduct a program of technical and advisory assistance to eligible cable television systems (including assistance in preparing applications).

"(c)(1) Loans made under subsection (b)(1) shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Secretary shall determine and may be made payable in whole or in part out of the income. All such loans shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 4 per centum per annum. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.

"(2) Loans under subsection (b)(1) may be made only for the purpose of financing the improvement, expansion, construction, and operation of cable television facilities or systems to furnish and improve cable television service. The Secretary in making such loans shall, insofar as possible, obtain assurance that the cable television service to be furnished or improved thereby will be made available to the widest practicable number of users in the area served by the system. In acting on request for loans the Secretary shall consider (either on his own motion or on petition by persons living in areas which are contiguous to the system proposed by the applicant) and shall, where economically feasible, condition the loan on service to that area. The Secretary shall not make such loans in any one State in any fiscal year in excess of 10 per centum of the funds available for that fiscal year. At least 4 per centum of the amount available in any fiscal year for such loans shall be made available for loans in any State which in the 1970 Census had a rural population in excess of 50 per centum of the total population of such State.

"(d)(1) The Secretary of the Treasury shall make loans to the Secretary in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1974, as the Congress may from time to time determine to be necessary, either without interest or at such rate of interest per annum, not in excess of the rate provided for in subsection (c) of this section, as the Secretary of the Treasury may determine, upon the security of the obligations of borrowers from the Secretary under this section. The Secretary may make all such endorsements, execute all such instruments, and do all such acts and things as shall be necessary to effect the valid transfer and assignment to the Secretary of the Treasury of all such obligations, and execute such trust instruments as shall be agreed upon by the Secretary of all such obligations and the Secretary of the Treasury providing for the holding in trust by the Secretary of all such obligations for the Secretary of the Treasury as security for loans to the Secretary made by the Secretary of the Treasury. For the purpose of making loans or advances pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under said Act are extended to include such loans or advances to the Secretary. Repayments to the Secretary of the Treasury on such loans or advances shall be treated as a public debt transaction of the United States.

"(2) There are authorized to be appropriated such sums as may be necessary for the purposes of this section.

"(3) All money representing payments of principal and interest on loans made by the Secretary under this section shall be paid to the Secretary of the Treasury in payment of loans made to the Secretary by the Secretary of the Treasury; upon the payment of such loans all moneys representing payments of principal and interest on loans made under this section shall be cov-

ered into the Treasury as miscellaneous receipts.

"(e)(1) The Secretary may bid for and purchase at any foreclosure or other sale, or other sale, or otherwise acquire, property pledged or mortgaged to secure any loan made pursuant to this section; pay the purchase price and any costs and expenes incurred in connection therewith from the sums authorized in subsection (d); accept title to any property so purchased or acquired in the name of the United States of America; operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof; and sell such property so purchased or acquired, upon such terms and for such consideration as the Secretary shall determine to be reasonable.

"(2) No borrower of funds under this section shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this section, until any loan obtained from the Secretary, including all interest and charges, shall have been repaid.

"(f) The Secretary shall present annually to the Congress not later than the 20th day of January in each year a full report of his activities under this section.

"(g) The Secretary may extend the time of payment of interest or principal of any loans made pursuant to this section."

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By Mr. MONDALE (for himself, Mr. JAVITS, Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROCK, Mr. BROOKE, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. COOK, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS:

S. 1220. A bill to limit the authority of the Secretary of Health, Education, and Welfare to impose, by regulations, certain additional restrictions upon the availability and use of Federal funds authorized for social services under the public assistance programs established by the Social Security Act. Referred to the Committee on Finance.

Mr. MONDALE. Mr. President, I am introducing legislation to preserve key aspects of the Federal social services program from "impoundment by redtape." My bill reflects the concerns expressed in a letter 45 Senators joined me in sending to Secretary Weinberger on February 15, a copy of which I ask unanimous consent be printed at the close of my remarks.

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

(See exhibit 1.)

Mr. MONDALE. This legislation is cosponsored by a bipartisan coalition of 42 Senators, and endorsed by 12 of our Governors. The Governors supporting our bill include Governors Carter of Georgia, Anderson of Minnesota, Bumpers of Arkansas, Tribbitt of Delaware, Andrus of Idaho, Ford of Kentucky, Mandel of Maryland, Curtis of Maine, Exon of Nebraska, Shapp of Pennsylvania, Rampton of Utah, and Lucey of Wisconsin.

I ask unanimous consent that a copy of my bill, with the list of cosponsors, be printed at the close of my remarks.

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

(See exhibit 2.)

Mr. MONDALE. Mr. President, regulations proposed by the administration and scheduled to go into effect on April 1 would cripple the effectiveness of this program which is designed to assist States in helping families off the welfare rolls and in providing alternatives to institutional care for the aged, blind, and disabled.

Last year the Congress adopted a $2.5 billion ceiling and other reforms for the social services program—to prevent abuses and to require States to more carefully order their priorities.

But the new regulations go far beyond the mandate of Congress, to crush existing State programs—for day care so that mothers can work, meals and other services for elderly persons living at home, drug and alcoholism treatment and prevention, juvenile delinquency prevention and other services.

They would sharply reduce the Federal contribution for social services—by $600 million to $1 billion below the level established by the Congress. In Minnesota alone the new regulations would cut over $34 million in services for programs affecting 73,000 children and adults.

Gov. Dale Bumpers of Arkansas recently described the impact of these proposals on his State:

> To give you an example of the effect it would have on our mental retardation programs, when I was elected we had fewer than 20 community facilities caring for a little less than 400 children.
>
> In the past year and a half . . . we have expanded that to 82 facilities caring for over 2,000 children.
>
> Quite frankly, with the guidelines prohibiting the use of private funds and the further restrictions . . . we will probably wind up closing virtually every one of the new ones we have started in the past year and a half.

Under these proposed regulations, former welfare recipients would be denied eligibility for day care or other services just after those services have permitted them to find employment and leave the welfare rolls. So they would be forced back on welfare. As an HEW memo states:

> The regulations will cause many former welfare recipients to quit their jobs . . . [and] create a revolving door effect.

This is precisely the kind of mixed up incentive system which traps people in poverty, and destroys faith in the good intentions of government.

The bill which we are introducing today does not attempt to preserve the old regulations intact. Instead, our bill would preserve the five most essential components of the existing program:

First. The use of privately contributed funds and in-kind contributions to make up the State's matching share.

Second. Existing flexibility for States to offer services to past welfare recipients for up to 2 years and to potential welfare recipients for up to 5 years.

Third. The authority of States to provide drug and alcohol treatment programs, education and training services and comprehensive services for children, the elderly and the disabled under the social services program.

Fourth. The continued application of day care standards established for the program in 1969.

In addition, our bill would free States from unreasonable requirements for reporting as often as every 3 months on the use of funds.

The social services program is an essential effort to aid families in getting off welfare, and to help older or disabled citizens live useful lives outside of institutions. It is a flexible program, with broad authority resting in the States.

The cuts the administration has proposed will not create savings. The American people will pay more in higher State and local taxes, in increased costs for welfare and crime and in the waste of thousands of human lives.

We are hopeful that Secretary Weinberger will revise his proposal to reflect widespread congressional concern. If he does not, we will move through the legislative process to preserve this program, as Congress intended, within the $2.5 billion ceiling established by the Congress last fall.

EXHIBIT 1

FEBRUARY 14, 1973.

HON. CASPAR WEINBERGER,
*Secretary of Health, Education, and Welfare, Washington, D.C.*

DEAR MR. SECRETARY: We are extremely concerned about reports that forthcoming social service regulations may make fundamental changes in the operation of federally-assisted programs in the fields of day care, aid to the elderly, mental retardation and juvenile delinquency.

In particular, we would like to register our strong opposition to the reported administrative repeal of existing provisions which permit the use of privately contributed funds—from charitable organizations such as the United Way of America—to make up the required local or state match. This proposed change would seriously undermine the excellent existing private-public partnership approach to human problems. These kinds of cooperative efforts should be encouraged rather than discouraged.

Such an extreme change in the existing social services program is unwarranted. Fears of an uncontrollable budget in this area were resolved by the $2.5 billion ceiling on Title IV-A which the Congress adopted last year. And less extreme proposals for dealing with isolated examples of abuse have been offered by individuals such as former Secretary Richardson. We are attaching for your information a copy of a letter Secretary Richardson sent to Representative Wilbur Mills last October concerning this issue.

In addition, we would like to express our concern about other parts of the reported new regulations such as those which would repeal the current use of in-kind contributions for the non-federal match, deny day care eligibility to former welfare recipients just after this day care program has permitted them to find employment and leave the welfare rolls; and raise serious questions about whether the Federal Inter-agency Day Care Standards—which establish minimum protection for children in federally assisted day care and which have been in effect for the past 5 years—will continue to apply.

We respectfully request that we be informed in advance about any proposed changes in areas such as these, and that if and when any changes are proposed they be available for public comment and later revision.

With warmest personal regards,

Sincerely,

Mondale, Javits, Ribicoff, Packwood, Stevenson, Abourezk, Bayh, Beall, Brooke, Burdick, Case, Church Cranston, Dominick, Eagleton, Fulbright, Gravel, Hart, Hartke, Hatfield, Hathaway, Huddleston, Hughes, Humphrey, Kennedy, Mathias, McGee, McGovern, McIntyre, Metcalf, Moss, Muskie, Nelson, Nunn, Pell, Percy, Randolph, Schweicker, Stafford, Stevens, Taft, Tunney, Williams, Clark, Montoya, and Symington.

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EXHIBIT 2

S. 1220

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

SEC. 2. (a) The regulations of the Secretary of Health, Education, and Welfare (relating to the administration of titles I, X, XIV, and XVI, and part A of title IV, of the Social Security Act) as in effect on January 1, 1973, shall remain in full force and effect insofar as such regulations relate to—

(1) the use of privately contributed funds and in-kind contributions as part of State expenditures, in determining (for purposes of any such title or part A) the amount of the Federal contribution to which any State is entitled on account of expenditures incurred by the State for social services under a State plan approved under any such title or part A, provided that the Secretary may clarify requirements that such privately contributed funds be expended in accordance with a State plan.

(2) the authority of any State, under any such plan, to define the categories or classes of individuals who are eligible to receive such social services;

(3) the authority of any State, under any such plan, to include, as social services, and alcohol treatment programs, education and training services, and comprehensive service programs for children, the elderly, or the disabled (including such programs for mentally retarded children and adults);

(4) reporting requirements of States, under any such plan, with respect to the provision of social services; or

(5) the standards imposed, under any such plan, with respect to the provision, as social services, of day care services.

(b) No regulation, promulgated by the Secretary of Health, Education, and Welfare after January 1, 1973, shall have any force or effect, and any such regulation shall be invalid, if, and insofar as, such regulation is inconsistent with the provisions of subsection (a).

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LIST OF COSPONSORS

Senators Javits, Abourezk, Bayh, Biden, Brock, Brooke, Burdick, Case, Clark, Cook, Cranston, Eagleton, Fulbright, Gravel, Hart, Hartke, Hatfield, Hathaway, Hollings, Huddleston, Hughes, Humphrey, Kennedy, Mathias, McGee, McGovern, McIntyre, Montoya, Moss, Muskie, Nelson, Packwood, Pastore, Pell, Percy, Randolph, Ribicoff, Schweiker, Stafford, Stevenson, Tunney, Williams.

Mr. JAVITS. Mr. President, I am pleased to join with Senator WALTER MONDALE, Democrat, of Minnesota, in S. 1220, a bill to bar restrictions by the Secretary of Health, Education, and Welfare imposed by regulations on the availability and use of Federal funds authorized for social services under the Social Security Act. We are joined by a bipartisan group of 47 Senators including the following members of the minority: Senators BROOKE, CASE, COOK, HATFIELD, MATHIAS, PACKWOOD, PERCY, SCHWEIKER, and STAFFORD.

The bill would safeguard the following elements of the existing approach to social services which are threatened by regulations proposed by the Secretary of Health, Education, and Welfare, which the administration intends to make effective April 1; programs affected include day care, aid to the elderly, programs to deal with mental retardation, alcoholism, juvenile delinquency, and other social services under titles IV–A and XVI of the Social Security Act.

First, giving States existing authority to define eligible recipients including past and potential.

A key aspect of the current program is that States and localities are free to provide child care and family services to former and potential welfare clients. Under present law, as a general matter, services may be provided to persons who have been on welfare during the past 2 years and persons who could be on welfare within the following 5 years.

Under the new proposal, a 5-month limitation would pertain with respect to former recipients and a 3-month limitation for potential recipients. Additionally, eligibility cutoffs would be revised so that in New York City, for example, a family of four earning just above $5,400 would not be eligible for day care.

The administrator of the Human Resources Administration of New York City, Jule M. Sugarman, has advised me by letter dated March 7, 1973, that if the regulations are implemented, about 50 percent of the current families enrolled in the child care programs would be ineligible; at the present time there are approximately 368 centers in New York City with a capacity for 26,289 children.

These restrictive elements, if implemented, will impact all of the social services programs, not just to day care. Mr. Sugarman's letter notes:

> We are already considering whether we should not move our Senior Citizen Center program out of Title XVI coverage to spare the elderly the necessity of documenting their near indigency to gain program eligibility.

Mr. President, it is clear that if implemented these regulations will have an effect exactly the opposite of that intended by the Congress for the social services program under the Social Security Act. For example, in day care, it will mean that once the mother works her way off of welfare, she will become ineligible for child care and thus fall back into the welfare category.

Nothing could be more counterproductive or repugnant to the purposes of the law or inimical to the Administration's own concern with the "working poor" than that.

Second, use of privately contributed funds and in-kind contributions as part of the State's matching share.

Under the proposed regulations, the administration proposes to eliminate private contributions which currently may be counted as a part of the State's or locality's 25-percent matching funds.

This will sound the death-knell for many programs throughout New York State and the Nation which find sources of life in the contributions of philanthropic organizations, United Fund, and similar sources. I am advised that in New York City alone one such private organization has provided as much as one-half a million dollars to social services.

Moreover, this proposal should be considered inconsistent with the administration's own emphasis on volunteerism and economy in government since the matching requirement acts as an incentive for funding from the private sector and thus achieves a "multiplier effect" in terms of Federal expenditures.

Third, existing standards for day care.

The proposed regulations eliminate existing requirements with respect to the quality of child care made available under the Social Security Act.

Under the new regulations, there is every risk that programs would become purely "custodial"—that is, lacking in educational, nutritional, and other components that are so key to human development.

Again, nothing could be more counterproductive in terms of the purposes of the Social Security Act since programs without these essential elements can only act to perpetuate the cycle of poverty for a new generation.

It should be noted also that elimination of standards for day care is inconsistent with the law recently enacted by the Congress. The Economic Opportunity Act Amendments of 1972 specifically provided, in section 19 for the application of the Federal interagency day care requirements to all child care programs funded by the Federal Government and the President signed that law on September 19, 1972.

Fourth, authority to provide drug and alcohol treatment programs, education and training services, and other comprehensive programs for children, the elderly or disabled.

Under the new regulations, programs for the rehabilitation of alcoholics and drug addicts are not even eligible activities. In New York City, this will mean the elimination of Federal funding for programs under which 25,000 addicts—5 to 10 percent of the 300,000 to 500,000 in New York City alone—are now being given treatment.

Moreover, there is no mandate in the proposed regulations for the use of subprofessional personnel in service delivery and training and educational leaves—as under previous law.

Fifth, reasonable reporting requirements.

Under the new regulations, States and cities would be required to determine eligibility of each recipient on a quarterly basis; under present law, eligibility must now be determined only once a year and more often only if the State deems necessary.

I support efforts to assure administrative efficiency in carrying out programs but I believe that the proposed regulations impose an element of red tape that can only serve to make the program almost unworkable.

For these five reasons, we propose this amendment to the Social Security

Act in the belief that the regulations proposed by the Secretary remain contrary to the general purposes of the Social Security Act, which is to get people off the welfare rolls. Limiting eligibility to persons on welfare, cutting off private funds, permitting custodial child care, eliminating drug and alcohol treatment programs, and cutting efforts for paraprofessionals and related services can only serve to increase the welfare rolls.

Mr. President, just last December, despite my efforts to seek relief, the Congress imposed a $2.5 billion ceiling on social services throughout the Nation and established a formula for distribution which greatly prejudiced industrial States like New York—indeed the very States that have shown the greatest interest and competency in providing social services.

For this fiscal year, that ceiling has meant that approximately $200 million is available in Federal matching funds for New York State in contrast to the State's original request for and ability to use effectively $800.0 million.

Mr. President, I hope very much that in light of the substantial bipartisan support for our proposal evidenced by cosponsorship for this measure, that the Secretary of Health, Education, and Welfare will reconsider these regulations and abandon them. If there are further reforms that need to be made in the law, we will be pleased to work with the executive branch in developing them, but we do not wish to permit these regulations to be implemented without regard to legislative intent or involvement.

I ask unanimous consent that at this time there be printed in the RECORD a copy of the letter from Jule M. Sugarman, administrator of the Human Resources Commission in New York City, to me dated March 7, 1973, and an article and an editorial from the New York Times of March 7, 1973.

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

1,000 PROTEST FEDERAL PLAN TO CUT DAY-CARE SERVICE

About 1,000 demonstrators, many of them mothers who brought their children, yesterday protested proposed Federal regulations that would end day-care and other social services for many present recipients.

Carrying signs and chanting "We want day care," the protesters marched for about three hours outside 26 Federal Plaza, where the Federal Department of Health, Education and Welfare has offices.

Last month the department proposed terminating Federal support for social services to working mothers who earn salaries more than one-third higher than their state's official poverty level.

In New York State, as many as half the 34,000 working mothers now using centers for their children would be above the $5,400 maximum that would result if the proposals were implemented.

Many mothers said they would have to go on welfare if their day-care services were terminated. Others praised the centers, where children are taken care of while parents work, as "life-savers."

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CARING FOR CHILDREN

Working mothers in this and other cities have been expressing concern about the proposed changes in the Federal guidelines which might render their children ineligible for low-cost day care. Unless states and cities make up for the reduction in Federal support, many mothers whose earnings are above the poverty level but too modest to permit expensive unsubsidized private child care would be forced to withdraw their children from any existing centers. In New York the cut-off point would come at an income of $5,400.

The controversy once again puts the spotlight on the important social issues raised by the sponsors of last year's child development legislation. The measure, vetoed by the President, recognized that day care is not, as Mr. Nixon seems to believe, a mere handout for welfare mothers. It is rather an effective device to allow working mothers of limited means to divide their attention between job and home without neglecting their children.

The ultimate effect of a rigid interpretation of financial need in determining eligibility for free or low-fee child care will be to increase the welfare rolls. It would simply become economically impossible for many women to work and still feel confident that their children are well taken care of at the same time. Such a regressive policy clashes head-on not only with compassionate social doctrine but also with the President's own repeated insistence that people help themselves first in order to be eligible for governmental aid.

But the mistaken view that day care is only for children of poverty is dangerous for another reason. The strength of the best of the existing day care centers is that they attract a mix of children from a relatively wide range of home backgrounds. If integration—socio-economic as well as racial—is truly to remain the country's goal, the time to begin is when the children are still too young to have been inoculated with the virus of society's suspicions and hostilities.

When President Nixon vetoed the Child Development Act, he said he considered the measure a threat to the American family. The present situation, in addition to increasing the welfare rolls, is a threat to American childhood.

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THE CITY OF NEW YORK,
*March 7, 1973.*

Hon. JACOB K. JAVITS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR: I appreciate the opportunity afforded to me by your request that I describe the effect that the proposed Title IV-A and XVI HEW Regulations would have on provision of social services to the families and children, disabled, aged and the blind, residing in New York City.

Following are some thoughts on how the proposed changes will affect social programs and the people who benefit from them.

The regulations as proposed, do not provide for recipients of service to be part of advisory committees; although provision is made for a Day Care advisory capacity, it is only on State level. This is contrary to the direction we have taken to enable the citizens of New York City who are users of service, to advise on program content which is most desirable in terms of meeting needs. Placement of advisory function at the State level for Day Care, effectively prevents parental-local participation in shaping programs designed for their children.

By eliminating the provision for fair hearings and substituting a "grievance" provision, the new regulations dilute the concept of accountability of the local and state bureaucratic administrative structure in that they permit for a complaint to be made but do not provide for a method of orderly and objectively responsive resolution. Furthermore, the lack of provision for fair hearings is in violation of the Social Security Act provisions as stated in Title IV-A, Section 402 (a) (4) and Section 406(b).

There is no mandate in the proposed regulations for the use of subprofessional personnel in service delivery. This is contrary to provision of the Social Security Act (as amended), which specifies in Title IV-A, Section 402(a) (5) (B):

"The training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency."

Although this proposed deletion in effect will not change the City's policy in providing entry level opportunities in the service area for people with less then college degrees, it opens up the possibility that the State no longer need go along with the City policy since this is no longer mandated under Federal regulations. Entry level social service jobs have been one of the ways we have provided employment opportunities for current assistance recipients.

There is no mandatory provision for staff development and training and educational leave. The absence of this provision eliminates one of the major programs which had been available to us for the purpose of upgrading skills of our current staff. At a time when maximum staff skills will be needed to produce maximum effectiveness as specified in the proposed regulations, reimbursement for staff development through educational leave is being eliminated.

Mandatory services have been limited to three: Family Planning, Foster Care for Children and Protective Services for Children. This gives the State the option not to approve Preventive Services for Children. This would seriously affect our capacity to exert maximum efforts to forestall and/or prevent placement which is, both socially and fiscally, the most expensive type of care. The failure to mandate services of preventive nature would also appear to be contrary to the intent of the 1967 Amendments which were designed to prevent dependency and promote independence.

The intent of the proposed regulations regarding Day Care seems patently clear: to halt program enrichment and nutrition for those enrolled in group day care programs. Where the current regulations *require* that services be provided to meet the education, emotional social and physical needs of children and their families, the proposed regulations do not speak to those concerns.

The most telling blow however, is the restrictive provision for eligibility. Under the proposed provisions a New York City family of four earning just about $5400, would not be eligible for day care at Federal rate of reimbursement. Approximately 50% of current families enrolled in our program would be ineligible and we would be facing the intolerable decision of having to deny day care services to those families or adding the fiscal burden of the non-reimbursable portion of the program to the heavily encumbered resources of the City and the State. And even that intolerable solution is contingent upon the willingness of the State to share the burden with us.

The restrictive eligibility provisions if implemented, will impact all of the social service programs in addition to day care. We are already considering whether we should not move our Senior Citizen Center program out of Title XVI coverage to spare the elderly the necessity of documenting their near indigence to gain program eligibility. At issue is whether the State will participate with us on an equal cost sharing basis to help stave off the humiliation for the elderly and the

destruction of our carefully developed senior citizen program.

Besides being restrictive, the eligibility provisions present an administrative complexity which will need a computer based system to operate. Even though our Medicaid levels are within the 133⅓% provision of the State public assistance level, a Medicaid eligibility would not qualify as eligibility for service since the resources permitted have to be at a Public Assistance level. In effect that would mean, for example, that a working family of four earning $5372 per year who had savings of $100, could not qualify for Day Care under Title IV–A. This might, contrary to intent and desire on the part of HEW, contribute to helping keep single parent working families on assistance. It can be stated that the net effect of the proposed eligibility criteria which limit the definition of former to three months and potential to six months is to provide service virtually exclusively to current recipients, and to move away from the legislative intent of providing supports to those who have become independent or are in danger of becoming dependent.

Although I applaud the goal-oriented and time directed thrust regarding service plans, I regret that the proposed regulations specify that service plans for potential recipients can include only services that deal with problems that can lead to financial dependence. That type of emphasis would seem to engage our ability to provide child care education, home arts education and other such services to families whose lives and whose children's future might benefit from this type of service.

Sincerely,

JULE M. SUGARMAN,
*Administrator.*

Mr. KENNEDY. Mr. President, I am pleased to join with the distinguished senior Senator from Minnesota (Mr. MONDALE) in introducing legislation to preserve the key elements of the social services program conducted under titles I, IV–A, IV–B, X, XIV, and XVI of the Social Security Act.

Changes proposed last January by the Department of Health, Education, and Welfare would drastically reduce the many vital services provided to residents of Massachusetts and to other needy recipients all across the Nation. Administration proposals to reduce those services without recommending adequate alternatives of aid reflect a marked lack of sensitivity about fundamental human needs. Indeed, the legislation we are introducing today is offered because the Secretary of Health, Education, and Welfare has failed to properly respond to those of us in the Senate who asked him last month to fully explain these rule changes.

Though the Secretary has not provided an explanation, the very able Commissioner of Public Welfare for the State of Massachusetts has articulately described what these new rules will mean to the people of my State.

Commissioner Steven A. Minter has provided me with a very detailed account of how the Health, Education, and Welfare action will drastically alter the lives of thousands of citizens in Massachusetts. Over 70,000 recipients in Massachusetts, including the working poor, the elderly, the physically and mentally handicapped, children who are severely emotionally disturbed and children who suffer abuse, children in day care, children in foster care and many families that had formerly received welfare assistance will be abandoned if the new rules are promulgated.

As of last Friday, March 9, the Department of Health, Education, and Welfare estimated over 10,000 letters had been received from across the country, in response to the Federal Register announcement that changes are scheduled to be made in these vital programs. Surely, such a phenomenal response deserves the most serious consideration by the Department's officials. That overwhelming number is also an indication that many, many people are deeply affected by these social services projects.

This week, my Subcommittee on Federal, State, and Community Services on the Aging Committee will issue a report documenting the full extent of these regulations on elderly services.

It will be vital, unless the rule changes are rescinded, to enact the legislation we are introducing today. These essential services must be assured for all who need them. No one knows better than those who receive these social services or those who administer them, how important they are. I would like to share with other Senators the excellent account of the social service program operations in Massachusetts as described by Commissioner Minter.

I, therefore, request unanimous consent to enter in the RECORD, a letter I received from the Massachusetts Commissioner of Public Welfare, Steven A. Minter, along with supporting materials, that fully document the effect of the proposed rule changes on the residents of Massachusetts.

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

THE COMMONWEALTH
OF MASSACHUSETTS,
*Boston, Mass., March 7, 1973.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR KENNEDY: As you are no doubt aware, I have had several conversations in the past two weeks with Bob Bates over the issue of proposed Social Services Regulations published by the Department of Health, Education and Welfare on February 16th.

While we in Massachusetts are disturbed over a number of initiatives that the federal government has taken or proposes to take—legislative, administrative and budgetary—I believe these regulations represent at the present time the most critical issue.

I am grateful for the help you and your staff have provided as part of the effort in opposition to the regulations.

The regulations affect virtually every kind of service program operated to aid the poor in the Commonwealth. The import of the regulations, in the simplest of terms, is that the full cost of providing these services falls to the state. This means an additional cost in Massachusetts of $35 million in Fiscal Year 1973 and another $35 million in Fiscal Year 1974, at the very least. Governor Francis W. Sargent has stated that in order for the state to assume this burden, it will be necessary to raise taxes.

The alternative is for the state to turn its back on the handicapped and the poor whom it is committed to serve. All of the services administered by the various state agencies are mandated by Massachusetts state law. The obligation to render such services is spelled out in detail in the statutes.

In our state, a total of 70,000 persons will be affected if the proposed regulations are permitted to go into effect. The people who will be hurt include not only assistance recipients but the working poor, the elderly, families and children.

The linchpin which HEW has used to develop the regulations in the Social Services Amendment to the Revenue Sharing Act of 1972. As part of the Revenue Sharing Act, the Congress placed a ceiling of $2.5 billion on the amount of federal funds available for social service programs, but it rejected efforts to set a lower ceiling and it reaffirmed the importance of these service programs as a means of dealing with the root causes, rather than merely with the symptoms of poverty.

The Administration has acknowledged an outlay of only $1.8 billion of the $2.5 billion allotted by Congress. The proposed regulations are in reality an effort to scuttle the program in direct violation of the repeatedly expressed intention of Congress that these service programs be continued and supported by the Federal Government.

The primary goal of the new Social Services Regulations is self-support. With few minor exceptions, the regulations only permit services to persons who are now on public assistance rolls. In the past, services designed to prevent people from becoming welfare recipients and to strengthen economic and social independence were permitted and encouraged.

For example, a person or family who had received public assistance was eligible for certain services in the succeeding two years after the cash grant was terminated. Also, low income persons who are beset by social or health circumstances which might lead in the next five years to welfare dependency have been provided with preventive services.

The news regulations virtually eliminate these types of services. Specifically, they state that limited services may be provided to a former recipient for maximum of three months and to a potential recipient for six months. To give you an idea of the kinds of service affected—

Children. The kinds of children now being aided through Social Service Programs in the Commonwealth are:

Severely emotionally disturbed, deaf, blind, aphasic, delinquent and physically handicapped children receiving comprehensive services in day and residential treatment programs.

Children in day care.

Children in foster care.

Neglected, abused, and battered children receiving protective services.

Mentally retarded children in community clinical nursery schools and day programs.

The Commonwealth now provides services to these unfortunate children based on their own needs. Under the new regulations, it will not be possible to provide a service unless the child's needs are directly related to the self-support of their parents.

The new regulations governing foster care provide that a child must have been court-committed to be eligible. At the present time in Massachusetts, 80 percent of the 11,000 children in foster care are voluntary placements and would, therefore, be ineligible.

As a result of the regulations, the severely emotionally disturbed, mentally retarded and physically handicapped children now being served would be faced with the alternative of relying on the public school system which is not equipped to provide the highly specialized counseling and treatment these children require. Or they would receive no care at all.

The protective services to neglected, abused and battered infants and youngsters—almost all of whom are emergency cases in need of immediate placement outside their own homes—would have to be curtailed. In recent years the Commonwealth has placed special emphasis on augmenting services to these children and creating special programs for them.

In total, 31,500 children now receiving care, at a cost of $20 million in federal matching money, will be affected by the regulations.

De-institutionalization and the prevention of institutionalization.

The provision of services to enable children and adults—such as delinquent children, drug abusers, the mentally retarded and handicapped—to leave institutions and return to community-based care has been a major objective in Massachusetts. Recent experience with de-institutionalization and alternative care has demonstrated that not only is the quality of care improved, but costs are significantly lower. The Department of Health, Education, and Welfare had also taken a lead role in encouraging this kind of approach as an alternative to institutionalization. The new regulations, however, would necessitate a reversal of this trend. There are 10,000 persons who would be affected, and $15 million in federal matching funds is involved in this area.

Elderly. Inasmuch as the aim of the regulations is to encourage self-support, the impact of the regulations on services to the aged poor who have little or no opportunity to become self-supporting is particularly severe. The majority of the elderly now receiving services are persons living alone and isolated who absolutely require certain aids to enable them to remain basically independent. State agencies now provide a wide range of such services—for example, transportation to and from grocery stores, doctors' offices, hot lunch programs and community centers, homemaker and chore services, day activity programs and counseling. To cut back on these services would have a devastating impact from both a sociological and fiscal standpoint. Without help, thousands of these elderly persons should have to be placed in rest homes, which would mean millions of dollars in additional cost both to the state and the federal government. There are 11,000 elderly persons now benefiting from such services at a cost of $2 million in federal matching funds.

Working poor. Prior to the issuance of these new regulations, state agencies have been able to provide social services to poor working families that are not on welfare but qualify for assistance through services due to their limited incomes. In Massachusetts, a family of four with an income of $7,000 or less was eligible for services.

In many instances, families in this category are former welfare families who need continued help through services to enable them to remain independent of financial assistance. Day care is perhaps the best example. A working mother of three children with an income of less than $7,000 must receive public-funded day care for her children in order for her to retain a job. For the mother to assume the cost of day care herself—which is estimated at $40 per week per child—is clearly not feasible at the low income level. Yet, under the new regulations, a family of four with an income of more than $5,100 will no longer be eligible for services. Thus, the working mother who is helping herself is likely to be forced back to public assistance status.

Donated Funds. The Donated Funds Program, an increasingly useful mechanism under which the Federal Government matches every private dollar contribution (e.g., from the United Fund) with three federal dollars, is being eliminated under the new regulations. Under this program, the Commonwealth has provided protective services, emergency care, day care and summer camperships to almost 7,000 children. In Fiscal Year 1974 it was our intention to provide services totaling $12 million, and to assist at least an additional 5,000 children. The Donated Funds Program represents a partnership between government and the private sector. To eradicate this program is directly contrary to the President's repeated emphasis on the desirability of relying on private organizations, rather than government, wherever possible to meet citizens' needs. At a time when all states and localities are faced with overwhelming fiscal pressures, these private contributions are sorely needed.

Another factor worthy of mention is the administrative workload which the regulations impose. It will be necessary for the Welfare Department to determine eligibility for any type of service on an individual basis; in the past some groups were automatically eligible for service by reason of circumstances, such as living in a Model Cities neighborhood or a public housing project. It will also be necessary to develop an individual plan for services for each individual, and to recheck eligibility every three months, as contrasted with the present once-a-year requirement. To impose such requirements would obviously increase staff needs at a time when government at all levels is ostensibly attempting to contain a ballooning bureaucracy.

I am certain that you realize the disastrous effect of these regulations on the operation of social service programs in our state. Enclosed is a list of the agencies in Massachusetts whose programs will be affected under these rules.

The Human Resources Committee of the National Governors Conference has urged HEW to withdraw the regulations. The National Council of State Welfare Administrators has passed resolution seeking withdrawal.

The regulations can be withheld; they can be changed. But time is short and it is important all concerned take action now.

There is a 30-day comment period ending March 19th, at which time the regulations become effective unless HEW responds.

I urge you to join in the nationwide opposition to this move by writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, and asking that the Secretary work with appropriate state officials to develop a constructive alternative to the proposed regulations.

I thank you for your interest and your help.

Very truly yours,

STEVEN A. MINTER, *Commissioner*.

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DAY CARE CONTRACTS

This is a list of agencies which DPW is currently contracting with whose contracts will be modified or terminated if the Federal Regulations go into effect.

Action for Boston Community Development, Inc.

Associated Day Care Services of Metropolitan Boston, Inc.

Boston Children's Services.

Bridge Fund, Inc.

Boston Hospital for Women.

Children's World Day Care #1 #2 #3 #4.

Model Cities—Boston, Cambridge.

Church of God; Saints of Christ.

Cooper Community Center Day Care, Creative Learning Environments, Inc., Crispus Attucks Children's Center, Stride Rite Children's Center, Laboure Center, Inc., Junior League of Boston, Inc.

John F. Kennedy Family Service Center.

Massachusetts Health Research Institute.

Our Place to Grow, Inc., Pilgrim Day Care Center, James Jackson Putnam Children's Center, Day Care Center—Salvation Army Spanish Action, Greater Taunton, FACE, Melrose, Newton Community, Chicopee, Webster Square.

United South End Settlements, Wesley Child Care Center, Women's Educational and Industrial Union, Self Help, Inc.

South Shore Day Care Services, Inc., Cambridge Community Schools Commission, The Children's Center of Brookline and Greater Boston, Christ Child Nursery School, Creative Playmates, Inc., Eastern Middlesex Opportunity Council, Inc.

KLH Child Development Center, Lynn Economic Opportunity, Inc., Ready, Inc., South Middlesex Opportunity Council, Action, Inc.

Community Day Care Center of Lawrence, Inc., Haverhill Day Nursery Association, Inc., Lowell Day Nursery Association, Inc., Massachusetts Health Research Institute, North Shore Catholic Charities Centre (Family Day Care), The Woburn Council of Social Concern, Inc.

Community Action Committee of Cape Cod & Islands.

New Bedford Model Cities, On Board, Inc., St. John's Child Care and Development Center, West End Day Nursery of New Bedford, Inc.

Hampshire Community Action Commission.

Holyoke/Chicopee Head Start, Inc.

Northern Educational Services, Inc.

Springfield Day Nursery Corporation.

Springfield Action Commission, Inc.

Assembly of God Church, Children's Aid & Family Service, Inc., Edward St. Day Care, Great Brook Valley Comprehensive Child Care Services, Inc., Guild of St. Agnes.

DONATED FUNDS

Associated Day Care.

Boston Children's Services.

Family Services—Berkshire, Boston, Holyoke, Worcester.

Brockton Day Nursery.

Brockton Youth.

Catholic Services of Fitchburg.

Catholic Charities—Southbridge, Lynn, Brockton, Boston Cambridge and Somerville.

Cambridge Camping—Somerville and Cambridge.

Catholic Family Service—Lynn.

Children's World Day Care.

Edward Street Day Care.

Fitchburg Community Action Great Brook Valley.

Model Cities—Fall River, Holyoke, Lynn, Worcester (Webster Square Catholic Charities, Family Services) YMCA.

Massachusetts Society for the Prevention of Cruelty to Children—Barnstable, Berkshire, Chicopee Falls, Fitchburg, Hampshire/Holyoke, Leominster, Mass. Bay Old Colony, Springfield, Worcester.

New England Camping, Northern Educational Services, Parent and Children's Services.

Springfield Boys Club, Springfield Urban League, United South End Settlements.

Worcester Children's Friend Society.

Worcester Youth Resources.

United Fund—Chicopee, Hampshire, Leominster, Pioneer Valley, Crozier, Inc., Model Cities Agency—Cambridge, Springfield, New United Front, Northampton Elks, Somerville Mental Health, Southbridge United Way, United Community Services—Brockton, Boston, Cambridge, Barnstable, Old Colony, Pittsfield/Berkshire, Mantachusetts, Springfield, Worcester.

Worcester Boys Club.

FAMILY AND CHILDREN'S SERVICES

Catholic Charitable Bureau—Boston, Salem and Worcester, New England Home for Little Wanderers, Avon Home, Child and Family Service—New Bedford, Pittsfield, Springfield Y.W.C.A. (Young Women's Christian Association), Northampton Children's Aid and Family Service.

EXISTING DPW PURCHASE AGREEMENTS WITH PUBLIC AGENCIES

Department of Youth Services.

Department of Mental Health.

Department of Public Health.

Department of Education (Division of Special Education).

Board of Regional Community Colleges.

Southeastern Massachusetts University.

Massachusetts State College System.
Parole Board.
Executive Office of Elder Affairs.
Department of Corrections.
Executive Office of Human Services.
Office for the Commissioner of Veterans' Services.

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FACT SHEET FOR MASSACHUSETTS ON PROPOSED NEW SOCIAL SERVICES REGULATIONS

The Department of Health, Education, and Welfare has proposed revisions of the Federal regulations that govern social service programs for families and children (under Title IV of the Social Security Act) and service programs for the aged and disabled persons (under Titles I, XIV, and XVI of the Act). Regulations governing the purchase of services by public welfare agencies (as authorized by the 1967 amendments to the Act) have also been revised. The new rules seek to concentrate the use of Federal matching dollars for current welfare recipients.

Only three services will be mandated for recipients of Aid to Families with Dependent Children (AFDC): foster care, protective services, and family planning. These services and other optional services are aimed toward two goals: self-support and self-sufficiency.

No services are mandated upon States for the aged and disabled. A number of "optional" services are discreetly defined which may be provided.

*Potential* recipients are more strictly defined. For eligibility as a potential recipient of assistance, under the proposed regulation, the local social service agency must determine that there is a specific problem which will lead to the person's or families' dependence on welfare within 6 months if a service is not provided. Currently, this time period is five years.

For those in the adult categories, the 6-month time limit means that, in order to qualify as a potential recipient, an individual must be at least 64½ years of age; or be likely to meet the State's definition of blindness within 6 months; or be 17½ years old with a condition that is likely to result in permanent and total disability in 6 months.

From an income standpoint, families and individuals qualify as potential recipients if income does not exceed 133⅓ percent of the amount granted by each State for cash assistance to individuals and families.

In addition, once eligibility has been determined and the family or individual begins to receive services, such eligibility must be rechecked quarterly, as compared with annually under the current regulations.

The proposed regulations stipulate that eligibility be determined individually, rather than on a group basis. Thus, families and individuals who live in such low-income areas as Model Cities neighborhoods, public housing, and Indian reservations will no longer be eligible for services on a group basis.

The eligibility and redetermination requirements present overwhelming demands on social service staff. Also, the very detailed and specific service plans which are required will place tremendous burdens upon the social service system, the management and the staff.

Specific requirements when examined are unrealistic. For example, after the termination of a case on public assistance, eligibility for services must be redetermined within 30 days. If 10,000 cases were closed a month in Massachusetts, this would require tremendous manpower for meeting this requirement.

| Social services | Present regulation | Proposed regulation | Effects | People affected |
|---|---|---|---|---|
| I. Services to families and children: | | | | |
| 1. Child care services | Mandatory: (a) Day care services can be provided for child development purposes. | Optional: (a) Day care services can be provided only for needs of parents who are employed, in training or need services. | (a) Eliminate services to children for developmental reasons. | (a) 2,000 children presently receiving services. |
| | (b) Former and potential eligibility fairly realistic. | (b) Severely restricted eligibility for former and potential. | (b) Severely decrease services to former and potential. | (b) 600 children presently receiving services as former or potential. |
| 2. Foster care services | Mandatory: (a) Allows matching money for services to children voluntarily committed into care. | Mandatory: (a) Eliminates matching money for services to children voluntarily committed into care. | (a) Judicial determination of need for foster care necessary to receive matching monies for placement staff. | 80 percent of placement cases voluntary commitment—(August 1972) 4,385 children voluntary. |
| | (b) Provides matching monies for first 6 months of specialized foster care of institutional care, including maintenance. | (b) Eliminates matching monies for first 6 months of specialized foster care or institutional care, including maintenance. | (b) Increases burden on state to provide essential quality services to children in foster care. | (b) 8,000 children in foster care and group care. |
| 3. Prevention or reduction of births out-of-wedlock. Total AFDC cases—83,609; total child welfare cases—11,000. | Mandatory | Eliminated | (a) Eliminates services programs for unmarried mothers. | (a) 500 young women in current program. |
| II. Services to aged and disabled: | | | | |
| 1. Information and referral | Mandatory | Eliminated | | D.P.W. provides services to approximately 7,224 aged cases monthly and to 5,412 disabled cases monthly. Elimination of services makes the task more difficult. |
| 2. Protective services | Mandatory | Optional | | |
| 3. Services to enable persons to remain in or to return to their homes and communities. | Mandatory | Eliminated | | |
| 4. Services to meet health needs. | Mandatory | Optional | | |
| 5. Self-support services for the handicapped. | Mandatory | Eliminated | Eliminates individual counseling. | |
| 6. Homemaker services | Mandatory | Optional (no standards required) | | |
| 7. Comprehensive social and rehabilitation services to aged and disabled. | Optional | Eliminated. Replaced by chore services, day care, educational, family planning, home management, housing improvement, foster care, home-delivered meals, transportation. | Eliminates purchase of many social services which will help to rehabilitate individuals and foster independence, particularly mental health, educational and training services. | |
| Total OAA cases—56,554; total day cases—25,636. | | | | |
| III. Impact on Department of Public Welfare (DPW) social service programs: | | | | |
| 1. Purchase (a) Public | (1) Allow for extensive purchase of services from other public agencies. | (1) Eliminated | Community based programs will receive no Federal support. | |
| (b) Private 1. Donated funds | (1) Allows for use of private donations to secure Federal matching dollars. | (1) Eliminated | (1) Three-fourths of donated funds program possible because of private dollars. | |
| | (2) Private agencies do eligibility screening and service plan. | (2) DPW responsibility to do eligibility screening and service plan. | (2) Impossible to do with present staff. | |
| | (3) Services to unmarried mothers possible. | (3) Services to unmarried mothers eliminated. | | |
| | (4) Camping possible | (4) Camping eliminated | (4) In 1972, 4,500 children received camping services. | |
| 2. Direct service delivery (a) Foster care and protective services. | (1) Allow matching monies for staff and services to placement of voluntary commitment and for protective services to non-AFDC. | (1) Eliminated | (1) Must take all children through courts to receive Federal dollars. | |
| | (2) Full specialized foster care and institutional costs for first 6 months matched. | (2) Eliminated | (2) Significant therapeutic resources ignored. | |
| | (3) Does not require judicial determination on placement cases. | (3) Requires judicial determination on placement cases. | (3) Significant increase in staff required. | |
| (b) Day care | (1) Services to former and potential possible. | (1) Severely restricts services to former and potential. | (1) Encourages people to remain on welfare. | |
| | (2) Federal Interagency Day Care standards create quality base. | (2) No FIDC standards required | (2) More staff needed to maintain quality. | |
| (c) Case management and paperwork system. | Flexible | (1) Foster care through courts<br>(2) Eligibility and redetermination requirements.<br>(3) Service plan very specific. | Tremendous increases in staff resources needed to maintain such a system. | |

By Mr. BIBLE:

S. 1221. A bill to provide that Federal employees shall be entitled to accumulate annual leave in excess of 30 days, or receive payment therefor, for periods such employees have been in a missing status while serving in Southeast Asia during the Vietnam era. Referred to the Committee on Post Office and Civil Service.

Mr. BIBLE. Mr. President, I introduce for appropriate reference a bill to overcome a serious inequity in the annual leave statute as it relates to civilian officers and employees of the Federal Government held as prisoners of war during the Vietnam conflict.

My bill would amend section 6304 of title 5 of the United States Code—relating to annual leave—to provide that Federal employees shall be entitled to accumulate annual leave in excess of 30 days, or receive payment therefor, for periods such employees have been in a missing status while serving in Southeast Asia during the Vietnam era .

Existing law—5 U.S.C. 6304—limits the amount of unused annual leave a Federal employee may accumulate to 30 days in the case of personnel employed in stateside activities and 45 days in the case of certain employees stationed outside the United States. This is the so-called use-it-or-lose-it provision of the leave law and is applicable to returning civilian POW's. It poses no particular problem for employees who are in a position to plan and schedule their annual leave but produces a gross inequity in the case of those of our returning prisoners of war who are in the Federal civilian service. The use-it-or-lose-it provision contemplates that the employee will be in a position to take his or her leave. The Congress never intended that the provision should operate to deny leave benefits to prisoners of war held captive by an enemy—national heroes who through no fault of their own were just not in a position to take advantage of the leave benefits due them.

The Senate will recall that Public Law 92–596 approved October 27, 1972, took care of this problem so far as members of the Armed Forces are concerned. That act authorizes our military prisoners of war to accumulate leave beyond the 60- or 90-day limitations previously imposed on them by statute. Certainly our civilian employee prisoners are entitled to the same consideration.

Under the bill I am introducing today, a Federal employee held prisoner of war in Southeast Asia would be entitled to accumulate leave throughout his period in a missing status. The accumulated leave would either remain credited to the employee until used, or the employee could elect to receive instead a lum-sum payment for such accumulated excess leave.

According to information received from the Department of State, there are 10 civilian employees of the Federal Government among the returning prisoners. But this bill would be just as necessary if there were only one such prisoner. Their number is not important. What is important is that the Congress overcome the inequity that will be perpetrated unless the present law is changed. The cost of this measure will be minimal.

Mr. President, our sense of justice and the deep feeling all Americans have for our returning prisoners of war dictates that the Congress should act promptly on this legislation.

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By Mr. BIBLE (for himself and Mr. CANNON):

S. 1222. A bill to declare that all right, title, and interest of the United States in 2,640 acres, more or less, are hereby held by the United States in trust for the Piaute-Shoshone Tribe of the Fallon Indian Reservation, Nev. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of my colleague, Senator CANNON, and myself, I introduce for appropriate reference a bill to relinquish the right, title, and interest of the United States to some 2,640 acres of land to be held by the United States in trust for the Paiute-Shoshone Tribe of the Fallon Indian Reservation in the State of Nevada.

The Paiute-Shoshone Tribe is morally entitled to the land covered by this bill and the agricultural potential it represents. In the early 1900's when the Congress authorized the Newlands Reclamation Project a land exchange program was entered into between the Indians with landholdings within the project area and the Federal Government. The program resulted in the Fallon Indian Reservation where the Indian families were located on 10-acre tracts with full water rights from the Newlands project. The acreage limits on such family allotments prevent the people involved from making a proper living from the land. The object of this bill is to provide a stronger base for a viable Indian community in an area that was inhabited by the Tribe long before the coming of the white man.

Resolution No. 7–67 adopted December 13, 1966, by the Business Council of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony declares the Indians' urgent need for this additional land. I ask unanimous consent that the text of that resolution be printed in the RECORD at this point.

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

RESOLUTION No. 7–67

Whereas, Article VI, Section 1(a) of the Constitution and Bylaws of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony provides the Fallon Business Council with certain powers to negotiate with the Federal Government on behalf of the tribe, and

Whereas, dating back to the late 1890's a band of Indians settled in the Carson Sink area, and

Whereas, in the early 1900's with the creation of the Newlands Reclamation Project, a land exchange program was entered into between the Indians with land holdings in the project area and the United States of America. The program gave rise to the Fallon Reservation where the Indian families were to be located on 10-acre tracts with full water rights from the Newlands Project, and

Whereas, the Paiute-Shoshone Tribe of the Fallon Reservation and Colony are presently holding a water right on 4,877.3 acres, paid in full, and

Whereas, through experience and affirmed by field surveys, additional lands are required to make beneficial use of the above water rights, and

Whereas, it is the Business Council's understanding that a general review of withdrawn land status near the reservation is being made by the Department of Interior at this time, and

Whereas, members of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony have an urgent need and have demonstrated that it will make use of the water and additional lands to better their standard of living, now therefore,

Be It Resolved that the following described lands:

S1/2 of Section 33, T. 20 N., R. 30 E., MDBM, S1/2 of Section 34, T. 20 N., R. 30 E., MDBM, W1/2 of SE 1/4 & SW1/4 of Sec. 35, T. 20 N., R. 30 E., MDBM, NW1/4 of Section 2, T. 19 N., R. 30 E., MDBM, N1/2 and SW1/4 of Sec. 3, T. 19 N., R. 30 E., MDBM, All of Section 4, T. 19 N., R. 30 E., MDBM and N1/2 and SW1/4 of Sec. 8, T. 19 N., R. 30 E., MDBM, totaling some 2,640 acres be added to the Fallon Reservation and Colony to meet the above stated needs.

CERTIFICATION

I, the undersigned, do hereby certify that the Business Council is composed of 5 members, of whom 4, constituting a quorum were present at a meeting called and held this 13 day of Dec., 1966, and that the foregoing resolution was adopted at such meeting by a vote of 4 for and none against, pursuant to Article VI, Section 1(a) of the Constitution and Bylaws of the Paiute-Shoshone Tribes of the Fallon Reservation and Colony.

VIVIAN HICKS,
*Secretary-Treasurer of the Fallon Business Council.*

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By Mr. WILLIAMS:

S. 1223. A bill to amend the act establishing the Gateway National Recreation Area to authorize the Secretary of the Interior to provide for water transportation facilities to the recreation area. Referred to the Committee on Interior and Insular Affairs.

Mr. WILLIAMS. Mr. President, I am introducing today legislation to provide public access to the Gateway National Recreation Area in the New Jersey-New York Harbor by means of mass transit and water transportation.

Last fall, Congress passed landmark legislation which created Gateway, the first national recreation area accessible to a major urban center. This area will provide extensive recreation facilities to millions of Americans who would probably be unable to travel the great distances to other national areas. In fact, Gateway will be within 100 miles of one-tenth of the Nation's population.

By passing this important legislation, we endorsed the principle of taking the parks to the people and providing those Americans who live in difficult and even harsh urban environments with open spaces and exciting recreation areas.

In this regard, during the consideration of this bill by the Senate Committee on Interior and Insular Affairs, provisions were wisely included for improving and expanding the means of access to the area. Specifically, the legislation authorized the Secretary of the Interior to make every effort to provide public access by mass transit and water transportation. These provisions would minimize the impact of automotive transit on the area and increase the opportunities

for access by the large populations of the nearby urban areas.

In addition, this legislation authorized and directed the Secretary of Transportation to assist the Secretary of the Interior in developing a plan for a water-based rapid transit demonstration project. A total of $30 million was authorized for transportation developments. Most regrettably, however, these vital provisions of the Senate-passed bill were deleted in the final Gateway legislation.

I am very concerned that access to the recreation area remains difficult or impossible for many of the citizens that this area was intended to benefit. Since it is estimated that 50 percent of the people who live near the recreation area do not own automobiles, mass transit is essential if the noble goals of this legislation are to be met. The bill I am introducing today is identical to the provisions included in the original Senate-passed Gateway bill. It would in fact provide this mass transit and additionally it would provide an exciting demonstration project of water-based transportation. This latter provisions is especially applicable in this case because each section of the recreation area is accessible by water transportation.

I am reintroducing this legislation because I am convinced that the same wisdom which resulted in Senate support of the identical provision last year prevails and that this provision is essential to maximize the enjoyment of the area for all the neighboring people.

In addition to enabling families without automobiles to visit the park, the funding for mass transit and water-based facilities would prevent severe traffic congestion which exists even now. Anyone who has traveled to Sandy Hook, the part of the recreation area in New Jersey, on Route 36 knows how massive the traffic tie-ups can be. Furthermore, supplementing these roads with mass transit will substantially reduce the amount of pollution in the region.

I trust that my colleagues in the Senate will support this legislation again this year, and, hopefully, the House will act on an identical bill which has been introduced by Representative JIM HOWARD, H.R. 2019.

Mr. President, I ask unanimous consent that the text of this bill and an article from the Red Bank Register which discusses the anticipated transportation difficulties at Sandy Hook be printed at this point in the RECORD.

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

S. 1223

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes", approved October 27, 1972 (86 Stat. 1308), is amended by—

(1) inserting at the end of section 3 of such Act the following:

"(1) (1) Notwithstanding any other provision of law, the Secretary may provide such services and facilities, including the purchase or rental of ferry services and docking facilities, as he deems necessary or desirable for access to the recreation area. The Secretary may provide such services and facilities directly, or by negotiated contract with public and private agencies or persons without advertising and without securing competitive bids. The Secretary shall make every effort to provide public access to the recreation area by means of mass transit and water transportation in order to minimize the impact of automotive transit on the environment within the recreation area and to increase the opportunities for access by the populations of nearby urban areas.

"(2) The Secretary of Transportation is authorized and directed to assist the Secretary in developing a plan for a water-based rapid transit demonstration project designed to provide rapid and economical transportation to the areas established by this Act."; and

(2) inserting in section 5 of such Act immediately after "in lands" the following: ", not more than $30,000,000 to carry out the purposes of section 3(1) (relating to the establishment of ferry services and docking facilities),".

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GATEWAY PARK IMPACT FEARED

WEST LONG BRANCH.—Inclusion of Sandy Hook in the Gateway National Urban Recreation Area may be more bane than boon if mass transit systems aren't developed.

Speaking at Monmouth College yesterday, state Department of Environmental Protection Commissioner Richard J. Sullivan and Assemblyman Chester Apy, R-Monmouth, both sharply criticized failure to include transportation facilities other than highways in the Gateway bill approved last month by Congress.

"I think federal takeover will improve Sandy Hook," Commissioner Sullivan said. "There will be more money for beach rehabilitation" and other improvements that the state can't afford.

"But traffic will worsen and there should be adequate water transportation." Provisions for development of an elaborate system to convey metropolitan New York visitors to Sandy Hook by ferry boat was cut from the final Gateway bill.

Mr. Apy, agreed that highway traffic will become a "nightmare" if the expected thousands of visitors materialize, but said he thinks the answer lies in developing new rail routes.

"I'm skeptical about water approaches," the assemblyman said. "They sound exciting, but they're too esoteric for my tastes."

Rapid transit by train is more acceptable and practical, he claimed.

"As recently as 10 years ago, there was a rail line running right into Highlands. Now they're planning to build in the right-of-way."

That's what's happening to rail lines all over the state," Mr. Apy complained, "and now the cycle is coming round. We have to think about mass transit, using that Bayshore rail line."

Derickson W. Bennett, Conservation Director of the American Littoral Society, which sponsored yesterday's seminar of the Jersey Littoral Task Force, last month expressed fears about Sandy Hook's ability to withstand the predicted 186,000 annual visitors.

Yesterday, Mr. Bennett said that meetings with the Gateway project director had convinced him that development of the park will be slowed because of the lack of mass transit systems.

Mr. Bennett also predicted the Army will be more reluctant than expected to abandon its Ft. Hancock installation at Sandy Hook.

The conservation director said the Littoral Society is continuing to question the use of public funds to rehabilitate private beaches.

While he warned against unrestricted use of dune areas, Mr. Bennett said a beach itself, from the tide line down, is of relatively little ecological importance.

"There's no reason why lots of people can't use a beach." Access to them through privately owned land is the major problem of beachgoers in New Jersey, he said.

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By Mr. GRAVEL (for himself, Mr. HATHAWAY and Mr. HUMPHREY):

S. 1224. A bill to provide equality in the availability of communications for all residents of the United States and Puerto Rico. Referred to the Committee on Commerce.

Mr. GRAVEL. Mr. President, if I place a call from Washington, D.C., to Los Angeles during working hours it will cost me $1.35 for 3 minutes—a small price to pay and one of the few real bargains which have resulted from our modern technical know-how. Yet the same call made to Anchorage, Alaska will cost me $4.75.

When Alaska and Hawaii were admitted to the United States their residents understood that they were to participate fully in the American way of life. Yet today, the people of Alaska and Hawaii see live network television only rarely.

They do not see the evening news live from New York and Washington.

They do not see baseball and football when the rest of the nation is watching the games.

They read about the games in their newspapers. Then two weeks later they see them—if the analysis in the papers has not dulled the excitement.

The student of current events also had better be a good reader in these States—the special events coverages made by networks are stale when they arrive.

We like to say that all Americans have equal opportunity. The bill I am introducing today will broaden our concept of equality by adding uniformity in the availability of communications for all residents of the United States.

In December the Federal Communications Commission specified that when a domestic satellite system becomes a reality, interstate communications service between the contiguous States and Alaska, Hawaii, Puerto Rico will be integrated into the uniform rate structure now applicable elsewhere in the United States. This will mean that for the first time Alaska, Hawaii, and Puerto Rico will have live television at reasonable rates. In addition, interstate telephone calls to and from these States will be considerably less expensive.

The FCC's decision reflects a significant change in the philosophy of interstate communications. Unfortunately, the FCC's decision will not be fully implemented for at least 3 years. In the meantime, sizable investments will be made in communications systems linking the States. In order to insure a smooth transition to the domestic satellite system, we should act now to implement the philosophy reflected b ythe FCC's decision.

My bill will allow the Secretary of Commerce to provide grants to States for the purpose of leasing communications channels on satellites when long-distant telephone rates exceed the prevailing transcontinental rates, or where the only practical means of obtaining live television is via satellite.

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. 1224

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in any case where because of geographical situation or distance from populated areas live network television broadcasting cannot be made available as a practical project without the use of an earth satellite or in the case of an area to which the cost of voice or data transmission from other areas in the United States exceeds prevailing transcontinental domestic rates, the Secretary of Commerce is authorized to make a grant or grants, out of amounts appropriated for the purpose of this Act, to the State (or appropriate agency thereof) in which such area is located in such amount as may be necessary to provide at a reasonable cost adequate communications by satellite in such area, as determined by such State. For the purposes of this Act the term "State" includes the Commonwealth of Puerto Rico.

SEC. 2. There are authorized to be appropriated such amounts as may be necessary for the purpose of this Act.

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

S. 1225. A bill to authorize the conveyance of certain property of the United States to the State of Alaska. Referred to the Committee on Interior and Insular Affairs.

Mr. GRAVEL. Mr. President, I am introducing a bill today on behalf of myself and Senator STEVENS to convey to the State of Alaska certain property in Haines known as the Dry Cargo Dock. This bill was originally introduced last October by Senator STEVENS as S. 4108. We are reintroducing the bill today in essentially the same form making only a few minor technical changes in the description of the real property to clear up some typographical errors.

The Haines Dry Cargo Dock was constructed in 1950–51. It is 1,032-feet long and 300-feet wide. It was developed at a cost of $2,800,000. In 1952, 63.98 acres of land on Lutak Inlet, which is 5 miles north of Haines, were withdrawn from the public domain for the establishment of the Port of Haines Dry Cargo Dock Site, to support facilities for the construction of the Haines-Fairbanks petroleum pipeline and the adjacent Haines receiving terminal site which is the pipeline terminus. Additionally, in the same year the Department of the Interior granted the Department of the Army a right-of-way for a water line over 1.52 acres of public lands extending from the western boundary of the dock site to a diversion dam and reservoir some distance to the west. The water line extends through the dock site to the adjacent Haines receiving terminal site. The land involved was withdrawn by Executive Order 10355, and Public Land Order 837.

The land, which adjoins State and university lands, has, therefore, not been available for State selection. However, the dock facilities were leased to the State of Alaska since 1962 for the operation of a public terminal for the State ferry system at a rental of $820 per year plus maintenance and other costs.

The development of sawmills in the Haines area and the use of Alaska timber in the Japanese markets created a need for the use of the dock for the storage of timber and vessel loading. Therefore, in 1957 the Army signed a contract permitting the dock to be used for this purpose. Charges 50 cents per thousand board feet for lumber and logs and 50 cents per ton of ore were charged. Dockage fees and other cargo tariffs were also charged. Between 1966 and 1971 over 340 billion board feet of cants and 56 billion board feet of round logs were shipped across the docks. This timber had a value of nearly $27 million.

In 1963 the Alaska State Division of Marine Transportation leased approximately 3 acres of the dock at a nominal rental rate. Included are a terminal building, transfer bridge and towers. They presently plan to expand the facility by construction of a new $300,000 terminal building.

This property has been excessed by the army. A parcel of 1.30 acres is being reassigned to the adjacent Army Haines Receiving Terminal Site and the army is also retaining a permanent easement for the existing government water line right-of-way to serve the Receiving Terminal. Additionally, the Army has recommended that leasable minerals be reserved to the United States. The State of Alaska, the city of Haines and the Haines Borough are interested in obtaining the property. The city of Haines is concerned that shipment and other cargo might be impeded. They are interested in the continuance of the Alaska Marine Highway Terminal at the dock site and in using dock site as well. In a recent letter to the General Services Administration, they stated:

As the tourist trade in this area continues to develop, it is fast becoming our major industry, and we hope to see service at the dock continue and expand.

The city also believes that as timber and ore shipments continue to need a deep water dock, for which this facility is used, it is important that a public corporation, such as the city of Haines, controls the property and offers fair and equitable treatment to all parties using the facility. The Borough is also interested in the property because it does produce revenue which alleviates the local tax burden. The retention of this property in the State and local governments will insure continuous operation of this extremely vital transportation in a manner which will assist the local economy and comport with the best interests of the Borough inhabitants.

The State fears that the land and dock may be acquired by private interests who would devote the facilities to specific uses or who might hold them for speculation, denying the public the use of the premises. The Alaska Department of Public Works acutely needs the facilities for the expansion of its ferry terminal. The Alaska Department of Highways requires for use of the dock for handling equipment and supplies, especially since paving of the road to the Alaska border in east central Alaska is contemplated. Moreover, important mining developments in southwestern Yukon Territory indicates that Canada may soon require a substantial increase in shipment through Haines.

Legislation is necessary because the General Services Administration, to which the property was transferred for disposal as surplus to the needs of the Federal Government, does not have the authority to transfer the property to a public body except with restrictive covenants which would prevent both the land and dock from meeting the transportation requirements outlined above. The provisions of title 40 U.S.C. section 484 only permits the use of the property for parks or recreational facilities, educational facilities, public health facilities or negotiated sale. Lacking specific appropriations, neither the State, nor the city, nor the borough is able to effect a purchase.

This bill authorizes the conveyance of this property to the State of Alaska. The conveyance is to be without consideration. The bill excepts all mineral rights to the Federal Government. Existing easements are similarly reserved. The State of Alaska must pay the cost attendant to the transfer. I believe these provisions will meet the needs of the State and local governments.

I urge the early consideration of this bill by Congress because of its immediate importance to the people of Haines and the State of Alaska. I request unanimous consent that the bill be printed in the CONGRESSIONAL RECORD at this point.

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

S. 1225

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Administrator of General Services is authorized and directed to convey to the State of Alaska, without consideration, all right, title, and interest of the United States and to the land (together with all improvements thereon) comprising the Port of Haines Dry Cargo Dock Site, Haines, Alaska, more specifically described as follows: Lots 4, 5, 6, 7, 8, south half southwest quarter southeast quarter southwest quarter, northwest quarter southwest quarter southeast quarter southwest quarter, south half northwest quarter southwest quarter southwest quarter, southwest quarter northeast quarter southwest quarter southwest quarter, south half southwest quarter southwest quarter, section 10; and the north half northeast quarter northwest quarter, section 15, township 30 south, range 59 east, Copper River meridian, containing a total of 62.68 acres, more or less, excepting from said land and reserving to the United States, and its assigns, all minerals in, under, and upon said land and the right to explore for, mine, or otherwise extract minerals so reserved, together with such access rights and uses of the surface as may be necessary for the exploration, mining, removal and processing or refining of such minerals.

SEC. 2. The property conveyed pursuant to this Act is subject to existing easements, rights-of-way, and temporary use agreements.

SEC. 3. The State of Alaska shall pay the cost of such surveys as may be necessary to carry out this Act and shall bear all other expenses in connection with the preparation and recording of the legal documents necessary to carry out this Act.

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By Mr. MAGNUSON (by request):

S. 1227. A bill to amend section 415 of the Communications Act of 1934, as

amended, to provide for a 2-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend section 415 of the Communications Act of 1934, as amended, to provide for a 2-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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

FEDERAL COMMUNICATIONS COMMISSION,
*Washington, D.C.*

The VICE PRESIDENT,
*U.S. Senate, Washington, D.C.*

DEAR MR. VICE PRESIDENT: The Commission has adopted as part of its Legislative Program for the 93d Congress a proposal to amend Subsections (b) and (c) of Section 415 of the Communications Act to extend the period of limitation for complaints against carriers for the recovery of damages and overcharges from one year to two years.

Under present conditions, the one year period of limitation is often too short for a user of communications services to discover that he has been incorrectly charged and to file a complaint or bring suit. In 1934, when the one year statute was adopted, most interstate communications were simple messages, such as long distance telephone or telegraph. These two forms of communication were such that the charges for each chargeable element of service were relatively uncomplicated. There was no undue burden on the user to require complaint or suit within one year.

Today, however, communication services are becoming more and more sophisticated and many businesses and organizations have vast, complex, private line networks. These services remain in place for extended periods and the computations of the proper charge under the tariff is often an involved undertaking. A one-year statute for recovery of overcharges, or undercharges, in such cases, is too short.

The Commission's draft bill to accomplish the foregoing objective was submitted to the Office of Management and Budget for its consideration. We have now been advised by that Office that from the standpoint of the Administration's program there would be no objection to the presentation of the draft bill to the Congress for its consideration. Accordingly, there are enclosed six copies of our draft bill and explanatory statement on this subject.

The consideration of the Senate of the proposed amendment to the Communications Act of 1934 would be greatly appreciated. The Commission would be most happy to furnish any additional information that may be desired by the Senate or by the Committee to which this proposal is referred.

Sincerely,

DEAN BURCH, *Chairman.*

EXPLANATION OF PROPOSED AMENDMENT

Subsections 415(b) and (c) presently provide for a one year period of limitations with respect to proceedings against carriers for the recovery of overcharges or damages not based on overcharges.

Under present conditions, the one year period is often too short for a user of communications services to discover that he has been incorrectly charged and to file a complaint or bring suit. In 1934, when the one year statute was adopted, most interstate communications were simple messages, such as long distance telephone or telegraph. These two forms of communication were such that the charges for each charegable element of service were relatively uncomplicated. There was no undue burden on the user to require complaint or suit within one year. Today, however, communication services are becoming more and more sophisticated and many businesses and organizations have vast, complex, private line networks. These services remain in place for extended periods and the computation of the proper charge under the tariff is often an involved undertaking. We do not believe it likely that Congress had this type of service in mind in adapting the language of the Interstate Commerce Act to the Communications Act, when it shortened the period from two years under the Interstate Commerce Act to one year under the Communications Act.

The one year statute can cause further hardship in cases where the carrier is ready and willing to refund overcharges for services performed more than one year back. The statute not only bars the remedy but also destroys the liability.* Because after just one year there is no longer a liability, the carrier may not feel obliged to make a bona-fide refund. It should be the policy of the Communications Act to promote refunds in bona fide cases. Extension of the statute of limitations in subsections 415(b) and (c) from one to two years would provide such encouragement.

Adopted: December 20, 1972, Commissioner Reid concurring in the result.

S. 1227

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsections (b) and (c) of section 415 of the Communications Act of 1934, as amended (47 U.S.C. 415), are amended to read as follows:

(b) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section.

(c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the two-year period of limitation said period shall be extended to include two years from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

By Mr. MAGNUSON (by request):

S. 1228. A bill to authorize appropriations for the fiscal year 1974 for the Corporation for Public Broadcasting. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to authorize appropriations for the fiscal year 1974 for the Corporation for Public Broadcasting, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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

OFFICE OF TELECOMMUNICATIONS POLICY,
*Washington, D.C., February 16, 1973.*

Hon. SPIRO T. AGNEW,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: I am submitting herewith for the consideration of the Congress a proposed revision of Section 396 of the Communications Act of 1934, which pertains to the Corporation for Public Broadcasting.

This bill would authorize the appropriation for fiscal year 1974 of $45 million for the Corporation, of which $5 million must be matched by funds derived elsewhere.

In authorizing the Corporation's funding at a $45 million level, the proposed legislation recognizes the substantial contribution and potential of public broadcasting to the life of the Nation; at the same time, it acknowledges that the still unresolved problems facing Government financed public broadcasting demand the continuation of carefully measured annual funding.

The Secretary of Health, Education, and Welfare will be forwarding to the Congress a proposed authorization for grants for the construction of noncommercial educational broadcasting facilities. This should be considered together with the proposed authorization for the Corporation, since both authorizations involve communications policy aspects of public broadcasting.

The Office of Management and Budget advises that enactment of the proposed legislation would be in accord with the program of the President.

A similar letter is being sent to the Speaker of the House.

Sincerely,

CLAY T. WHITEHEAD.

S. 1228

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 396(k)(1) of the Communications Act of 1934 is amended to read as follows:

"(k)(1) There is authorized to be appropriated for expenses of the Corporation for the fiscal year ending June 30, 1974, the sum of $40,000,000."

(b) Section 396(k)(2) of such Act is amended by striking out "1973" and inserting in lieu thereof "1974".

By Mr. MAGNUSON (by request):

S. 1229. A bill to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize FM radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize FM radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

There being no objection, the letter and

*Midwest Horticultural Co. v. Pennsylvania Railroad Co.*, 320 U.S. 356 (1943) held that the expiration of the time limit under the Interstate Commerce Act for the bringing of actions by carriers for recovery of their charges does not merely bar the remedy but extinguishes the right.

bill were ordered to be printed in the RECORD, as follows:

FEDERAL COMMUNICATIONS COMMISSION,
*Washington, D.C.*

THE VICE PRESIDENT,
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. VICE PRESIDENT: The Commission has adopted as part of its Legislative Program for the 93d Congress a proposal to amend Section 318 of the Communications Act of 1934, as amended, to remove the licensed operator requirement for FM translators and FM transmitters and to permit the carrying of certain kinds of programming on FM and TV translators.

Section 318 now requires a licensed operator for all broadcast stations except those "engaged solely in the function of rebroadcasting the signals of television broadcast stations." This excepts TV translators from the licensed operator requirement provided no material is originated on the translator. The Commission believes that FM translators like TV translators should be included in the exception.

Technical development now enables FM transmitters without a licensed operator on duty to operate without causing interference to other radio services. The Commission believes that section 318 should reflect this advanced technology by excepting FM broadcast transmitters from the licensed operator requirement.

We also believe that certain kinds of material should be permitted to originate on TV and FM translators operating without a licensed operator. Deletion of the word "solely" from the quoted provision would permit translators to broadcast announcements relevant to the local community.

The Commission's draft bill to accomplish the foregoing objective was submitted to the Office of Management and Budget for its consideration. We have now been advised by that Office that from the standpoint of the Administration's program there would be no objection to the presentation of the draft bill to the Congress for its consideration. Accordingly, there are enclosed six copies of our draft bill and explanatory statement on this subject.

The consideration of the Senate of the proposed amendment to the Communications Act of 1934 would be greatly appreciated. The Commission would be most happy to furnish any additional information that may be desired by the Senate or by the Committee to which this proposal is referred.

Sincerely,

DEAN BURCH, *Chairman.*

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EXPLANATION OF PROPOSED AMENDMENT

Translator stations are low-power broadcasting stations which receive the incoming signals of a television or FM radio station, amplify the incoming signals, convert—or "translate"—them to a different output frequency, and retransmit the signals to the community or area which it is desired to serve. Translators are needed in certain areas of the country where, because of terrain or extreme distances, it is not possible to receive directly the signals of the originating television or FM radio station. They were conceived as simple, inexpensive devices which could not be made available to small communities where the demand for television or FM radio service was great and financial resources were meager. In such areas, translators frequently provide local residents with their only source of television or FM radio reception.

Section 318 of the Communications Act of 1934, as amended, 47 U.S.C. § 318, (clause (3) of the first proviso), limits translators to rebroadcasting the signals of their primary stations without any significant alteration of the characteristics of the incoming signals. Although the Commission has interpreted Section 318 to allow UHF television translators to broadcast twenty seconds of commercial advertising per hour, the origination is restricted to slide announcements, and no program origination is permitted. Consequently, translator stations are not self-supporting and must depend on public generosity for their support. In addition, Section 318's prohibition of program origination in many instances deprives those people dependent on translator stations for their television or FM radio reception of news of local political interest or events which vitally affect them. We believe the proposal's substitution of the word "primarily" for "solely" will allow the Commission to authorize limited amounts of local origination in keeping with the public interest.

We recognize the proposal does not set any specific limitations as to the amount of local origination to be permitted. We believe, however, that such a limitation could be best determined in a rule-making proceeding conducted by the Commission to implement this legislation during which the comments received from all interested parties could be analyzed and evaluated. In deciding upon such a limitation the Commission would, of course, be bound by the requirement of Section 318 that origination be limited to the extent necessary to insure that translator stations retain their primary characteristic as rebroadcast stations.

It should be noted that cable television interests have expressed their concern to the Commission with respect to what effect our proposal might have on the relationship of translators and cable systems. Cable operators expressed particular concern with regard to possible interference between VHF television translator stations (those operating on output channels 2 through 13) and cable television systems when broadcast channels are authorized for translator use. We cannot perceive that this proposal would have any effect whatsoever on the matter of electrical interference as it would merely enable the Commission to promulgate rules to authorize program origination by translators. This would have no effect on the frequencies on which translators operate. In any event, if the proposal is enacted into law, the cable operators would have ample opportunity to present their views at the rule-making proceeding the Commission would institute before adopting any rules to effectuate the statute.

We also propose striking the word "television" from Section 318. As previously noted, translators were conceived as simple, inexpensive devices designed to provide broadcast signals to the residents of sparsely populated, rural, remote, or mountainous areas. To make such stations economically feasible, Congress enacted Section 318 in 1960 to enable the Commission to permit television translator stations to operate without a licensed operator. At that time, there were only television translator stations. However, technological advances through the past decade have made FM translator stations possible and, in 1970, the Commission authorized such stations. Now, in order to make the FM translator stations economically feasible, it is necessary to amend Section 318, as proposed, to authorize the FM translators to operate unattended in the same manner as is now permitted for television translator stations.

In sum, the Commission believes the public interest would be served by adoption of the proposed amendment.

Adopted: December 20, 1972, Commissioner Johnson concurring in the result.

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S. 1229

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That clause (3) of the first proviso of section 318 of the Communications Act of 1934 (47 U.S.C. 318) is amended—

(1) by striking out "solely" and inserting in lieu thereof "primarily", and

(2) by striking out "television".

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By Mr. MAGNUSON (by request):

S. 1230. A bill to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce, and ask unanimous consent that the letter of transmittal and statement of purposes and provisions be printed in the RECORD with the text of the bill.

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

Honorable SPIRO T. AGNEW,
*President of the Senate, U.S. Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill "To authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce," together with a statement of purposes and provisions in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress and further that its enactment would be in accord with the program of the President.

Sincerely,

FREDERICK B. DENT,
*Secretary of Commerce.*

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STATEMENT OF THE PURPOSES AND PROVISIONS OF THE DRAFT BILL TO AUTHORIZE APPROPRIATIONS FOR THE FISCAL YEAR 1974 FOR CERTAIN MARITIME PROGRAMS OF THE DEPARTMENT OF COMMERCE

Section 209 of the Merchant Marine Act, 1936, provides that after December 13, 1967 there are authorized to be appropriated for certain maritime activities of the Department of Commerce only such sums as the Congress may specifically authorize by law.

The draft bill authorizes specific amounts for those activities listed in section 209 for which the Department of Commerce proposes to seek appropriations for the fiscal year 1974, and reflects the continuing Department efforts to provide the essential resources required to accomplish the objectives of the Merchant Marine Act of 1970.

"(a) acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, $275,000,000: Provided, That the appropriation act may provide that unobligated balances previously appropriated for purchase of modern or reconstructed United States-flag vessels for lay-up in the National Defense Reserve Fleet, may also be used for construction-differential subsidy."

The fiscal 1974 ship construction program will provide multi-year funding of some ship construction contracts. It is anticipated that 1974 funding will cover unfinanced balances for 2 ships under fiscal 1973 contracts. Construction subsidy contracts for 17 ships are planned in 1974, with 13 vessels being financed with 1974 funds and multi-year financing being utilized for the remaining four. Fiscal 1974 activity is designed to continue the pace of shipbuilding under the 1970 Program which accelerated sharply in 1972

and is anticipated to reach record levels in 1973.

"(b) payment of obligations incurred for ship operation subsidies, $221,515,000."

Operating subsidy funds requested for fiscal year 1974 would provide for payment of subsidy on 2 passenger ships, 185 general cargo liners, and 9 bulk carriers during the year. Additionally the request includes funds for settlement of final subsidies determined to be due subsidized operators for operations in prior years, including 1973 Russian grain carriage, for payment of normal escalation of subsidizable costs for continuing operations; and subsidy for new ships to come into subsidized operation. Included among the new ships will be three bulk carriers, the first of such ships to be built and operated under government subsidy as part of the new bulk program. It is anticipated that the requested funds will be supplemented by an estimated $25,485,000 of unused appropriation to be carried into fiscal year 1974.

"(c) expenses necessary for research and development activities (including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental ship operations), $20,000,000."

The 1974 program provides funding for the continuation of research and development activities in support of the President's Maritime program. Industry cost-sharing in these R&D projects helps to assure that emphasis is placed upon near-term, high pay-off projects which will assist in modernizing the American fleet and its operations. Efforts in FY 1974 are planned in the areas of shipbuilding methods improvements, competitive nuclear propulsion systems and automated shipping systems. The improvement of shipbuilding methods is designed to bring about increased competitiveness in the American shipbuilding industry and a reduction in construction subsidy. In the area of competitive nuclear ships, the major effort will consist of the final design engineering and related test and evaluation of advanced nuclear propulsion systems. The efforts in the area of advanced ship operations will include development of automated ships, advanced navigation/communication systems, pollution abatement systems, advanced tug-barge systems, shipping operations information systems and other activities designed to increase efficiency and reduce operating costs.

"(d) reserve fleet expenses $3,773,000."

Funding provides for the preservation and security of ships held for national defense purposes, distributed among three active fleet sites. Periodic represervation of hulls, machinery, and electrical components, combined with continuous application of cathodic protection to the bottoms, are methods employed in maintaining the ships for further service.

In fiscal 1974, funds will be used for the care of approximately 323 ships retained for national defense purposes. Custody is also provided for about 138 ships scheduled for disposal.

"(e) maritime training at the Merchant Marine Academy at Kings Point, New York, $8,600,000."

This requested authorization is for the operation of the Merchant Marine Academy at Kings Point to train cadets as officers for the U.S. merchant fleet in both peacetime and national emergencies. Approximately 200 officers graduate each year. This requested authorization includes funds for the planned modernization of the Academy electrical system.

"(f) financial assistance to State Marine Schools, $2,427,000."

Under the provisions of the Maritime Academy Act of 1958, as amended, (72 Stat. 622–624), this program provides for training of cadets at State marine schools for service as officers in the United States merchant marine. The six participating State schools, Maine, Massachusetts, Michigan, New York, Texas, and California, prepare officers to man our merchant ships in times of peace and national emergency.

The funding level of $2,427,000 will provide for grants in the amount of $75,000 to each of the participating State schools, allowances not to exceed $600 to cadets for uniforms, textbooks and subsistence, and funds for the maintenance and repair of the training ships used by the schools.

Section 2 of the draft bill would authorize additional supplemental amounts for fiscal 1974 for the activities specified in section 1 of the draft bill to the extent necessary for increases in salary, pay, retirement or other employee benefits authorized by law. The purpose of this section is to avoid having to amend the fiscal 1974 authorization act if supplemental appropriations for fiscal 1974 are sought for this purpose.

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S. 1230

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That funds are hereby authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1974, as follows:

(a) acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, $275,000,000: *Provided,* That the appropriation Act may provide that unobligated balances previously appropriated for purchase of modern or reconstructed United States-flag vessels for lay up in the National Defense Reserve Fleet, may also be used for construction-differential subsidy;

(b) payment of obligations incurred for ship operation subsidies, $221,515,000;

(c) expenses necessary for research and development activities (including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental ship operations), $20,000,000;

(d) reserve fleet expenses, $3,773,000;

(e) maritime training at the Merchant Marine Academy at Kings Point, New York, $8,600,000; and

(f) financial assistance to State Marine Schools, $2,427,000.

SEC. 2. In addition to the amounts authorized by section 1 of this act, there are authorized to be appropriated for fiscal year 1974 such additional supplemental amounts for the activities for which appropriations are authorized under section 1 of this act as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

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By Mr. MOSS:

S. 1231. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of cigarettes and alcoholic beverages is not a deductible expense. Referred to the Committee on Finance.

Mr. MOSS. Mr. President, I introduce for appropriate reference a bill to amend the Internal Revenue Code of 1954 to provide that cigarette and alcoholic beverage advertising not be deductible business expenses. Mr. President, at a time when we are looking for additional revenues to balance our budget, I believe that we should consider all sources which currently are not taxed. Advertising is an important component of our economic system. Without its stimulus to consumption and productivity, our economic system would not succeed.

But, the legitimacy of advertising as a business expense cannot overshadow the social cost which advertising of certain products may bring on. Here I refer to cigarettes and alcoholic beverages. Neither is necessary for human life, nor contributes to our well-being. But both end up costing the public considerable sums for health care and rehabilitation of those who are afflicted with the diseases which these products bring on. In the long run, the legislation which I propose today will cause one of two things to happen. First, manufacturers of cigarettes and alcoholic products might decide to continue their advertising and pay the additional taxes as a result of their advertising not being a deductible business expense. Thus additional revenues would be brought into the Treasury at the same times as these messages maintain their current frequency. Second, however, advertisers of these products might decide to reduce the frequency with which they place advertisements for these products. In that case the public will also be well served, although tax revenues would not be increased.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 1231

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Disallowance of Deductions for Advertising of Cigarettes and Alcoholic Beverages.—No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred to advertise cigarettes or alcoholic beverages."

SEC. 2. The amendments made by the first section of this Act shall apply to amounts paid or incurred after December 31, 1973, in taxable years ending after such date.

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By Mr. HRUSKA (by request):

S. 1234. A bill to provide for Special Law Enforcement Revenue Sharing. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, and for an amendment to the Omnibus Crime Control and Safe Streets Act of 1968.

I introduce—by request—the Law Enforcement Revenue Sharing Act of 1973, and ask that it be appropriately referred.

This bill is recommended to the Congress by the administration.

The proposed bill would make several significant changes in title I of the Omnibus Crime Control and Safe Streets Act of 1968.

The proposed bill would continue the Law Enforcement Assistance Administration, since its authorization under title I is scheduled to expire on June 30.

The Law Enforcement Revenue Sharing Act of 1973 is a natural and logical progression from the current program authorized by title I.

Under the existing legislation, the greater part of the funds disbursed by

LEAA are awarded in the form of block grants to the States.

The proposed bill I am introducing would replace block grants and some other types of awards with law enforcement revenue sharing payments to the States.

In enacting the 1968 legislation, the Congress rejected the original proposal to create a categorical grant program for law enforcement assistance. Instead, it adopted an amendment, that replaced the categorical grant approach with the block grant concept.

The block grant approach gave the States much of the flexibility needed to devise effective crime reduction programs. However, one final step must now be taken that will permit the States and localities to have the total flexibility and freedom needed to develop the most effective crime reduction programs possible.

That step is law enforcement revenue sharing.

Under this proposal, no funding authorities which exist under the present act are eliminated. However, it does merge a number of categories into a single law enforcement revenue sharing payment.

Those law enforcement revenue sharing payments would be made to the States on the basis of their relative populations, in the same way as the current block grant payments.

Law enforcement revenue sharing will give the States the tools with which to fashion the most adequate programs to meet their own individual needs, while at the same time assuring that the concern of the Congress to achieve national crime reduction is fully met.

The proposed bill contains a pass-through provision, to ensure that the needs of the localities will be fully met.

It contains provisions for funds that can be used by the States for planning purposes.

The proposed bill gives the States and localities the flexibility needed to develop more effective anti-crime programs—since they bear the basic responsibilities for crime control—and it also contains provisions for accountability to the public.

There are also a number of other detailed provisions of the new bill, and all should be studied closely.

The sum of all of those parts is a new mechanism placing crime control at the levels of government where results can be best achieved and where it will be most responsive to the needs of the people.

Mr. President, I ask unanimous consent that a summary and section-by-section analysis of the major features of the bill, as well as the text of the bill itself, be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended in its entirety to authorize special revenue sharing payments to State and units of general local government.

The Declarations and Purpose Clause has been amended to indicate that it is the purpose of this title to authorize special revenue sharing payments.

In addition, the change in wording from "to improve and strengthen law enforcement" to "reduce and prevent crime and delinquency" is a more precise reflection that the goal of the program is the reduction and prevention of crime and delinquency rather than simply the improvement of the system. The wording does not shift the basic past aims of the program. "Prevent" as used in this context refers to programs or projects which appear to have an immediate and direct impact by deterring or impeding the occurence of crime.

Section 101—provides that all authority of Title I, as amended, is placed in the Attorney General; that there is established a Law Enforcement Assistance Administration with an Administrator appointed with the advice and consent of the Senate and a Deputy Administrator. At the same time it authorizes delegation of all functions, powers and duties created by the Act so that the most efficient operating arrangement may be achieved.

Section 201 encourages States and units of local government to prepare and adopt comprehensive law enforcement plans.

Section 202 places the responsibility for the State law enforcement planning process under the supervision and control of the Governor and deletes former section 203 requirement for a State planning agency. The Governor may still designate a State planning agency; Any area wide planning shall be the responsibility of a multi-jurisdictional planning and policy development organization, the majority of whose members will be elected local officials.

Section 203 sets forth the requirements necessary for a planning process to properly develop a comprehensive State plan and administer such plan.

Section 204(a) requires that a State beginning on or after July 1, 1973, submit a comprehensive State plan. There will no longer be a requirement for prior approval prior to receipt of special revenue sharing funds. A plan shall be submitted every three years with a yearly revision. Subsection (b) authorizes the Attorney General to review such plan and provide comments to the State and Congress and to publish such comments in the Federal Register.

PART C—REVENUE SHARING FOR LAW ENFORCEMENT PURPOSES

Section 301(a) states the purpose of this part to encourage States and units of general local government to carry out program and projects to reduce crime and delinquency and provides that assistance under Part C will be in the form of special revenue sharing payments.

Subsection (b) sets forth the types of law enforcement activities which can be funded. Paragraphs 1–8 are identical to the former title I. The additional paragraphs provide eligibility to (9) diagnostic services within the community-based delinquency prevention and correctional programs; (10) express funding authority for improved court administration and law reform programs. This will allow for the funding of court projects where, for example, improvement of civil procedures will have a clear effect on administration of criminal justice; (11) to provide technical assistance formerly authorized by section 515(c); (12) funding authority for law enforcement education programs through contracts with institutions of higher education (former section 406); (13) funding authority for maintenance and operation of State, regional, and local planning processes; and (14) improved management of law enforcement activities. There is authority within section 301(b) to fund corrections programs authorized by Part E in the former title I and training programs for prosecuting attorneys (former section 408).

Subsection (c) removes the matching requirements (formerly required in title I) and permits 100 percent of program costs to be paid from special revenue sharing funds.

Under Subsection (d) no funds may be used for land acquisition. The 1/3 personnel compensation limitation has been removed.

Section 302 provides for the authorization to obligate funds for the continuation of projects approved under former Title I prior to the date of enactment of this Act.

Section 303 authorizes the Attorney General to make special revenue sharing payments when a State has on file a comprehensive state plan. There is no longer a requirement that such a plan must be approved by LEAA.

Section (b) sets forth the considerations which must be included for a plan to be comprehensive. This provision incorporates the major assurances in former section 453 for correctional programs.

Section 304 provides for the State government to receive applications for financial assistance from units of local government and other applicants and authorizes the State government to disburse funds when the application is in accordance with the purposes of section 301.

Section 305 allows the Attorney General to reallocate funds if a State fails to file a comprehensive plan.

Section 306(a) sets forth how special revenue sharing funds shall be allocated. Under paragraph (1) eighty-five per centum are special revenue sharing funds. There is first an initial allocation of $200,000 to each of the States for support of the planning process. Thereafter the remaining funds are allocated according to relative population. Five per centum of this total shall be made available for support of the State and local planning process.

Subparagraph (A) provides for the variable pass through of special revenue sharing funds once the planning funds have been distributed.

Subparagraph (B) provides for pass through of planning funds to units of local government.

Paragraph 2 provides that the remaining fifteen per centum of the appropriated funds shall be allocated to the States, units of local government and non-profit organizations at the discretion of the Attorney General.

Subsection (b) provides that the discretionary grant may be up to 100 per centum of the cost of the program or project.

Section 307 defines special revenue sharing.

Section 308 provides that no person shall be excluded from participation in the program or projects funded under this Act due to discrimination. This is similar language found in section 122 of the General Revenue Sharing Act except that subsection (b)(3) of this Act authorizes the Attorney General to use the powers and functions of section 509 to secure compliance.

Section 309 provides for the method of payment of special revenue sharing funds.

Section 401 states the purposes of this part which include (1) make grants or enter into contracts with public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this title; (2) make continuing studies to develop new or improved approaches, techniques, systems, etc., to improve and strengthen law enforcement—not limited to projects or programs carried out under this title; (3) carry out behavioral research projects on the causes and preventions of crime and the evaluation of correctional procedures; (4) make recommendations for the improvement and strengthening of law enforcement by Federal, State, and local governments; (5) carry out programs of instructional assistance, such as research fellowships; (6) collect and disseminate information to improve and strengthen law en-

forcement; and (7) establish a research center to carry out the programs described in this section; (8) cooperates with and renders training and technical assistance to States, units of local government, or other public and private agencies.

Section 402 continues the operation of the National Institute of Law Enforcement and Criminal Justice within the Law Enforcement Assistance Administration.

Section 403 provides that grants for this part may be up to 100 percent of the total cost of each project for which a grant is made.

Section 404 continues the authority under former section 404, regarding the training of State and local law enforcement personnel at the Federal Bureau of Investigation National Academy at Quantico, Virginia.

The substantive portions of former sections 406 through 455 are now incorporated prior sections.

PART E—ADMINISTRATIVE PROVISIONS

Section 501 authorizes the Attorney General, after consultation with representatives of States and units of general local government, to establish rules and regulations necessary to the exercise of his functions under, and are consistent with the stated purpose of this title.

Section 502 provides that the Attorney General may establish, alter or discontinue such organizational units of the Administration as he deems necessary.

Section 503 provides that super grade positions remain the same.

Section 504 gives a hearing examiner, upon authorization of the Attorney the power to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States he may designate.

Section 505 deletes from section 5315 of title 5 the positions of Associate Administrators after January 1, 1974.

Section 506 adds to Section 5316 of title 5 the position of Deputy Administrator.

Sections 507 through 511 are identical to prior sections 507 through 511 but conform the vesting in the Attorney General of such administrative authority as are found in those sections.

Section 512 requires accounting and auditing evaluations and reviews as the Attorney General may consider necessary to insure full compliance with the requirements of this title.

Subsection (b) authorizes review by the Comptroller General.

Section 513 authorizes the Attorney General to request from other Federal agencies statistics, data, program reports, and other material in order that the programs under this title can be carried out in a coordinated manner.

Section 514 provides for the reimbursement of the heads of other Federal departments for the performance of any functions under this title.

Section 515 subsections (a) and (b) of section 515 provide that the Attorney General shall collect and disseminate information on the condition and progress of law enforcement in the United States, deletes former section 515(c) which authorized the Administration to provide technical assistance to States or local governmental units. This is now authorized under part C and D.

Section 516 subsection (a) of section 516 permits the Attorney General to determine the method of payments under this title.

Subsection (b) of section 516 provides that not more than 12 percent of the funds appropriated for any one fiscal year shall be used in any one State. This limitation does not apply to grants made under part D.

Section 517 authorizes the Attorney General to appoint advisory committees and makes provisions for compensation and travel allowances.

Section 518 provides that nothing contained in this title or any other act shall be construed to authorize any Federal control over any law enforcement agency of any State or political subdivision thereof.

Subsection (b) of former section 518 has been eliminated.

Section 519 directs the Attorney General to report to the President and to the Congress by March of each year on the activities under this title.

Section 520 provides for funding authority to carry out the provisions of the title. In addition, any funds not expended within the current fiscal-year will remain available for obligation until expended.

Section 521 provides for the confidentiality of statistical and research information collected under Administration programs and for a civil sanction of up to $10,000 to enforce such confidentiality.

PART F—DEFINITIONS

Section 601 includes the same definitions as former section 601 with the following additions:

"comprehensiveness as it applies to a State plan, 'area wide' and 'multi-jurisdictional planning and policy development organization."

PART G—CRIMINAL PENALTIES

Section 651 sets forth criminal penalties for whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets or property which are the subject of a grant or contract or other form of assistance.

This section includes under the criminal penalties anyone who *attempts* to embezzle, willfully misapply, steal, or obtain by fraud and the same whoever *receives, conceals* or *retains* the same with intent to convert it to his use or gain, knowing it to have been embezzled, willfully misapplied, stolen, or obtained by fraud.

These two categories of crime have been added to strengthen this provision out of an abundance of caution in order to cover those who may not have totally completed the conversion of such funds or property to their use or gain or those who may have received said funds or property knowingly. The "attempt" provision is similar to the proposed Federal Criminal Code Revision and the "receiving" provision is similar to 18 U.S.C. 641 of the present code.

*Section 3*

Makes the Act effective July 1, 1973.

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S. 1234

*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 "Law Enforcement Revenue Sharing Act of 1973".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended to read as follows:

"DECLARATIONS AND PURPOSE"

"Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To prevent crime and to insure the greater safety of the people, law enforcement efforts must be better coordinated, intensified, and made more effective at all levels of government.

"Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement at every level by national assistance. It is the purpose of this title to (1) authorize special revenue sharing payments to States and units of local government in order to reduce and prevent crime and delinquency; (2) encourage States and units of general local government to prepare and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement; (3) encourage improved management of law enforcement activities; and (4) encourage research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals.

"PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

"SEC. 101. (a) There is hereby established within the Department of Justice under the authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as 'Administration') composed of an Administrator of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate, and a Deputy Administrator.

"(b) The Attorney General may delegate, and authorize redelegation of all functions, powers, and duties created and established by this title so long as the Attorney General remains responsible for overall supervision, direction, and management of the programs authorized.

"PART B—STATE PLANNING PROCESS

"SEC. 201. It is the purpose of this part to encourage States and units of general local government to prepare and adopt comprehensive law enforcement plans based on their evaluation of State and local problems of law enforcement.

"SEC. 202. (a) Any State desiring to participate in the special revenue sharing program shall establish a State law enforcement planning process to be under the supervision and control of the Governor and including local government participation for the preparation, revision, and implementation of the State plans required under this part.

"(b) Any areawide planning shall be the responsibility of a multi-jurisdictional planning and policy development organization designated by the Governor pursuant to procedures established for implementing title IV of the Intergovernmental Cooperation Act of 1968, a majority of whose policy board is composed of elected officials representing general local government. Such an organization may have an advisory body on matters relating to the purposes of this title to include representatives of law enforcement agencies and public agencies maintaining programs to reduce and control crime.

"SEC. 203. The State shall—

"(1) develop, after appropriate hearings and consultation with elected representatives of units of general local government, representatives of law enforcement agencies, and of public agencies maintaining programs to reduce and control crime and delinquency, a comprehensive statewide plan for the reduction and prevention of crime and delinquency.

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for the reduction and prevention of crime and delinquency.

"(3) establish priorities for the reduction and prevention of crime and delinquency throughout the State.

"(4) adopt measures designed to bring to the attention of the citizens of the State the contents of the comprehensive statewide plan and any substantial modification thereof immediately following the adoption of such plan or any such modification by the State.

"(5) provide for the expenditure of amounts received under special revenue sharing in accordance with the laws and procedures applicable to the expenditure of its own revenues.

"(6) adequately take into account the

plans, needs and requests of the units of general local government in the State and encourage local initiative and interlocal cooperation in the development of programs and projects for the reduction and prevention of crime and delinquency, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units provide in the plan for the allocation of an adequate share of assistance for law enforcement problems in areas characterized by both high crime incidence and high law enforcement activity;

"(7) provide for administration, fiscal control fund accounting, audit and monitoring and evaluation procedures as may be necessary to assure proper management and disbursement of funds received under this title;

"(8) provide for the submission of such reports in such form, at such times, and containing such information as the Attorney General may reasonably require to evaluate the overall impact of the plan and programs and to report to the President and the Congress on its priorities and effectiveness;

"(9) provide for appropriate review of procedures of actions taken by the State government disapproving an application for which funds are available or terminating or refusing to continue financial assistance to a State agency or a unit of general local government or combination of such units;

"(10) provide that all meetings of any planning organizations established under this title at which any final action is taken respecting the approval of comprehensive State plans (or regional or local components thereof), nonconfidential applications for or award of funds, and the allocation or expenditure of such funds shall be public meetings. Such meetings shall be preceded by a public notice giving the time, place and general nature of business to be transacted;

"(11) provide for public access to all nonconfidential records; and

"(12) certify that financial efforts for law enforcement purposes by the State and the aggregate efforts by local units of government within the State (out of their own sources) during a fiscal year are not less than the effort in the preceding year or the average of the prior three years. The Attorney General shall accept such a certification unless he determines that such certification is not sufficiently reliable to enable him to carry out his duties under this title.

"SEC. 204. (a) Each State government which expects to receive funds under Part C for any entitlement period beginning on or after July 1, 1973, shall submit a comprehensive State plan formulated pursuant to Section 301 and 303. Thereafter such plan shall be submitted every three years with an annual revision to reflect any changes necessary. Such revisions shall be submitted annually to the Attorney General.

"(b) The Attorney General shall review such plans and provide the State with such comments and recommendations as he deems appropriate. Within a reasonable time after providing the State with any such comments and recommendations, the Attorney General shall submit such comments and recommendations to Congress and publish them in the Federal Register.

"PART C—REVENUE SHARING FOR LAW ENFORCEMENT PURPOSES

"SEC. 301. (a) It is the purpose of this part to encourage States and units of general local government or combinations thereof, through special revenue sharing payments and other forms of financial assistance, to develop and implement programs and projects to reduce and prevent crime and delinquency.

"(b) The Attorney General is authorized to make special revenue sharing payments and other forms of financial assistance to States for law enforcement purposes including—

"(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and reduce crime in public and private places.

"(2) The recruiting of law enforcement personnel and the training of personnel in law enforcement.

"(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement agencies.

"(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

"(5) The organization, education, and training of special law enforcement units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.

"(6) The organization, education, and training of regular law enforcement officers, special law enforcement units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.

"(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section. In no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement agency.

"(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning and coordination of all law enforcement activities.

"(9) The development and operation of community based delinquent prevention and correctional programs, emphasizing diagnostic services, halfway houses and other community based rehabilitation centers for initial preconviction or postconviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.

"(10) The development and operation of justice reform programs, including improved court administration and law reform.

"(11) The rendering of technical assistance in matters relating to law enforcement.

"(12) The establishment of programs of academic educational assistance through contracts with institutions of higher education for grants or loans to persons enrolled in undergraduate or graduate programs in areas related to law enforcement.

"(13) The operation of State, regional, and local planning processes for the preparation, development, evaluation, and revision of State plans.

"(14) The improved management of law enforcement activities.

"(c) Any special revenue sharing payment made under this section may be used to pay up to 100 per centum of the cost of programs or projects specified in the comprehensive plan required to be submitted under this title.

"(d) No part of any special revenue sharing payment for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition.

"SEC. 302. (a) The Attorney General is authorized to obligate funds for the continuation of projects approved under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, prior to the date of enactment of this title to the extent that such approval provided for continuation.

"(b) Any funds obligated and all activities necessary may be carried out with funds previously appropriated and funds appropriated pursuant to this title.

"SEC. 303. (a) The Attorney General shall make special revenue sharing payments to a State government if such State has on file with the Attorney General a comprehensive State plan which conforms with the purposes and requirements of this title.

"(b) To be comprehensive the plan should conform to the definition in section 601(m) and should consider Statewide priorities for the improvement and coordination of all aspects of law enforcement, the relationship of activities carried out under this title to related activities being carried out under other Federal programs, the general types of improvements to be made in the future, the effective utilization of existing facilities, the encouragement of cooperative arrangements between units of general local government, innovations and advanced techniques in the design of institutions and facilities, and advanced practices in the recruitment, organization, training, and education of law enforcement personnel. It shall thoroughly address improved court programs and practices throughout the State. It shall include a long-range all-inclusive program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State. Such programs must adequately reflect national and State standards for all functions of the correctional and court systems.

"SEC 304. The State government shall receive applications for financial assistance submitted by heads of State agencies and the chief executive officers of units of general local government, combinations of such units and other applicants. When a State government determines that such an application is in accordance with the purposes stated in section 301 and is in conformance with any existing statewide comprehensive law enforcement plan, the State government is authorized to disburse funds to the applicant.

"SEC. 305. Where a State has failed to file a comprehensive State plan as required by this title, the funds allocated for such State under paragraph (1), section 306(a) of this title shall be available for reallocation by the Attorney General under paragraph (2) of section 306(a).

"SEC. 306. (a) The funds appropriated each fiscal year for this part shall be allocated by the Attorney General as follows:

"(1) Eighty-five per centum of such funds shall be allocated among the States as special revenue sharing payments. The Attorney General shall make an initial allocation of $200,000 to each of the States for the support of the State, areawide, and local planning process. The Attorney General shall then allocate the remainder of such funds available among the States according to their relative populations. Of the amount allocated by population 5 per centum of the total shall be made available for support of the State, areawide, and local planning process.

"(A) At least the per centum of the special

revenue sharing payments made to the State under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement funds used in the immediately preceding fiscal year by units of general local government shall be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the reduction and prevention of crime and delinquency. Per centum determination will be applied to 70 per centum of the total special revenue sharing payment after reduction of the amount allocated for support of the planning process as specified in section 306(a)(1); the remaining 30 per centum may be used by the State for local or State adult and juvenile correctional programs, court programs, technical assistance, and law enforcement education. Per centum determinations under this paragraph for law enforcement funding and expenditures for such accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available, and reflect adjustments for any major program responsibility shifts between State and local government. Upon application the Attorney General may waive the per centum requirements upon a finding that the planning process developed under part B will assure that special revenue sharing funds for any fiscal year will be available to carry out the provisions of section 203(6).

"(B) Of the funds allocated for the planning process at least 40 per centum of such funds for any fiscal year shall be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under the title. Upon application the Attorney General may waive this requirement in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this title. In allocating planning funds the State shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level.

"(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 305 and 509 of this title to the grant or revenue sharing payment of any State, may, in the discretion of the Attorney General, be allocated among the States, units of general local government, or combinations of such units, and to non-profit organizations according to the criteria and on the terms and conditions the Attorney General determines consistent with the title.

"(b) Any grant made from funds available under paragraph (2) of this subsection may be up to 100 per centum of the cost of the program or project for which such grant is made. No part of any such grant shall be used for land acquisition.

"SEC. 307. For the purposes of this title, the term 'special revenue sharing payment' means a grant of funds allocated to a State in accordance with Section 306.

"SEC. 308(a). No person in any States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available from the Law Enforcement Special Revenue Sharing Act.

"(b) Whenever the Attorney General determines that a State government or unit of general local government has failed to comply with subsection (a) or an applicable regulation, he shall notify the Governor of the State of the non-compliance and shall request the Governor to secure compliance. If within a reasonable period of time the Governor fails or refuses to secure compliance, the Attorney General is authorized:

"(1) to institute an appropriate civil action;

"(2) to exercise the powers and functions pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d);

"(3) to exercise the powers and functions provided in Section 509 of this title; or

"(4) to take such other action as may be provided by law.

"(c) Whenever the Attorney General has reason to believe that a State government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"SEC. 309. The amounts appropriated and allocated for special revenue sharing payments shall be paid to the respective States at such intervals and in such installments as the Attorney General may determine, taking account of the objective that the time elapsing between the transfer of funds from the United tSates Treasury and the disbursement thereof by the State shall be minimized.

"PART D—RESEARCH, DEMONSTRATION AND TRAINING

"SEC. 401. It is the purpose of this part to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals. These purposes will include:

"(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this title; including the development of new or improved approaches, techniques, systems, equipment, and devices to prevent and reduce crime and delinquency;

"(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to prevent and reduce crime and delinquency, including, but not limited to, the effectiveness of projects or programs carried out under this title;

"(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the success of correctional procedures;

"(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to prevent and reduce crime and delinquency;

"(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this title;

"(6) to carry out a program of collection and dissemination of information obtained by other Federal agencies, public agencies, institutions of higher education or private organizations engaged in projects under this title, including information relating to new or improved approaches, techniques, systems, equipment, and devices to prevent and reduce crime and delinquency;

"(7) to establish a research center to carry out the programs described in this section; and

"(8) to cooperate with and render training and technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, or institutions in matters relating to law enforcement. While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5 for persons employed intermittently in the government service.

"SEC. 402. There is established within the Law Enforcement Assistance Administration a National Institute of Law Enforcement and Criminal Justice. It shall be the purpose of the Institute to encourage research and development to prevent and reduce crime and delinquency.

"SEC. 403. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Attorney General shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"SEC. 404. (a) The Director of the Federal Bureau of Investigation is authorized to—

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement personnel.

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement personnel. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and such other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit.

"(b) In the exercise of the functions, powers and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"PART E—ADMINISTRATIVE PROVISIONS

"SEC. 501. The Attorney General shall prescribe, after appropriate consultation with representatives of States and units of general local government, such regulations as may be necessary or appropriate to carry out the provisions of this title.

"SEC. 502. The Attorney General may establish, alter or discontinue such organizational units of the Administration as he may deem necessary or appropriate.

"SEC. 503. Title 5 of the United States Code, Subsection (c)(10) of section 5108 remains unchanged.

"SEC. 504. Upon authorization of the Attorney General, any hearing examiner assigned to or employed for the purpose of this title, shall have the power to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States he may designate.

"SEC. 505. Effective January 1, 1974, section 5315 of title 5 of the United States Code is amended by deleting:

"(90) Associate Administrator of the Law Enforcement Assistance (2)"

"SEC. 506. Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new subsection:

"(131) Deputy Administrator of Law Enforcement Assistance."

"SEC. 507. Subject to the civil service and classification laws, the Attorney General is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this title.

"SEC. 508. The Attorney General is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Attorney General is further authorized to confer with and avail himself of the cooperation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this title, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies, or organizations, institutions of higher education or individuals.

"SEC. 509. Whenever the Attorney General, after reasonable notice and opportunity for hearing to an applicant or a grantee under this title, finds that, with respect to any payments made or to be made under this title there is a substantial failure to comply with—

"(a) the provisions of this title;

"(b) regulations promulgated by the Attorney General under this title; or

"(c) a plan or application submitted in accordance with the provisions of this title, the Attorney General shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

"SEC. 510. (a) In carrying out the functions vested by this title in the Department of Justice, the determination, findings, and conclusions of the Attorney General shall be final and conclusive upon all applicants, except as hereafter provided.

"(b) If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this title, the Attorney General shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Attorney General on an application or a grant the Attorney General or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Attorney General deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Attorney General wtih respect thereto shall be final and conclusive, except as otherwise provided herein.

"(c) If such applicant is still dissatisfied with the findings and determinations of the Attorney General, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Attorney General may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Attorney General, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided.

"SEC. 511. (a) If an applicant or grantee is dissatisfied with the Attorney General's final action with respect to the approval of its application submitted under this title, or any applicant or grantee is dissatisfied with the Attorney General's final action under section 509 or section 510, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of court to the Department of Justice. The Attorney General shall thereupon file in the court the record of the proceedings on which the action of the Attorney General was based, as provided in section 2112 of title 28, United States Code.

"(b) The determinations and the findings of fact by the Attorney General, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Attorney General to take further evidence. The Attorney General may thereupon make new or modified findings of fact and may modify the previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Attorney General or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 512. (a) The Attorney General shall provide for such accounting and auditing procedures, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under this title by State governments and units of local government and other recipients of assistance comply fully with the requirements of this title. The Attorney General is authorized to accept an audit by a State of such expenditures of a State government or unit of local government if he determines that such audit and the audit procedures of that State are sufficiently reliable to enable him to carry out his duties under this title.

"(b) The Comptroller General of the United States is authorized to make reviews of the work as done by the Attorney General, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.

"(c) The provisions of this section apply to all recipients of assistance under this title, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration.

"SEC. 513. To insure that all Federal assistance to State and local programs under this title is carried out in a coordinated manner, the Attorney General is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Attorney General deems necessary to carry out the functions under this title. Each such department or agency is authorized to cooperate with the Attorney General and, to the extent permitted by law, to furnish such materials to the Attorney General. Any Federal department or agency engaged in administering programs related to this title shall, to the maximum extent practicable, consult with and seek advice from the Attorney General to insure fully coordinated efforts, and the Attorney General shall undertake to coordinate such efforts.

"SEC. 514. The Attorney General may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of the functions under this title.

"SEC. 515. The Attorney General is authorized—

"(a) to conduct evaluation studies of the programs and activities assisted under this title; and

"(b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement in the United States.

"SEC. 516. (a) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Attorney General, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the Joint Resolution entitled 'Joint Resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings', approved February 2, 1935 (31 U.S.C. sec. 551)."

"(b) Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this title may be used within any one State except that this limitation shall not apply to grants made pursuant to Part D.

"SEC. 517. (a) The Attorney General may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code.

"(b) The Attorney General is authorized to appoint, without regard to the civil service law, technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Attorney General but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"SEC. 518. Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement agency of any State or any political subdivision thereof.

"SEC. 519. On or before March 31 of each year, the Attorney General shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.

"SEC. 520. There is authorized to be appropriated, out of the Treasury of the United States, such sums as may be necessary to carry out all provisions of this title. Such sums shall remain available for obligation until expended.

"SEC. 521. (a) To implement the provisions of this title, neither the Attorney General, nor any other officer or employee of the Department, nor any recipient of assistance under the provisions of this title, may, except when expressly authorized under the provisions of this title.

"(1) Use the information collected expressly for statistical or research purposes under programs assisted directly or indirectly by this title for any other purpose; or

"(2) Make any publication whereby such information furnished by any particular private establishment or individual can be identified; or

(3) Permit anyone other than the sworn officers and employees of the Department of Justice, a research grantee under the provisions of this title, or officers and employees of such research grantee under the provisions of this title to examine such information concerning particular private establishments or individuals.

"No department, bureau, agency, officer, or employee of the Government, except as specifically authorized in this title, shall require, for any reason, copies of such information on establishments or individuals which have been retained by any such establishment or individual. Copies of such information which have been so retained shall be immune from legal process, and shall not, without the consent of the establishment or individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

"(b) Any person violating the provisions of this section, or any rule, regulation, or order issued thereunder, shall be liable to a penalty not to exceed $10,000, in addition to any other penalty imposed by law. The amount of any such penalty shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States.

"PART F—DEFINITIONS

"SEC. 601. As used in this title—'Law enforcement' means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

"(b) 'Organized crime' means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

"(c) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Virgin Islands, Guam, and Samoa.

"(d) 'Unit of general local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia. Such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970.

"(e) 'Combination' as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

"(f) 'Construction' means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

"(g) 'State organized crime prevention council' means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this title, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

"(h) 'Metropolitan area' means a standard metropolitan statistical area as established by the Office of Management and Budget, subject, however, to such modifications and extensions as the Attorney General may determine to be appropriate.

"(i) 'Public agency' means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

"(j) 'Institution of higher education' means any such institutions as defined by section 801(a) of the Higher Education Act of 1965 (79 Stat. 1269; 20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Attorney General may determine to be appropriate.

"(k) 'Community service officer' means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part, and meeting such other qualifications promulgated in regulations pursuant to section 501 as the Attorney General may determine to be appropriate to further the purposes of section 301(b)(7) and this title.

"(l) The term 'correctional institution or facility' means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

"(m) 'Comprehensive' means that the plan must be a total and integrated analysis of the crime and juvenile delinquency problem within the State; goals, priorities and standards must be established in the plan and the plan must address (both short- and long-term) methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention; identification, detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders; and institutional and non-institutional rehabilitative measures.

"(n) 'Areawide' refers to the geographic scope of problems which transcend the boundaries of any single unit or units of general local government but do not encompass the entire State.

"(o) 'Multi-jurisdictional planning and policy development organization' is an organization which has responsibility for comprehensive planning and has planning and policy control over two or more functional planning and policy development programs.

"PART G—CRIMINAL PENALTIES

"SEC. 651. Whoever embezzles, willfully misapplies, steals, or obtains by fraud or attempts to embezzle, willfully misapply, steal, or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, or whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, willfully misapplied, stolen or obtain by fraud shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title shall subject to prosecution under the provisions of section 1001 of Title 18, United States Code.

"Any law enforcement program project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this Act, whether received directly or indirectly from the Administration, shall be subject to the provisions of Section 371 of Title 18, United States Code."

SEC. 3. This Act shall taken effect on July 1, 1973.

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By Mr. FULBRIGHT (by request):

S. 1235. A bill to amend Public Law 90–553 authorizing an additional appropriation for an International Center for Foreign Chanceries. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend Public Law 90–553, which was enacted in October 1968, to create an international center to make sites available for chanceries of foreign embassies in Washington and for a new headquarters for the Organization of American States.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I have long been concerned with the problem of finding and preparing suitable sites in the District of Columbia for foreign chanceries and this measure will help to alleviate this problem. Last September, at the urgent request of the Department of State, the Committee on Foreign Relations reported, and the Senate approved a bill (S. 4039) similar to the one I am introducing. Unfortunately the legislation was submitted so late in the session that it was not possible for the Congress to complete action on the bill.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Acting Assistant Secretary of State to the Vice President dated February 28, 1973.

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

S. 1235

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first sentence of section 6 of Public Law 90–553 (82 Stat. 958), is hereby amended to read as follows:

"There is hereby authorized to be appropriated, without fiscal year limitation, not to exceed $2,200,000 to carry out the purposes of section 5 of this Act: *Provided,* That such sums as may be appropriated hereunder shall be reimbursed to the Treasury from proceeds of the sale or lease of property to foreign governments and international organizations as provided for in the first section of this Act."

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DEPARTMENT OF STATE,
*Washington, D.C., February 28, 1973.*

Hon. SPIRO T. AGNEW,
*President of the Senate.*

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill to amend Public Law 90–553, which was enacted in October 1968 to create an International Center to make sites available for chanceries of foreign embassies in Washington and for a new headquarters for the Organization of American States. The identical bill was first transmitted to both houses of Congress by

similar letter of September 22, 1972, and as S. 4039 was passed by the Senate without change on October 14, 1972, but failed to receive action by the House of Representatives before adjournment.

The purpose of the proposed amendment is to revise Section 6 of the existing law so as to authorize an appropriation for the capitalization of the account established by this Section of the Act, not to exceed $2,200,000. Such an appropriation is required to create the fund needed to finance the authorized site improvements which under the Act the Secretary of State is responsible for carrying out.

The legislation as enacted contemplated that the site development work incident to preparing property in the chancery section of the Center for delivery to foreign government purchasers should be funded from the proceeds of sale or lease of such property. The Department of State agreed with the cognizant committees of Congress at the time that the project would be self-liquidating and would require no appropriations. In recent months, however, it has become evident to both the Department and the General Services Administration, its agent for all site development work associated with the International Center, that the purpose of the Act cannot be implemented without an initial appropriation for capitalization of the special account established by PL 90-553. The basic reasons are as follows:

(1) Our experience from negotiations makes it clear that the foreign governments will not enter into final sales contracts and advance the purchase price of lots until the United States has shown its firm commitment to the Center by commencing the site improvements and demonstrating that it has funds available to complete first-phase site development.

(2) No purchaser can be assured by the United States that the improvements will be made by any reasonably determinable date, since in the absence of assured funding the timing is contingent on future sales. This has a severely inhibiting effect on all prospective buyers, in that no government is willing to commit time and money to architectural design and planning, as well as to budget funds for construction, without knowing when it can take delivery of its cleared site.

(3) Sales of most lots in the first phase of development would have to take place before the General Services Administration could finance improvements related to that phase, which cannot be done economically on a piecemeal basis. Under the circumstances it continues to appear unlikely that a sufficient number of such commitments by foreign governments will be forthcoming within a time frame permitting GSA to contract for site development in accordance with project plans and so as to avoid substantial increase in overall costs due to continued delay in construction.

For these reasons both GSA and the Department of State have concluded that Government funds adequate to finance first-phase site development are required to bring the International Center to reality. We wish to emphasize that the change we request will entail no departure from the requirement that the project must be self-liquidating, in that all outlays from the funds appropriated are to be reimbursed through receipts from sales to foreign governments.

In the interest of clarification we should like further to point out that site development embraces the demolition of existing buildings of the old National Bureau of Standards; grading; construction of planned public streets and sidewalks; installation of necessary utilities; and related landscaping—all in accordance with the master plan for the project which was developed through the General Services Administration and which the National Capital Planning Commission approved after detailed consideration and hearings.

We should like to add in conclusion that enactment of the proposed legislation at this time derives added urgency from the circumstance that it would enable the Department of State to complete the sales to the Governments of Finland, Israel, and Singapore which are now pending. A further advantage of early action in this session of Congress is that it could be expected to give impetus to additional sales in time to make possible a substantial degree of realization of the International Center project by the Bicentennial Year.

In December 1971 the Congress, in enacting fiscal year 1972 appropriations for the District of Columbia, made funds available for the first stage of construction of a new campus for the Washington Technical Institute (WTI) on the north half of the Van Ness site. That action made possible last spring the preliminary planning of the phased removal of the Institute from the area reserved for chancery development, as well as, later in 1972, approval of the Institute's master plan by the National Capital Planning Commission and groundbreaking and commencement of site preparation for its new campus. Resolution of the difficult WTI relocation problem, which took two years, has overcome one of the two major obstacles to progress on the International Center. Action by the Congress to authorize an appropriation for a special fund for the Center's first-phase site development would remove the sole remaining obstacle to fulfillment of this much needed and overdue project. It is the Administration's hope and expectation that both WTI and the International Center would thus be substantially realized by the year 1976.

The Office of Management and Budget has advised that enactment of this proposal would be consistent with the Administration's objectives.

It would be appreciated if you would lay the proposed bill before the Senate. An identical bill has been transmitted to the Speaker of the House.

Sincerely yours,

MARSHALL WRIGHT,
*Acting Assistant Secretary for Congressional Relations.*

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By Mr. WILLIAMS:

S. 1237. A bill to amend the Communications Act of 1934 to provide for the regulation of community antenna television systems. Referred to the Committee on Commerce.

Mr. WILLIAMS. Mr. President, in 1971, I introduced the National Community Antenna Television Act which would have specifically granted jurisdiction over CATV to the Federal Communications Commission. At that time, the Commission had virtually no legislative or judicial direction as to the scope of its authority over cable television. Since that bill was introduced, however, the Supreme Court has given some interim guidance concerning the FCC's jurisdiction. In June 1972, the Court held in United States against Midwest Video Corp. that the Commission did not exceed its jurisdiction when it ordered CATV systems with 3,500 or more subscribers to originate programing "to a significant extent." The Court stated in Midwest that the FCC had jurisdiction over CATV to the extent "reasonably ancillary to the effective performance of the Commission's various responsibilities for the regulation of television broadcasting." Nevertheless, the jurisdiction of the Commission can be called into question each time it establishes new regulations for the cable industry. The uncertainty of its authority is increased by the fact that Midwest was decided by a bare 5-to-4 majority, and the dissenting Justices based their opinion on the fact that Congress was the appropriate agency to decide the scope of the FCC's authority and that Congress had not acted. In the future, the majority opinion may well be given a narrow cast unless Congress provides some explicit direction.

There are now about 5.5 million homes and 4,500 communities—most of them quite small—served by cable television systems. In another 3,000 or so cities cable systems have either asked for or recently received franchises. If cable is as well received in the large markets as the industry hopes, there could be more than 25 million homes served by cable systems in 1980.

The enormous potential this technological development holds for our education, information, and entertainment industries is very clear. The potential benefits of CATV become apparent when one considers that within my own State of New Jersey—the most densely populated State in the Nation—there is not a single VHF station, and that UHF television broadcasting is extremely limited both in scope and in geographic coverage. Our neighboring State of Delaware suffers from this same situation, one to which CATV can offer an effective alternative.

Currently, television viewers in most parts of the country have a very limited choice of stations; fewer than half of the local television market areas are served by three or more stations. While most cable systems offer between six and 12 channels of programing, they are capable of providing as many as 80 channels.

The cable television industry was born in the late 1940's. Its principal function was to carry television broadcasts to people in rural areas who were beyond the range of television transmitters which at the time were located almost exclusively in large cities. Since that time the demand for CATV has spread to urban and suburban areas where both improved reception quality and increased program diversity are major selling points.

Almost 40 years ago, Congress enacted the Communications Act of 1934 which charged the FCC with overseeing the broadcast industry in order to promote its development consistent with the public interest. It was impossible in 1934 to anticipate the development of CATV. I believe, Mr. President, it is time for Congress to recognize the sweeping technological changes which have occurred within the broadcast industry since that time, and to reexamine the Communications Act in light of these changes.

Today, I am reintroducing legislation which would amend the act specifically to grant the FCC jurisdiction over CATV. Furthermore, it would establish clear national long-range policy for the FCC to follow in exercising its authority. This policy would establish cable tele-

vision as a public utility—a recognized monopoly—and would require the establishment of a formula of channel allocation for communities of differing size. Such a formula must include provision for commercial and educational stations, local expression through local program origination, governmental access, and general information communication through public service programs. This listing is by no means exclusive of other services which may be available via cable transmission in the future.

Furthermore, the bill would allow the FCC to prescribe standards of equipment performance and quality of service, uniform technical standards for possible interconnection of cable systems, rules insuring equality of service to all communities be they rich or poor, and rules insuring fair tariffs to the consumer and a fair rate of return to the cable system owner.

Mr. President, the question of whether and to what extent the FCC has jurisdiction over the cable television industry is too pressing to be left for the courts to decide on a case-by-case basis. I believe that this bill represents a workable and effective approach to this problem and I commend it to my colleagues.

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. 1237

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

THE NATIONAL COMMUNITY TELEVISION ANTENNA ACT OF 1973

DECLARATION OF POLICY

SECTION 1. The Congress declares that community antenna television systems provide an essential service, and that access to a full offering of diversified television communications and supplemental electronics service via such systems is not a luxury, but is an essential condition for the survival of our society; that few communities will need, or be able to support, two such systems and that a full offering of such service must be uniformly and universally available for public needs and public use.

AMENDMENT OF COMMUNICATIONS ACT OF 1934

SEC. 2. (a) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following:

"(gg) 'Community antenna system' means any facility which, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more broadcast stations and distributes such signals by wire or cable to subscribing members of the public who pay for such service.".

(b) Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting at the end thereof the following new section:

"REGULATION OF COMMUNITY ANTENNA SYSTEMS

"SEC. 331. The Commission is authorized, as the public interest, convenience, and necessity requires, to prescribe such rules and regulations, issue such authorizations and orders, and prescribe such conditions and restrictions with respect to community antenna television systems as may be necessary to—

"(1) provide for maximum diversity of programming without discrimination;

"(2) prevent unfair rates and charges for the service provided in consideration of the investment involved;

"(3) provide adequate service to communities served;

"(4) provide for related services, including origination of programs, and access for educational and governmental use; and

"(5) exempt, to the extent necessary, such systems which are limited in size and use."

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By Mr. KENNEDY (for himself and Mr. BAYH, Mr. BROOKE, Mr. CRANSTON, Mr. EAGLETON, Mr. HART, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. MCGOVERN, Mr. MATHIAS, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. RANDOLPH, Mr. TUNNEY, Mr. HATHAWAY, and Mr. PROXMIRE):

S.J. Res. 76. A joint resolution proposing an amendment to the Constitution of tht United States granting representation in the Congress to the District of Columbia. Referred to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, on behalf of Mr. BAYH, Mr. BROOKE, Mr. CRANSTON, Mr. EAGLETON, Mr. HART, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. MCGOVERN, Mr. MATHIAS, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. RANDOLPH, Mr. TUNNEY, Mr. HATHAWAY, and Mr. PROXMIRE and myself, I introduce a joint resolution and I ask that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, the purpose of this resolution is to amend the U.S. Constitution to provide full voting representation in Congress for the District of Columbia—two Senators and the number of Representatives—probably two—to which the District would be entitled on the basis of its population.

Full voting representation in Congress for the District of Columbia is an act of simple justice that is long overdue for the citizens of the Nation's Capital. For nearly 200 years, the citizens of the District have been subjected to precisely the sort of injustice that triggered the American Revolution and led to the founding of our Republic.

The constitutional amendment I am offering would provide full voting representation in Congress for the District of Columbia. The amendment would contain seven principal provisions:

First, citizens of the District of Columbia would elect two Senators and the number of Representatives in Congress—probably two—to which the District would be entitled on the basis of population.

Second, each Senator or Representative would be required to be a resident of the District.

Third, each Senator or Representative would possess the same qualifications as to age and citizenship and have the same rights privileges and obligations as other Senators or Representatives.

Fourth, a vacancy in the representation of the District of Columbia in the Senate or the House of Representatives would be filled by a special election by the voters in the District.

Fifth, the amendment would have no effect on the provision in the 33d amendment for determining the number of electors for President and Vice President to be appointed for the District.

Sixth, Congress would have the power to implement the amendment by appropriate legislation.

Seventh, the amendment would have to be ratified by the States separately from the direct popular election amendment.

Nowhere in America should the principles of democracy be more firmly established than in the Nation's Capital. In Washington today, however, democracy is weakest where it should be strongest. The District of Columbia is the last bastion of taxation without representation in the United States. By some cruel irony, a nation founded as a haven from tyranny and oppression denies to the citizens of its Capital the blessings of democracy. Indeed it is fairly said, Washington, D.C., is America's last colony.

Though the merits of the argument for District of Columbia representation in Congress are so well known—and so overwhelming—I believe it would still be useful for me to reiterate them again today. Time after time, the facts and arguments for District of Columbia representation have been set out in detail. The tragic history of 80 years of efforts to achieve this goal is well known.

Efforts to obtain voting representation were thwarted in March 1971, on the floor of the Senate. At that time, I had brought before the Senate a congressional representation resolution to be considered as part of the 18-year-old voting amendment. The timing seemed especially significant, because the District of Columbia was preparing to choose a nonvoting Delegate to the House of Representatives, on the very next day. I chose the 18-year-old vote amendment as a suitable vehicle to bring real democracy to the people of Washington, because it had been demonstrated all too forcefully in the past, that the District of Columbia proposal standing alone would not be reported by the Senate Judiciary Committee, or by the House Rules Committee. The endless arguments that the District of Columbia measure would kill the 18-year-old vote amendment were baseless. For the attention of the Nation was firmly fixed upon the Senate's efforts to extend the franchise for millions of young Americans throughout the Nation. Extending full voting rights to the 760,000 residents of our Capital City was clearly an appropriate direction in which we could have moved. Each State would have been required to ratify the two amendments separately.

With the overwhelming support of 86 Senators, the 18-year-old vote amendment was in no way jeopardized by the District of Columbia measure. Yet, 68 Senators voted to scuttle my proposal to add the District of Columbia vote to the 18-year-old provision. And so it is, that once again, the citizens of the District of Columbia were denied the chance to exercise the most fundamental expression of democracy—the right to choose their own representation in the National Legislature.

To continue that delay is not only in-

equitable but it can mean a different world for every resident of Washington.

As I introduce this resolution in the 93d Congress and urge my colleagues to bring the congressional vote to the Capitol, I would like to rebut a number of arguments that have been made against this worth proposal:

First, overhanging the entire debate is the specter of racism and partisan politics. I raise these two arguments only to rebut them, because they cannot stand the light of day. No Senator whatever—would vote against the citizens of the District for these reasons.

Second, it is said that the District of Columbia amendment deserves careful study. When I first introduced this measure in 1971, I described in detail the history of efforts to achieve voting representation in Congress for the District of Columbia.

The first constitutional amendment to win this goal was introduced in Congress in 1888. Since that date, hundreds of different amendments have been introduced in Congress, and dozens of hearings have been held by Senate and House committees over the years. The scenario is always the same. Inevitably, the hearings generate overwhelming support for the District of Columbia amendment. And, just as inevitably, every effort meets with uniform frustration and defeat.

At the beginning of June 1970, the Senate Subcommittee on Constitutional Amendments held hearings on the District of Columbia amendment. Under the leadership of Senator BIRCH BAYH, one of the most distinguished and long-standing advocates of the cause of District of Columbia representation, the hearings again developed virtually unanimous support for the District of Columbia amendment. Over the period of the next several weeks, because of its inability to obtain a quorum, the subcommittee was continuously thwarted in its effort to report the amendment favorably. Finally, when the subcommittee was able to muster a quorum at the end of July, Senator BAYH's motion to bring up the District of Columbia amendment for debate and action was blocked by the objection of several members of the subcommittee, and the amendment was effectively killed for that Congress.

On the face of this dismal record, unbroken since the District of Columbia amendment was first proposed in the 19th century, can we really maintain that it needs more debate? I submit that 80 years is long enough.

Third, it is said, only 2 years ago Congress gave the District a nonvoting Delegate and this is enough of an accomplishment for the time being. It is nothing of the sort. The nonvoting Delegate is not an end in itself. The only real value it has is as an interim measure, a half-way house to tide us over the brief period while a constitutional amendment for full representation is enacted by Congress and ratified by the States.

Now that the nonvoting Delegate is a reality, we must fix our attention on the true goal. We must adopt a constitutional amendment for full voting representation for the District, and submit it to the States for ratification. There could be no more ideal result than for the District to have the active voice and benefit of the nonvoting Delegate as a forerunner in the present Congress, to lay the foundation for the voting Senators and Congressmen who will come after him.

The one thing we cannot do is to allow the status of the interim Delegate to deteriorate into that of a permanent nonvoting representative. At last, we have a good chance of success, if only we keep our sights high, and do not relax our effort before the job is done.

Fourth, some opponents of representation for the District of Columbia claim that the amendment would treat the District as a State. They say that the District is not a State but a city, smaller than at least eight other cities in the Nation, and that there is no greater reason for this city to be represented in Congress than larger cities which are denied the right. This argument ignores the obvious fact that other American cities are political subdivisions of States, which are already represented in both the Senate and the House of Representatives.

Moreover, for years, the District of Columbia has traditionally been treated as a State in virtually every major Federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause: "For the purposes of this legislation, the term 'State' shall include the District of Columbia."

This argument against District of Columbia representation is heard most frequently in relation to the Senate. The objection is raised that only States should be represented in the Senate. But that argument is no longer seriously accepted. For statehood for the District is gaining increasing support as the most direct method to grant the rights of full citizenship to the people who live in Washington, D.C. I share the strong concern of the Members of this body for the traditions and prerogatives of the Senate, but I feel a stronger concern against the injustice of denying a substantial group in our population the right to participate in making the laws by which they are governed. Vital legislation affecting the lives of all the citizens in the Nation is debated in every session of the Senate. Until the people of the District are represented in the Senate as well as in the House, they will not have the right of true self-government that is the birthright of every American citizen.

In addition, by accepting two Senators for the District of Columbia as part of the amendment, the Senate itself will be demonstrating its good faith to the House. Too often, the Senate has been generous in proposing representation in the House for the District of Columbia, but reluctant to invite the District into the well of the Senate itself. Once the Senate accepts the principle of full-voting representation in the Senate for the District of Columbia, I am confident that the House will follow suit.

To be sure, the status of the District of Columbia is unique in the politics and geography of America. Obviously, for example, we would not grant full voting representation in either the Senate or the House to Puerto Rico, unless that Commonwealth chooses to become a State.

Can we really maintain that the citizens of the District are doomed to a perpetual colonial status, to denial of the most basic right in civilized society—the right that is preservative of all other rights, the right of self-government? Surely this is too high a price to pay for preserving the traditions and prerogatives of the Senate.

Nothing in our Constitution or its history supports the interpretation that the District of Columbia was intended to be denied representation in both the Senate and the House. Indeed, in the Federalist, No. 43, James Madison, one of the principal architects of the Constitution, wrote that the prospective inhabitants of the Federal city "will have had their voice in the election of the Government which is to exercise authority over them." Clearly Madison was assuming that the citizens of the Nation's Capital would be represented in Congress.

Fifth, another, even less persuasive, objection to District of Columbia representation in Congress rests on the proviso in article V of the Constitution, which declares that—

> No State, without its consent, shall be deprived of its equal suffrage in the Senate.

It is far too late in our history to argue that the admission of the District of Columbia to representation in Congress would deprive any State of its "equal suffrage in the Senate." In light of the history of the Constitution and the precedents under it, the meaning of article V is clear—no single State may be given a larger number of Senators than any other State.

This was the essence of the Federal compromise at the Constitutional Convention in 1787. It has guided us for 200 years, and it is intended to endure throughout our history. This is all that article V means, and all that it requires.

In addition, article V has never been read as prohibiting the representation of new States in the Senate, even though—obviously—the admission of a new State dilutes the voice and power of the existing States in the Senate. Indeed, since the ratification of the Constitution by the original 13 States, 37 new States have been admitted to the Union. As a result, the power of the original 13 States in the Senate has been diluted nearly fourfold, from 2 to 26 to 2 to 100. Yet, no one has ever argued that any of the original 13 States has been deprived of its equal suffrage in the Senate.

The principle is clear. So long as the District of Columbia is represented in the Senate no more advantageously than any State, it cannot be said that representation for the District deprives any State of its equal suffrage in the Senate. Each State will still have two votes in the Senate, and each State will still have the same proportionate vote as any other State.

As I have attempted to show, the arguments against full voting representation in Congress for the District of Columbia have no merit, especially in light of the grave injustice that is being perpetuated against the citizens of the District. Today, the United States stands

virtually alone among the democratic nations of the world in denying representative government to the people of its Capital City. The citizens of Washington deserve to share in the right of self-government, the birthright of every American citizen. I urge the Senate to establish this symbol of our commitment to our heritage and to the cause of freedom, equality, and justice for all our citizens.

It is my firm hope that this new Congress will bring an end to the shameful denial of the fundamental right to vote for the residents of Washington, D.C.

Historically, it is important to note the efforts of concerned journalists who sought to obtain representation in Congress for the District of Columbia. Mr. Augustus B. Woodward, a protege of Thomas Jefferson, wrote a series of eight articles and pamphlets on the issue for the National Intelligence between 1801 and 1803. His eloquent work preceded by some 80 years the articulate attention of Theodore W. Noyes, who began in 1888 to write a series of fine articles in the Evening Star, strongly urging that the District of Columbia deserves voting representation in the Congress. The history of the movement for District of Columbia representation is, to a great extent, a chronicle of Noyes' activities.

In 1914, the movement began to gain broader support with the official backing of the Washington Chamber of Commerce, in a report written by Noyes himself.

In 1916 Noyes was the leading witness at the first Senate hearings ever held on representation in Congress for the District of Columbia.

In 1917 the Washington Board of Trade, the Chamber of Commerce, and many other organizations joined to organize the "Citizens' Joint Committee on National Representation for the District of Columbia," with Noyes as chairman. Noyes held the position until his death, and testified frequently for the committee in Senate and House hearings.

In 1922, in what stood for many years as the high mark of the legislation until Congressman Celler's action in 1967, the Senate District Committee favorably reported the District of Columbia amendment, with a report closely tracking the testimony Noyes had given.

By 1928, Noyes had become known across the Nation for his crusade, testifying before Congress at the age of 70, he was praised as a man "of invincible determination and unquenchable hope."

In 1946, at his death, Noyes' created a small trust to continue the movement for District of Columbia representation in Congress. In the words he used in the bequest, Noyes created the trust because he was "convinced that no other representation is so essential to the welfare of the men and women of my home community." In 1951, the trust published a volume of Noyes' collected writings on the subject, entitled, "Our National Capital and Its Un-Americanized Americans."

The first constitutional amendment to be introduced in Congress for District of Columbia representation was proposed by Senator Henry W. Blair of New Hampshire in 1888, in response to a train of events set in motion by Noyes' articles. On March 10 of that year, the Star carried the fourth article of Noyes' series, describing the unfortunate political plight of the citizens of the District. In the article, Noyes proposed an amendment to provide voting representation in Congress for the District by one Senator and one or more representatives, according to population. As Noyes stated in his article:

> (The amendment) would be a compromise between granting only local, qualified suffrage, which is highly objectionable to the District, and consenting to absolute self-government, which involves a surrender of national control over the capital, and to which the United States, as owner of one-half the city . . . would never consent. The wisdom of this course is sustained by all the arguments which go to show that the constitutional power of "exclusive legislation" by Congress should not be hastily yielded, and also by those who maintain that taxation without representation and inequality of citizens before the law should not be allowed to exist.
>
> The District would be placed in certain respects on a level with the States. Taxed like them, it would have like them a voice in the disposition of the general taxes. It would not, however, stand upon precisely the same footing with them, for the States are subordinated to the general government only in certain defined particulars, whereas the District would be subordinated in all respects . . . enjoying representation in Congress and participation in the choice of the President, who appoints its local officers, Washington would resemble in its municipal government a city which, after voting for the governor and legislature of a State is managed by a commission appointed by the former and approved by the latter.—*Our National Capital and Its Unamericanized Americans*, pp. 62–63.

There is little doubt therefore, that the devoted concern of one Washingtonian, Mr. Theodore W. Noyes, has appropriately set the stage for the work that we are attempting to carry forward today.

In the first half of this century, Noyes emphasized the same arguments that had been made since 1800. And those arguments remain as forceful and appropriate in the 1970's. The principle of self-government is probably the most fundamental basis of human dignity and constitutional rights of the people in the District of Columbia.

Throughout his life, Noyes urged Congress to act without delay. He led the campaign that established the full justification for Washington's citizens to exercise this basic constitutional right.

I am hopeful that we can take the final step toward that goal.

DISTRICT OF COLUMBIA REPRESENTATION IN CONGRESS AND HOME RULE FOR DISTRICT OF COLUMBIA

The proposed amendment deals only with representation in Congress for the District of Columbia. It is not a proposal for "Home Rule" for the District. Citizens of the Nation's capital have never had representation in Congress. Ironically, however, in times past, they have had home rule—the right to choose their own local government. For almost a century—from 1800, when the District of Columbia was first established by Congress, until 1874, when Congress eliminated all elective offices for the District—citizens of the District had at least some form of elected self-government.

I strongly support the principle of home rule for the District of Columbia. Whatever the result of these efforts, however, at least we can agree now that representation in Congress for the District of Columbia is both deserved and justified.

THE NEED FOR FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Full voting representation in Congress is an act of simple justice for the District of Columbia that is long overdue. For nearly a century, every effort to accomplish this goal has met with uniform frustration and defeat. It is time now for Congress to act and end this injustice.

Thanks to the 23d amendment to the Constitution, adopted in 1961, the citizens of the District of Columbia are now eligible to vote for President and Vice President. But, there is still an unfair barrier against their participation in the National Legislature. By some strange anomaly, citizens of the District can vote for their President, but not for their own representatives in Congress.

There is no reasonable basis to continue to exclude the citizens of the District from the right to representation in Congress. We can no longer ignore the fact that the power of the vote in Congress determines much of the life and direction of the Nation. Even without the power of this vote, the people of the District are still required to fulfill all the obligations of American citizenship. But because they have no voice in shaping the laws by which they are governed, they are relegated to the status of second-class citizens in our society.

The residents of the Federal City are as deeply concerned about their city's condition and future as are the residents of Boston, New York, Chicago, Los Angeles, or any other American metropolis. But Washingtonians do not share equally with other Americans in the opportunity to make the decisions that affect their lives. Only a constitutional amendment granting full representation in Congress will enable citizens of the District to enjoy each of the rights granted to all Americans by the Constitution of our country.

District of Columbia representation in Congress, however, is more than just a prize for the citizens of the District. It is also a symbol of the problems and aspirations of the Nation as a whole. For the United States, the world's greatest democracy, to deny the right of representation to the people of its capital is unconscionable, and the shame of the denial is compounded by the bitter racial emotions to which it gives rise. All of us in Congress, whatever the State or District we represent, have the obligation to eliminate this blight on the principles of our democracy.

Washington today is a city of 757,000 people. It has a population greater than that of each of 10 States. Together, those 10 States have a total of 35 representatives in the Senate and the House. Yet,

the people of Washington have no voice whatever in Congress. By contrast, those 10 States are currently represented as follows:

[Population, 1970 census]

| | |
|---|---|
| No Senators, No Representatives, 1 Non-Voting Delegate: District of Columbia | 757,000 |
| 2 Senators, 2 Representatives: | |
| New Hampshire | 738,000 |
| Idaho | 713,000 |
| Montana | 694,000 |
| South Dakota | 666,000 |
| North Dakota | 618,000 |
| 2 Senators, 1 Representative: | |
| Delaware | 548,000 |
| Nevada | 489,000 |
| Vermont | 445,000 |
| Wyoming | 332,000 |
| Alaska | 302,000 |

These figures are derived from the 1970 census. Article 1, section 2 of the Constitution requires that the census shall be taken at least once every 10 years. Although the census now fulfills many purposes, the Constitution makes clear that the primary purpose of the census is to determine congressional representation in the House of Representatives. Ironically, in the District of Columbia, the national census continues to fulfull every purpose except its primary purpose.

As viewed by our Nation's official policy, Washingtonians are equal for the purpose of taxation, the draft, and all the other duties of citizenship, but not for the purpose of representation. Each year, they are taxed for hundreds of millions of dollars without representation, and their sons are drafted to fight and die in our Nation's wars. In countless ways, the people of Washington bear the manifold responsibilities of Federal citizenship, but they are denied the opportunity to participate in making the laws by which they are governed.

To deny District citizens a voice and a vote in the Congress is not only to deny 757,000 people their rightful representation in the Senate or House. At least in part, it is also to deny more than 35 million people in 16 different States the full attention of their own Senators and Representatives serving on the Senate and House Committees on the District of Columbia and the respective appropriations subcommittees.

In order to end the participation of Members of Congress on the Senate and House District Committees, the District must have representation in the Congress and home rule. But with congressional representation it may reasonably be expected that at least Senators from the most populous States, like New York, would be more free to devote their attention to their own constituents and would not also be assigned the responsibility of the detailed local work of a District Committee. It is absurd, in the present situation, that Senators and Representatives on the District committees are too often obliged to put their work on national legislation ahead of their work on District legislation. Clearly, it would be desirable to have Senators and Representatives on those committees whose primary loyalty would be to the citizens of the District.

Of course, in the early years of our Republic the status of the District of Columbia was not the same as it is today. Our founding fathers had no idea that the pastures, marshes, and cornfields along the Potomac River would one day become the residence for nearly a million people and the center of one of the Nation's greatest metropolitan areas.

Today, however, the situation is different. The Nation's Capital has expanded into a vast and complex society, the heart of democracy in America. Washingtonians live with precisely the same issues that face every other part of the Nation. War and race, poverty and crime, education and health are the great issues of our time, and they vitally affect all our people. Only in Washington, however, are American citizens denied a voice in solving these problems. The laws and policies that personally affect the daily lives of Washington residents are entirely dictated by us in Congress. Yet, only one Member of Congress is a direct representative of the people of the Capital City, and he has been denied the power to express the will of his constituents, for he cannot vote on legislative matters presented to the full House of Representatives.

Equally important, the vast political changes in our society in recent years have placed extraordinary emphasis on the fair and equal participation of every citizen in the most basic right of all in our democratic society—the right to vote. The decade of the sixties brought enormous progress in this area to millions of Americans. The Civil Rights Acts, the Voting Rights Act, the abolition of the poll tax, the reapportionment decisions of the Supreme Court, and the 18-year-old vote, are just a few of the great steps we have taken in recent years to achieve the ideal stated so eloquently in the Declaration of Independence, that "governments are instituted among men, deriving their just powers from the consent of the governed."

At the same time, the remarkable advances we have secured in another area demonstrates even more clearly the injustice to which hundreds of thousands of Washington citizens are condemned. By denying them the right to representation in Congress, we rob them of one of the basic birthrights of American citizens.

In large part, I believe, the absence of District of Columbia representation in Congress is the result of ignorance and apathy, not conscious discrimination. Wherever I travel in Massachusetts, I find that people are amazed to hear that the citizens of Washington have no representation in Congress. Now that the plight of the Nation's Capital is becoming familiar in States throughout the country, I am hopeful that the remedy will be swift.

I fully understand the issues raised by those concerned about the changing relationship of the Federal Government and the Congress to the District. We all know that this is not and has never been a static relationship. Rather, the relationship has undergone a process of continual evolution through the years.

It is fair to say, however, that the only real controversy in the debate has always been over the question of home rule—a question entirely separate from the fundamental issue of representation in Congress for the citizens of the District.

Agonizing debates over many years have produced a wide variety of proposals to resolve the question of home rule. Some have suggested a federal enclave, withholding most or all Federal property from municipal jurisdiction, but restoring all the rest to local. Others call for complete local self-government, subject only to such minimum controls as may be clearly essential to protect the seat of Federal Government.

No such bitter controversy surrounds the question of District of Columbia representation in Congress. This is one contemporary need to which Congress can and should respond. The people of Washington are entitled to full voting representation in the U.S. Senate and House of Representatives. It is long past time for Congress to demonstrate to our own people and to people long past the world that in America, democracy exists for all.

FULL VOTING REPRESENTATION AND THE NONVOTING DELEGATE

On Wednesday, September 9, 1970, the Senate passed and sent to the President for his signature a bill to create a nonvoting delegate in the House of Representatives for the District of Columbia.

On August 10 of that year, the nonvoting delegate bill had passed the House of Representatives by the overwhelming vote of 300 to 57. Shortly thereafter, upon consulting publicly and privately with leaders in District of Columbia affairs and members of the Senate, I asked the majority leader to defer Senate consideration of the nonvoting delegate bill until after the Labor Day recess.

I believed that this brief delay would enhance the prospect of achieving full voting representation in Congress for the District of Columbia. I was confident that the delay would in no way jeopardize the enactment of the nonvoting delegate bill in this Congress.

As I made clear at the time, I fully supported a nonvoting delegate in Congress for the District of Columbia. I commended the successful efforts of Senator Tydings, Congressman NELSEN, and District leaders in bringing this goal within easy reach at last. I especially commended Mayor Walter Washington, David Carliner, and other leaders of the District for the common bond of unity they formed in successfully urging passage of the nonvoting delegate bill in the House. These leaders have served the District well. There is no difference among us on the overall goal. The question that arose was entirely one of timing and legislative strategy.

A number of Senators and District leaders with whom I conferred shared my concern that the immediate passage of the nonvoting delegate would diminish the very real opportunity we have in this Congress to achieve our vastly more important goal of full voting representation for the District of Columbia—two voting Senators and two voting Congressmen.

When the Senate returned from its Labor Day recess, I conferred again with Members of the Senate and leaders

of the District of Columbia. In light of the impending rush toward congressional adjournment, it was clear that the Senate action on the nonvoting delegate bill should no longer be delayed. More important, it was also clear that the brief delay in Senate action had succeeded in bringing an extraordinary amount of local and national attention to the higher goal we seek—full voting representation in Congress for the District—and a deeper understanding of the role of the nonvoting delegate as an interim measure en route to full voting representation.

Within hours after I removed my "hold" on the nonvoting delegate bill, it passed the Senate and was cleared for final action by the President.

Of course, it is now a matter of history, that WALTER FAUNTROY was elected on March 23, 1971, to represent the people of Washington as a nonvoting delegate to the Congress. Mr. FAUNTROY has diligently sought to achieve the benefits of full representation for the people he has been elected to serve. For, he knows, more intimately than anyone, the frustrations and burdens constantly heaped upon the lone voice that Washington residents have been allowed to obtain as their spokesman in our national legislature. He has been the active voice, demanding the vote for District of Columbia residents. His efforts are the forerunner in Congress for the voting Senators and Congressmen who will fashion their service on the foundation he is laying.

Only in this way can we maintain the momentum we have begun to generate. We simply cannot allow the status of the interim delegate to deteriorate into that of a permanent nonvoting representative. At least, we have a good chance of success, if only we keep our sights high, and do not relax our efforts before the job is done.

POSSIBLE ARGUMENTS AGAINST FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

In the past, representation in Congress for the District of Columbia has been the subject of a number of unconvincing opposing arguments. Because they are so unconvincing, most of us who favor representation for the District dismiss these arguments as a cover for partisan politics, or, worse, as a cover for racism.

One nonpersuasive objection to District representation rests on the proviso in article V of the Constitution, which declares that—

> No state, without its consent, shall be deprived of its equal suffrage in the Senate.

It is far too late in our history to argue that the admission of the District of Columbia to representation in Congress would deprive any State of its "equal suffrage in the Senate." In light of the history of the Constitution and the precedents under it, the meaning of article V is clear—no single State may be given a larger number of Senators than any other State.

In other words, it was the intention of the Founding Fathers in the proviso of article V to make clear that the Senate could never—even by constitutional amendment—be apportioned by population or on any other basis that would give one State more representatives in the Senate than any other State.

This was the essence of the Federal compromise at the Constitutional Convention in 1787. It has guided us for 200 years, and it is intended to endure throughout our history. This is all that article V means, and all that it requires.

The principle is clear. So long as the District of Columbia is represented in the Senate no more advantageously than any State, it cannot be said that representation for the District deprives any State of its equal suffrage in the Senate. Each State will still have two votes in the Senate, and each State will have the same proportionate vote as any other State.

RECENT EFFORTS TO OBTAIN REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Although a large number of proposed constitutional amendments for full voting representation in Congress in the District of Columbia have been introduced over the years, none has yet come to a vote on the floor of either the Senate or the House. In 1971, the Senate moved to table the congressional representation proposal that I offered. And last year the House Rules Committee refused to permit a resolution passed by the Judiciary Committee to come to a vote on the floor. In 1967, the Johnson administration proposed a constitutional amendment to provide a single voting representative for the District in the House of Representatives. The proposal would also have authorized Congress to act by statute to enlarge District of Columbia representation in either the Senate or the House, up to the representation to which the District's population entitles it. Hearings on this proposal were held before the Senate and House Judiciary Committees in the 90th Congress.

No further action was taken in the Senate, but the House Judiciary Committee—under the leadership of its distinguished chairman, Congressman Emanuel Celler—reported the proposal in a much more far-reaching form. As reported, the proposal—essentially the same proposal that I am now offering—would provide for the election of two Senators by the voters of the District and election of the number of Representatives based on the city's population. Unfortunately, the House Rules Committee failed to act on the proposal. No further action could be taken by the House, and the amendment died when the 90th Congress adjourned. But for the remarkable record of achievement already compiled in the House, there would be no real prospect for enactment of the amendment at this time.

It is also significant that a few years earlier, in 1960, the full Senate itself had accepted the principle of representation in Congress for the District of Columbia. By a vote of 63 to 25—well over the two-thirds majority required to pass a constitutional amendment—the Senate accepted an amendment, sponsored by Senator Kenneth Keating, which would have given citizens of the District of Columbia the right not only to vote in presidential elections, but also to be represented in the House of Representatives. Under the provisions of the amendment, Congress was authorized to determine by statute whether the District representatives would be given voting privileges in the House. The provision for District of Columbia voting in presidential elections went on to become the 23d amendment, but the provision for District of Columbia representation in the House died in the House Judiciary Committee. Today, however, the climate in that committee is obviously more favorable toward full voting representation in Congress for the District of Columbia.

In addition, it is worth emphasizing that the principle of District of Columbia representation in Congress has broad and bipartisan support. In his message to Congress on the District of Columbia in April 1969, President Nixon expressed the administration's strong support for District of Columbia representation in Congress. As the President stated:

> It should offend the democratic sense of this nation that the citizens of its capital comprising a population larger than eleven of its states have no voice in Congress.

Both in October 1969 and in September 1970, President Nixon reiterated his strong concern for voting representation in Congress for the citizens of the District. As part of his message to Congress on September 11, 1970, entitled "A Call for Cooperation," the President emphasized his view that the lack of representative government for the people of the District was "one of the truly unacceptable facts of American life." As the President said—

> I share the chagrin that most Americans feel at the fact that Congress continues to deny self-government to the nation's capital.

As long ago as December 1952, President-elect Eisenhower spoke eloquently of the need for the District of Columbia representation in Congress. As he put it, taxation without representation was contrary to the principles of our Nation. He specifically expressed his strong feeling that something was basically wrong in America if we tax the citizens of the District and draft their children for military service, but do not give them the right to vote.

VOTING RIGHTS OF RESIDENTS OF THE DISTRICT OF COLUMBIA UPON ITS ESTABLISHMENT AS THE SEAT OF THE FEDERAL GOVERNMENT

The origin of the District of Columbia is found in Article I Section 8, Clause 17 of the Constitution, which provides:

> The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever, over the District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States.

In 1788, the year after the Constitution was ratified, Maryland ceded territory for the District. In 1789, Virginia also ceded territory. From the Maryland and Virginia cessions, the 10-mile square area on both sides of the Potomac River constituting the original District of Columbia was selected.

In the Residence Act of July 16, 1790, Congress approved the territory ceded by Maryland and Virginia as the site for the seat of the Federal Government, and empowered President Washington to en-

gage in all activities necessary for the site to be ready for occupation and use by the Government of the United States on the first Monday of December, 1800.

The original 10-mile square area—100 square miles—approved for the Nation's Capital contained two municipalities—Georgetown and Alexandria. Georgetown had originally been laid out in 1752. It was incorporated by Maryland in 1789 and had a population of 3,000 persons in 1800. Alexandria had been founded in 1749. It was incorporated by Virginia in 1790, and had a population of 5,000 in 1800.

Prior to the cutoff date of the first Monday of December, 1800, residents of the area included in the District of Columbia continued to vote for Senators and Representatives from their respective States, as well as for the President of the United States and for local officials. In the case of the national election in 1800, for example, voters from the newly laid out city of Washington cast their ballots at Bladensburg, Md. and residents of Georgetown and Alexandria voted in their respective cities.

The right to vote in national elections remained in force until the first Monday in December, 1800, when, as announced in an opinion by Justice William Cranch of the U.S. Circuit Court of the District of Columbia, the exclusive jurisdiction of Congress over the District took effect.

In 1846, at the solicitation of the citizens of Alexandria, aggrieved by the denial of their voting rights and their representation in the Federal Government, Congress ceded the 30 square miles of the Virginia portion of the District back to the State of Virginia. A referendum by the people of the area approved the retrocession by an overwhelming majority of nearly 80 percent. In 1838, Georgetown had sought retrocession unsuccessfully. Thus, the territory comprising the District of Columbia today is the 70 square miles of the original Maryland cession.

The grievances of the people of Alexandria leading to the demand for retrocession to Virginia were vividly described by Representative Robert M. T. Hunter of Virginia in a speech on the floor of the House during the debate on the retrocession bill. The reporter of the debates summarized Congressman Hunter's speech as follows:

> He spoke of the importance of the retrocession to the people of Alexandria; and depicted, in glowing colors, the blight that had fallen on that city by reason of her dependence on the General Government; her declining commerce, her premature decay; the desolation which had come upon her, not by the scourge of God, but by the hand of man. He believed that if the boon contemplated by this bill were granted, the blessings of the people of Alexandria and of their posterity would fall upon Congress. If this opportunity was neglected, Congress would be responsible for whatever evils might result. Cong. Globe, 29th Cong., 1st Sess., p. 778.

The echoes of these grievances are still heard today, more than a century later, with respect to the descendants of the residents of the original Maryland territory ceded to the Nation. The call for action by Congress is now clear.

EARLY EFFORTS TO OBTAIN REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

From the beginning of the 19th century, there have been a number of strong proponents of full voting representation in Congress for the District of Columbia. One of the earliest advocates was Mr. Augustus B. Woodward, a protege of Thomas Jefferson, who wrote a series of eight articles and pamphlets on the issue for the National Intelligencer between 1801 and 1803. In this pamphlet, entitled "Considerations on the Government of the Territory of Columbia" and signed "Epaminondas," Mr. Woodward described the plight of the citizens of the new District, who were forced to endure the very sort of taxation without representation that had so recently triggered the Revolutionary War. As Mr. Woodward eloquently stated:

> This body of people is as much entitled to the enjoyment of the rights of citizens as any other part of the people of the United States. There can exist no necessity for their disenfranchisement, no necessity for them to repose on the mere generosity of their countrymen to be protected from tyranny; to mere spontaneous attention for the regulation of their interests. They are entitled to a participation in the general councils on the principles of equity and reciprocity. Considerations on the Government of the Territory of Columbia, Nos. I-IV, Georgetown Museum, 1801–1803.

The other well-known early advocate of District of Columbia representation in Congress was Theodore W. Noyes, a native Washingtonian and the editor of the Evening Star from 1908 to 1946. In 1888, a year after he first came to the Star as an associate editor, Noyes wrote a series of five articles entitled "Some of Washington's Grievances," in which he strongly urged that the District of Columbia deserved voting representation in Congress. Throughout his life Noyes devoted much of his time and effort to the cause of District of Columbia representation in Congress and he may legitimately be called the father of the contemporary movement for such representation

In 1888, Mr. Appleton P. Clark, Sr., a local civic leader, submitted a letter requesting presentation of an amendment to Congress for District of Columbia representation in Congress and in the electoral college. The amendment was presented by Senator Blair, and was printed in the CONGRESSIONAL RECORD of April 3, 1888—50th Congress. The amendment was identical to the proposal outlined by Mr. Noyes. On April 5, the Senate Judiciary Committee asked to be discharged from consideration of the amendment for technical procedural reasons, and asked that the amendment be referred to the Committee on Privileges and Elections.

On May 15, 1888, Senator Blair reintroduced the amendment as Senate Joint Resolution 82, and this resolution has come to be accepted as the first constitutional amendment to provide representation for the District of Columbia in Congress.

During the 51st Congress, two constitutional amendments were introduced in the Senate—Senate Joint Resolution 11—December 5, 1889 and Senate Joint Resolution 18—December 9, 1889. On December 19, 1889, both amendments were reported unfavorably by the Senate Committee on Privileges and Elections, with the recommendation that consideration be indefinitely postponed. On September 17, 1890, Senator Blair was recognized and spoke strongly before the Senate in support of the resolutions, but they remained on the calendar without further legislative action.

Although a number of individuals made efforts to promote congressional representation for the District and a number of constitutional amendments were introduced during the ensuing quarter of a century, the next period of major interest in the proposal did not begin until 1915.

In December 1915, House Joint Resolution 37 and Senate Joint Resolution 32—64th Congress—were introduced by Representative Richard W. Austin of Tennessee and Senator George E. Chamberlain of Oregon. The resolutions were identical, and provided that the citizens of the District should be accorded the status of citizens of a State in the elections of President and Vice President and should be represented in Congress on the same basis.

On February 24 and 25, and on March 2, 1916, the Senate Committee on the District of Columbia held the first hearings on the proposal. Theodore Noyes, testifying before the committee, presented the arguments which had been promulgated as early as 1801 in the pamphlets of August B. Woodward.

In his testimony, Noyes emphasized that the arguments made since 1800 for District of Columbia representation were the same, basically, as those he had presented in his article in the Star in 1888. The principle of self-government he said, was so basic to the human dignity and constitutional rights of the people in the District that Congress should act without delay. No further action was taken by the committee, however, and no committee report was filed.

On January 27, 1917, near the end of the 64th Congress, Senator Chamberlain introduced Senate Joint Resolution 196. This proposal is of importance because it was the first of the so-called permissive forms of the amendment to be introduced. Under Senator Chamberlain's new amendment, Congress would have been authorized to act by statute to give the residents of the District the status of citizens of a State for the purpose of representation in Congress and election of the President and Vice President. Under the earlier "mandatory" forms of the constitutional amendment, representation in Congress would have been required by the terms of the amendment itself.

Between 1917 and 1921, 15 additional resolutions were introduced. The Senate District Committee held a new round of hearings on four of the proposals, and on February 21, 1922, Senate Joint Resolution 133, a permissive form of the amendment, was reported favorably by Senator Wesley L. Jones of Washington, the chairman of the committee. (Senate Report No. 507, 67th Congress). Except for the increased population of the District, the findings and conclusions of the committee are as valid and current to-

day as they were in 1922, 48 years ago. As the committee report stated:

Yet in the District of Columbia, the seat of the government of the United States, 437,571 Americans, performing justly and honorably all the duties of peace and war, remain without any representation whatever in the Government which rules and taxes them, makes the laws they must obey, and sends their sons to battle.

What is there in our scheme of government that requires that the Capital of the United States should be the one capital among the civilized nations, the inhabitants of which are excluded, deliberately and of set purpose, from all participation in their government?

The 1922 report of the Senate District Committee was twice reaffirmed in subsequent Congresses without hearing, but no further substantial legislative action was taken. The rising tide of the movement had crested and begun to subside.

At the beginning of this period, various citizen groups had begun to lend increasingly active support to the District of Columbia representation movement. Outstanding among them was the Citizens' Joint Committee on National Representation for the District of Columbia, which convened initially on November 21, 1917. The committee was composed of delegates from Washington's principal commercial and civil bodies, and was intended to become a smooth working, powerful organization, operating solely and with one voice for the passage by Congress and ratification by the State legislatures of a constitutional amendment to give representation in Congress for citizens of the District. Theodore Noyes was unanimously elected chairman and he served in that capacity until his death July 4, 1946.

The injustice of taxation without representation, and the participation of District citizens in World War I without the full political status of their comrades, had succeeded in bringing the District of Columbia representation issue to the forefront. By 1919, the Citizens' Joint Committee had established an essentially all-inclusive membership among local organizations and institutions. The rolls of the committee contained every significant civil and business organization of Washington, such as the chamber of commerce, the Board of Trade, the Merchants' and Manufacturers' Association, the Central Labor Union, the Federation of Citizens' Associations, the Oldest Inhabitants Association, the bar association, and many others.

The joint committee's executive officers had laid effective groundwork by visiting several cities for the purpose of studying their tax structures. The Washington press carried long accounts of progress toward the goal, and out-of-town correspondents kept other localities aware of the movement.

Red stickers were printed emphasizing that the 400,000 inhabitants of the District paid taxes, obeyed Federal laws, and went to war, but were forced to remain voteless. Businessmen attached the stickers to their nonlocal correspondence. The response throughout the country was surprisingly rapid and heartening. Many persons offered support and expressed astonishment at learning that Washingtonians were disfranchised, or that they were required to pay taxes in any form. And yet, although not a dissident note sounded in these early years, no action occurred in Congress.

Then, the civic front began to crack. The organizations making up the joint committee began to take differing positions on the amendment they desired Congress to enact. A severe blow fell in July 1919, when racial violence broke out in Washington. The disturbances produced deep political divisions within the city on the issue, causing a loss of faith in the people of Washington throughout the country.

Apathy set in. Although the joint committee remained in existence for many years it was never able to generate the strong combination of interests that it had secured in the early years.

Leaders in the District and in Congress sought to maintain the pressure to achieve the goal, but the next major step forward did not come until the action of the House Judiciary Committee in 1967. The time is now at hand to take the final step.

REPRESENTATION OF THE CAPITAL CITY IN THE NATIONAL LEGISLATURE OF FOREIGN NATIONS

The denial of representation in Congress to the District of Columbia stands in sharp contrast to the representation enjoyed by citizens of capital cities governed under a federal system in many foreign nations throughout the world.

Within the British Commonwealth, two of the three nations with national capitals under Federal jurisdiction—Australia and India—grant voting representation in the national legislature to citizens of the capital city. Australia's capital territory at Canberra is administered by the Commonwealth government in much the same fashion as Congress governs the District of Columbia. Canberra, however, unlike the District, has an elected representative in the House of Parliament who has full voting privileges.

India's capital, New Delhi, is administered by the President of India through an administrator of his designation. Elections of representatives to both the upper and lower Houses of Parliament from the capital city are conducted in the same manner as elections for representatives from the other states and territories in India.

In general, the constitutions of European nations grant no special status to the capital cities, and they impose no limitations on the rights of citizens of the caiptal cities to vote in national elections. Even in countries with a Federal structure, such as Austria, West Germany, Switzerland, and the Soviet Union, the electoral codes give the capital cities equal footing with other electoral districts, determined on the basis of population.

Similarly, in three of the four federated republics in Latin America in which a federal district has been established—Argentina, Mexico and Venezuela—the citizens of the capital city enjoy voting representation in the national legislature.

Only in Brazil are the citizens of the capital city, Brasilia, denied such voting representation. And even in Brasilia, the circumstances are unique and reminiscent of the District of Columbia at its origin. Until 1956, Rio de Janeiro was the capital of Brazil, and its citizens enjoyed full voting representation in the national legislature. When the capital was transferred to Brasilia in 1956, the capital was a "new city," like Washington in 1800, carved out of wilderness territory, with a "population" expected to consist essentially of the members of the government and the national legislature. As in the case of Washington, the founding fathers in Brazil simply did not anticipate the rapid growth of their new capital city.

Indeed, half a century ago, in the first committee report of the U.S. Senate urging representation in Congress for the District of Columbia, the Senate District Committee emphasized the irony of the disfranchisement of Washington residents compared to the citizens of the capital cities of Brazil and other Latin American nations.

As the committee stated in 1922:

National representation of the District will remove from the Nation the shame of impotency.

It will proclaim to the world that the great Republic is as devoted to the principles of representative government and as capable of enforcing them as other republics with capitals in nation-controlled districts, like Mexico, Brazil, and Argentina. These nations have not found themselves impotent to give full national representation to the people of their capitals.

It would proclaim to the world that the people of Washington are as fit to participate in national representative government as the people of Rio de Janeiro, Buenos Aires, and Mexico City. Washington will cease to be the only capital in all the world whose people, slurred as tainted or defective, are unworthy to enjoy the same national representation as that enjoyed by all other cities of the Nation.

The conclusion is inescapable. In nation after nation throughout the world, the citizens of capital cities are accorded the dignity and respect of representation in their national legislatures. Surely the citizens of the Capital of the United States deserve no less.

EXHIBIT 1

S.J. RES. 76

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the District constituting the seat of government of the United States shall elect two Senators and the number of Representatives in Congress to which the District would be entitled by apportionment if it were a State. Each Senator or Representative so elected shall be an inhabitant of the District and shall possess the same qualifications as to age and citizenship and have the same rights, privileges, and obligations as a Senator or Representative from a State.

"SEC. 2. When vacancies happen in the representation of the District in either the Sen-

ate or the House of Representatives, the people of the District shall fill such vacancies by election.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District. Each Representative or Senator from the District shall be entitled to participate in the choosing of the President or Vice President in the House of Representatives or Senate under the twelfth article of amendment as if the District were a State.

"SEC. 4. The Congress shall have power to enforce this article by appropriate legislation."

Mr. KENNEDY. Mr. President, I request unanimous consent to enter in the RECORD, at this point, a statement from Senator BIRCH BAYH, supporting the need to grant full representation in the Congress for the District of Columbia.

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

DISTRICT OF COLUMBIA REPRESENTATION

I am pleased to join today with the distinguished Senator from Massachusetts (Mr. KENNEDY) in introducing an amendment to the Constitution to provide for complete representation in Congress for the District of Columbia. I have long favored such an amendment and I hope that this year, at long last, Congress and the States will agree that the residents of the District, like other citizens of this Nation, deserve fair representation.

For far too many years the people of the District of Columbia have been denied their rightful role in electing our Government. The District is the seat of the greatest representative democracy the world has ever known. Yet it was not until 1964 that its residents even had the opportunity to vote for their President and Vice President. It seems to me indefensible that to this day in the very shadow of the Capitol Building there still reside so many American citizens who have so little to say about so much that affects them so directly.

It should be disturbing to every American that this city of over 750,000 people—more inhabitants than 10 States, which have 34 Representatives in the House and Senate—does not have a voting representative responsible to it. Those who live in the District are required to assume their responsibilities as citizens, but they are not given the full privileges of citizenship. They must pay Federal taxes, they must fight for their Country, they must fulfill every other obligation and responsibility of citizenship. But not one person is elected to vote on the floor of Congress on their behalf.

It is a matter of elementary fairness that those who are asked to risk their lives in their Nation's defense, those who pay Federal taxes, should have some say about how the federal system operates. Indeed, the injustice of taxation without representation was one of the prime elements which drove our forefathers to revolution almost 200 years ago. And yet tday that very injustice persists in the one place it most assuredly should not: the Capital of the Nation born of such grievances.

I feel a special interest in this proposal, Mr. President, because of the positions I am privileged to hold in this body. As Chairman of the Subcommittee on Constitutional Amendments, I have twice presided over hearings on this topic. I am ready again this year to take every appropriate action to move this important amendment toward quick approval by the Congress. And as Chairman of the Subcommittee on Appropriations for the District of Columbia, I have continuing contact with the people who will be most directly affected by the amendment, and with their problems.

Not all of the District's problems will be solved by the amendment I sponsor today, though the feelings of frustration which accompany the lack of representation will be greatly diminished. Important too, we must not forget, are legislative proposals to grant the City home rule—an elected council and mayor with significant and meaningful legislative and executive powers, powers similar to those the public officials have where you and I live, Mr. President. I have supported such proposals in the past, and I will do so again in the future.

Mr. President, the most basic notion of our system of government is that each citizen deserves a chance to be heard, to express his political views through a freely elected representative. That is all that we seek for the people of the District by introducing this amendment. No person deserves less.

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By Mr. WILLIAMS:

S.J. Res. 77. Joint resolution to authorize the President to proclaim the month of April 1973 as "National Health Professional Careers Month." Referred to the Committee on the Judiciary.

NATIONAL HEALTH PROFESSIONAL CAREERS MONTH

Mr. WILLIAMS. Mr. President, today I am introducing a joint resolution that would appropriately honor more than 3 million dedicated men and women in the United States by authorizing the President to designate April 1973 as "National Health Professional Careers Month."

As this Nation continues to rapidly advance in the area of medical technology, the need for well-trained professional personnel has become increasingly obvious.

Within recent years, Congress has demonstrated its willingness to share in the responsibility of curbing this shortage problem. In only the last 10 years, seven major health professional assistance acts have been enacted into law. During the 92d Congress, alone, the initiation of the Nurse Training Act of 1971 and the Comprehensive Health Manpower Training Act of 1971 provided for substantial funding for the improving and expanding of educational and training programs and for the construction of adequate facilities throughout the country.

Those who serve in this important profession have also demonstrated their dedication to improving our national health care system. The nearly 3.9 million people who are involved in health careers are not just our extensively educated professionals. They also include such talented workers as this country's youth and elderly who are willing to train and serve in the many diversified areas of the health profession.

Therefore, Mr. President, I believe it would be especially fitting to pay tribute to the many dedicated men and women in the health professions and acknowledge their work and efforts by designating April 1973 as "National Health Professional Careers Month."

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## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 6

At the request of Mr. WILLIAMS, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 6, the Education for All Handicapped Children Act of 1973.

S. 34

At the request of Mr. HOLLINGS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 34, to provide for accelerated research and development in the care and treatment of autistic children, and for other purposes.

S. 44

At the request of Mr. DOLE, the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 44, to amend the Small Business Act to increase the availability of management counseling to small business concerns.

S. 159

At the request of Mr. DOLE, the Senator from Kentucky (Mr. COOK), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 159, to provide for reimbursement of extraordinary transportation expenses incurred by certain disabled individuals in the production of their income.

S. 255

At the request of Mr. EAGLETON, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 255, to repeal certain provisions which become effective January 1, 1974, of the Food Stamp Act of 1964 and section 416 of the Agricultural Act of 1949 relating to eligibility to participate in the food stamp program and the direct distribution program.

S. 275

At the request of Mr. HARTKE, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 275, a bill to amend title 38 of the United States Code, increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation.

S. 762

At the request of Mr. HARTKE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 762, to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972.

S. 793

At the request of Mr. CRANSTON, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 793, the Public Service Employment Act of 1973.

S. 813

At the request of Mr. FANNIN, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 813, to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip.

S. 853

At the request of Mr. TOWER, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 853, to insure the separation of Federal powers by amending the National Labor Relations Act to provide for trial of unfair labor practice cases in the U.S. district court, and for other purposes.

S. 867

At the request of Mr. WILLIAMS, the Senator from Alaska (Mr. GRAVEL), the Senator from Idaho (Mr. CHURCH), the Senator from Texas (Mr. BENTSEN), the Senator from Michigan (Mr. HART), the Senator from Illinois (Mr. PERCY), the Senator from Rhode Island (Mr. PELL), the Senator from South Dakota (Mr. ABOUREZK), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maine (Mr. MUSKIE), the Senator from Utah (Mr. Moss), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. EAGLETON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Dakota (Mr. BURDICK), and the Senator from Nevada (Mr. BIBLE) be added as cosponsors of S. 867, to eliminate discrimination against women in extending credit.

S. 882

At the request of Mr. HARTKE, the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alaska (Mr. GRAVEL), were added as cosponsors of S. 882, a bill to amend section 355 of title 38, United States Code, relating to the authority of the Administrator of Veterans' Affairs to readjust the schedule of ratings for the disabilities of veterans.

S. 893

At the request of Mr. BENTSEN, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 893, the Highway Safety Act of 1973.

S. 909

At the request of Mr. HOLLINGS, the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PASTORE) were added as cosponsors of S. 909, to amend the Federal Property and Administrative Services Act of 1949.

S. 918

At the request of Mr. GURNEY, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 918, to require the imposition of a life sentence in connection with the unlawful distribution of certain narcotic drugs.

S. 919

At the request of Mr. GURNEY, the Senator from Maryland (Mr. BEALL), the Senator from Michigan (Mr. HART), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Dakota (Mr. BURDICK), the Senator from Ohio (Mr. TAFT), and the Senator from Kentucky (Mr. COOK) were added as cosponsors of S. 919, to provide Medicare coverage at cost for widows and spouses of medicare beneficiaries.

S. 970

At the request of Mr. STEVENS, the Senator from Utah (Mr. BENNETT), the Senator from Nebraska (Mr. CURTIS), the Senator from Ohio (Mr. SAXBE), and the Senator from Texas (Mr. TOWER), were added as cosponsors of S. 970, to deal with the current energy crisis and to authorize construction of the trans-Alaska pipeline.

S. 975

At the request of Mr. HARTKE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 975, the Gas Cylinder Safety Act.

S. 994

At the request of Mr. MONDALE, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 994, the Kidney Transplant Act of 1973.

S. 1029

At the request of Mr. TAFT, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 1029, a bill to provide, in cooperation with the States, benefits to individuals who are totally disabled due to employment-related respiratory disease and to the surviving dependents of individuals whose death was due to such disease or who were totally disabled by such disease at the time of their deaths.

S. 1033

At the request of Mr. PACKWOOD, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 1033, the Tiber Export Administration Act of 1973.

S. 1051

At the request of Mr. HARTKE, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 1051, a bill to alter the medicare eligibility requirements for disability beneficiaries.

S. 1052

At the request of Mr. HARTKE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1052, the Consumer Savings Disclosure Act.

S. 1056

At the request of Mr. FANNIN, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 1056, to amend the Mineral Leasing Act of 1920.

S. 1079

At the request of Mr. FONG, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1079, to establish an Advisory Commission on the Reconstruction and Redevelopment of Southeast Asia.

S. 1098

At the request of Mr. BIBLE, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Colorado (Mr. DOMINICK), the Senator from Indiana (Mr. BAYH), the Senator from Rhode Island (Mr. PELL) and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 1098, to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business.

S. 1109

At the request of Mr. MONDALE, the Senator from Texas (Mr. BENTSEN), the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. HASKELL), the Senator from Iowa (Mr. HUGHES), the Senator from Maine (Mr. MUSKIE), and the Senator from New Jersey (Mr. WILLIAMS) be added as cosponsors to S. 1109, to amend the Internal Revenue Code of 1954 to provide that the designation of payments to the presidential election campaign fund be made on the front page of the taxpayer's income tax return form.

S. 1180

At the request of Mr. RIBICOFF, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 1180, to eliminate farm subsidy programs.

SENATE JOINT RESOLUTION 3

At the request of Mr. DOLE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponor of Senate Joint Resolution 3, to provide for a 1974 centennial celebration observing the introduction into the United States of Hard Red Winter Wheat.

SENATE JOINT RESOLUTION 4

At the request of Mr. DOLE, the Senator from New York (Mr. BUCKLEY), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Joint Resolution 4, to authorize and request the President to issue a proclamation designating a week as "National Welcome Home Our Prisoners Week" upon the release and return to the U.S. of American prisoners of war in Southeast Asia.

SENATE JOINT RESOLUTION 11

At the request of Mr. HOLLINGS, the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. MATHIAS), the Senator from New York (Mr. JAVITS), the Senator from North Carolina (Mr. HELMS), and the Senator from Washington (Mr. JACKSON) were added as cosponsors of Senate Joint Resolution 11, to pay tribute to law enforcement officers of our Nation on Law Day, May 1, 1973.

SENATE JOINT RESOLUTION 53

At the request of Mr. DOLE, the Senator from Maryland (Mr. BEALL), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of Senate Joint Resolution 53, to establish a joint congressional committee to investigate the causes and origins of U.S. involvement in the hostilities in Vietnam.

SENATE JOINT RESOLUTION 61

At the request of Mr. HARTKE, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of Senate Joint Resolution 61 a joint resolution authorizing and requesting the President to proclaim April 1973 as "National Check Your Vehicle Emission Month."

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## SENATE RESOLUTION 82—SUBMISSION OF A RESOLUTION ENDORSING THE OBJECTIVES OF THE PRESIDENT'S OCEAN POLICY STATEMENT

(Referred to the Committee on Foreign Relations.)

A RESOLUTION ENDORSING THE OBJECTIVES OF THE PRESIDENT'S OCEAN POLICY STATEMENT

Mr. PELL. Mr. President, today I am reintroducing an amended version of a sense of the Senate resolution which was originally submitted on February 8, 1973.

The purpose of this resolution is to endorse the objectives envisioned in the President's ocean policy statement of May 23, 1970. These goals are now being pursued by the U.S. delegation to the United Nations Seabed Committee in its preparation for the Law of the Sea Conference tentatively scheduled for November of 1973.

This new resolution contains some minor language changes which resolve an ambiguity in the original resolution, Senate Resolution 63. The changes are designed to clarify the intention of the resolution to endorse, among other things, the concept of free transit through and over international straits which may be overlapped by territorial seas created by the general international acceptance of a 12-mile territorial sea. The remainder of the resolution is identical to Senate Resolution 63 and the statement which I inserted into the RECORD on February 8, 1973, is still applicable. I, therefore, reiterate my hope that the Senate will recognize the sense of urgency attending the law of the sea issues and will give this measure its full support.

Mr. President, this resolution is cosponsored by the distinguished senior Senator from New Jersey (Mr. CASE). I ask unanimous consent to have its text printed in full in the RECORD.

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

S. RES. 82

Whereas the oceans cover 70 per centum of the earth's surface, and their proper use and development are essential to the United States and to the other countries of the world;

Whereas Presidents Nixon and Johnson have recognized the inadequacy of existing ocean law to prevent conflict, and have urged its modernization to assure orderly and peaceful development for the benefit of all mankind;

Whereas the United States Draft Seabed Treaty of August 1970 offers a practical method of implementing these goals;

Whereas a Law of the Sea Conference is scheduled to convene in November-December 1973, preceded by two preparatory meetings of the United Nations Seabed Committee;

Whereas it is in the national interest of the United States that this conference should speedily reach agreement on a just and effective ocean treaty: Now, therefore, be it

*Resolved,* That the Senate endorses the following objectives, envisioned in the President's ocean policy statement of May 23, 1970, and which are now being pursued by the United States delegation to the Seabed Committee preparing for the Law of the Sea Conference—

(1) protection of—

(a) the freedoms of the high seas, beyond a twelve-mile territorial sea, for navigation, communication, and scientific research, and

(b) free transit through and over international straits;

(2) recognition of the following international community rights:

(a) protection from ocean pollution,

(b) assurance of the integrity of investments,

(c) substantial sharing of revenues derived from exploitation of the seabeds particularly for the benefit of developing countries,

(d) compulsory settlement of disputes, and

(e) protection of other reasonable uses of the oceans,

beyond the territorial sea including any economic intermediate zone (if agreed upon);

(3) an effective International Seabed Authority to regulate orderly and just development of the mineral resources of the deep seabed as the common heritage of mankind, protecting the interests of both developing and developed countries;

(4) conservation and protection of living resources with fisheries regulated for maximum sustainable yield, with coastal zone management of coastal and anadromous species, and international management of such migratory species as tuna.

SEC. 2. The Senate commends the United States delegation to the Seabed Committee preparing for the Law of the Sea Conference for its excellent work, and encourages the delegation to continue to work diligently for early agreement on an ocean treaty embodying the goals stated in section 1.

## SAFE DRINKING WATER ACT OF 1973—AMENDMENT

AMENDMENT NO. 31

(Ordered to be printed, and referred to the Committee on Commerce).

Mr. STEVENS. Mr. President, S. 433, the Safe Drinking Water Act of 1973 was introduced by Chairman MAGNUSON on January 18. This is very similar to S. 3994 which passed the Senate last year. However, one important floor amendment proposed by the distinguished ranking minority member of the Senate Commerce Committee (Mr. COTTON), the Senator from Kentucky (Mr. COOK), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from West Virginia (Mr. RANDOLPH), and myself was not included. This amendment to section 11 concerning minimum State grants for drinking water supply program was adopted by the Senate.

Section 11 authorizes State drinking water supply program grants. Under this section, the Federal Government is authorized to make grants to States in order to assist them to establish and maintain adequate programs to assure the safety of public drinking water. Three criteria are set forth as the bases of these grants: First, population, second, financial needs, and third, the extent of the actual or potential water supply problem. No payment may be greater than two-thirds of the cost of any State program.

This provision does not permit small rural States with insufficient tax bases and low populations, but with immense health and drinking water problems, to benefit from the provisions from section 11. As a result, many small States will not be able to obtain State drinking water supply program grants. My amendment will do that. It provides that no State shall receive less than 1 percent of the annual appropriation for grant under section 11 unless the Administrator of the Environmental Protection Agency by regulation reduces the percentage in accordance with the criteria specified in this subsection.

## FEDERAL-AID HIGHWAY ACT OF 1973—AMENDMENT

AMENDMENT NO. 32

(Ordered to be printed, and to lie on the table.)

LONG ISLAND SOUND BRIDGE

Mr. RIBICOFF. Mr. President, I send to the desk an amendment prohibiting the expenditure of Federal funds for the construction of approach roads to a proposed bridge across Long Island Sound between Rye and Oyster Bay, N.Y., without the specific approval of the New York and Connecticut State Legislatures.

For years highway planners have schemed to bridge the Sound. Possible sites have included bridges from the tip of Long Island to New London or Old Saybrook, from Bridgeport, Conn., to Port Jefferson, Long Island and from Rye to Oyster Bay. Because a Rhode Island crossing was impractical and Connecticut officials opposed the entire concept, New York finally decided to go ahead on its own and in 1967 the State legislature authorized a bridge. Since then the initial enthusiasm in New York has waned and in 1971 and 1972 the legislature repealed the 1967 authorization. Each time, however, Governor Rockefeller vetoed the repeal. This year another attempt will be made.

At the moment the New York Metropolitan Transportation Authority is going ahead with plans to construct a 16½ mile, $135 million bridge between Rye and Oyster Bay.

On February 13, 1973, however, in a suit filed by the city of Rye, N.Y. and others, a U.S. district judge enjoined the New York Department of Transportation and the MTA from conducting further hearings until more information is made available to the public and the views of Federal, State, and local agencies and private groups have been heard.

The proposed structure will have an immense impact not only on New York, but on the entire Long Island Sound region. Because its northern end is located only a few miles from the Connecticut border, this bridge will funnel millions of cars and trucks onto the already overcrowded Connecticut Turnpike and Merritt Parkway. No one knows exactly how great the increase will be, but the MTA's own environmental impact statement estimated that the bridge will handle 33 million cars per year—half of which would be overflow traffic from other New York bridges and half of which would be newly created.

Because the MTA has kept important information from the public, it is difficult to predict what impact of the bridge will have on the local ecology. It is, however, safe to say that 16½ miles of concrete pillars and roadways will not help the sound.

The bridge will average 25 feet over the water with two raised spans of 55 feet and 135 feet at the north and south ends, respectively, creating chaos among the boats and ships now using Long Island Sound by channeling them into two narrow passages.

Other facts are clear—the noise will

increase, the sound's water quality will deteriorate, the air will grow dirtier, and valuable wet lands at both ends will disappear.

The question is, Who wants it built? Connecticut does not want it.

The Southwestern Connecticut Regional Planning Agency which is comprised of the towns of Wilton, Westport, Norwalk, Darien, New Canaan, and Stamford, has voted unanimously to oppose its construction.

The Nassau, New York County Board of Supervisors unanimously adopted a resolution opposing it.

The entire Nassau County Republican delegation to the New York State Legislature opposed it.

The councils of the New York towns and villages of Rye, Terrytown, Mamaroneck, Oyster Bay, Bayville, Mill Neck, and Lattington oppose it.

The Westchester County, New York Board of Legislators have asked that the project be suspended.

Despite this overwhelming opposition, the New York MTA, which does not answer to the public, intends to forge ahead. It will finance the bridge itself by a bond iessue, but will need Federal highway funds to construct the necessary approach roads.

I do not believe that a single Federal dollar should be spent on this project until the people of New York and Connecticut, through their State legislatures, have given their approval.

This bridge is going to have a major and unknown impact on the daily lives of millions of New York and Connecticut citizens. Yet for all intents and purposes they have had no voice in any of the recent decisions regarding the structure. This amendment will allow them to be heard.

I ask unanimous consent that the text of the amendment and a memorandum prepared by Ridgway Hall for the Stamford Area Commerce & Industry Association be printed at this point in the RECORD.

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

AMENDMENT No. 32

On page 127, line 6, insert the following:

SEC. 155. Notwithstanding any other provisions of Federal law, no funds shall be expended under this Act for approach roads to any bridge across Long Island Sound without the specific approval of the State legislatures of New York and Connecticut.

REPORT ON THE RYE-OYSTER BAY BRIDGE

(Prepared by Ridgway M. Hall, Jr., vice chairman, Municipal Government Affairs Council, SACIA, February 26, 1973)

1. THE BRIDGE

The Rye-Oyster Bay Bridge has been proposed by the New York State Department of Transportation and Metropolitan Transportation Authority (MTA). The site was chosen from eight considered traffic crossings of Long Island Sound. The proposed bridge will be 16½ miles long with an average height of 25 feet over the water. Two raised spans will be provided for passage of tall-rigged ships: one near the north end of 55 feet, and one near the south end of 135 feet.

Together with its access highways, the bridge will link the Cross Westchester Expressway (I–287) and the New England Thruway (I–95) with the Seaford-Oyster Bay Expressway (Route NY135) at Oyster Bay, New York.

The estimated cost of the bridge is $235 million, to be paid for initially by New York State bonds. Federal funds are being sought for the approach highways on each side.

2. ENVIRONMENTAL IMPACT STATEMENT

The most comprehensive statement of the nature and function of the bridge, and its economic, social, and environmental impact, is set forth in a draft Environmental Impact Statement prepared by the New York State Department of Transportation and MTA on November 20, 1972.

a. *Purpose.* The stated purpose of this bridge is to relieve heavy traffic from existing bridges which are closer to metropolitan New York. In addition to benefiting truck shipping, the bridge will also permit greater access for recreational and employment purposes between Long Island and New England and northern New York State.

It is expected that the bridge would soon handle at least 33 million cars per year, as the Throgs Neck Bridge now handles. The impact statement says nearly half of this traffic will be newly generated by the existence of the bridge, as distinct from traffic which otherwise would exist in the area regardless of the bridge.

It is also anticipated that in the future more Long Island Sound bridge crossings will be necessary.

In approaching the transportation problem posed by the dense population in the greater New York metropolitan region,* the authors profess to be guided by the objectives of the Tri-State Regional Planning Commission to: (1) preserve open lands, (2) gather economic activities into concentrations or "clusters", and (3) disperse residential activities. This calls in turn for upgrading of existing rail routes, and provision of bus transportation where rail services is not feasible. Present use of rail service is far below capacity.

b. *Impact on Communities.* At the actual location of the bridge termini, the City of Rye is predominantly residential and has gone on record several times as wishing to preserve that character, while the Oyster Bay area is semi-rural. At the outset, between 80 and 135 houses and commercial establishments will be displaced. On the Oyster Bay side, 20 acres of productive farmland will be irretrievably taken. In addition, the pouring of vast amounts of new traffic into these communities will dramatically change their nature towards urbanization. The tax base for the City of Rye will be decreased by $600,000 to $1,200,000, and that of the Nassau County communities by $700,000 to $1,100,000.

c. *Visual and Navigational Impact.* The bridge will be an intrusion into an open space, and a deterrent to unrestricted travel. It will affect winds and navigation. Boat shipping up and down Long Island Sound will for the most part be channeled into the two previously mentioned vertical clearance span areas. Recreational sailing will also be seriously affected, since most sailboats over 16 feet in length will have to detour to one of the two vertical clearance spans. This could produce substantial boating traffic hazards.

In addition, the glaring lights on the bridge are expected to attract and account for some mortality of birds.

d. *Noise Pollution.* Intense noise pollution caused by the traffic, particularly in the immediate area of the access highways, is conceded. Many high school and elementary schools on both sides of the Sound will be located near the access routes and will suffer a serious increase in noise level and air pollution concentration, as will the United Hospital in Port Chester.

In the short term, construction noise will include pile driving and blasting.

e. *Air Pollution.* As to air quality, while this will be worsened by the exhaust, the statement claims that except for a zone within 100 meters around the bridge, federal ambient minimum standards will be met.

The failure of the impact statement to give adequate consideration to the use of rails, for both passenger travel and freight shipping (discussed below), is especially damaging in terms of air pollution. Automobile emissions account for 80 to 85 percent of the air pollution in our greater metropolitan areas, while railroads operate electrically with virtually no air pollution. Moreover, approximately six times as much energy is required to move a ton of freight by truck as by rail.

f. *Water Pollution.* Adverse effect upon water quality in the Sound is also acknowledged as a result of solid and liquid particles, emitted by vehicles, that fall directly into the Sound, as well as oil, dirt, de-icing salts and other solids dropped by traffic. The statement says that these will largely dissolve or disperse into the Sound. Some slight risk of spills of oils or hazardous materials resulting from an accident on the bridge is also acknowledged.

The statement concedes that no adequate research has been done on the effects of bridge pollutants, oil, absetos, rubber, and other droppings on fish or marine birds.

As with air pollution, the statement tends to be satisfied with compliance with minimum federal health standards, with no consideration for the possibility that eventually we might hope to improve standards of air and water pollution. Moreover the assumption that Long Island Sound has an infinite capacity to absorb oil and automotive emission particles, as any local swimming enthusiast knows, is demonstrably false.

g. *Impact Upon Wildlife and Parkland Areas.* Recreational, marsh and wet land areas on either side of the Sound will be intruded upon. The statement acknowledges adverse impact in terms of noise pollution, air quality and emissions, water quality, natural environment and wetland areas, as well as an adverse impact on various species of fish, birds, woodland animals and other wildlife, plus interruption of recreation, navigation, and some community activities. While the report recites "special concern" for these impacts, nothing specific is proposed which will eliminate them.

The statement acknowledges that "while damage to the shellfish industry might be quantified as a monetary loss, the intangible values of esthetics, recreation and natural habitat are difficult to measure. The important estuarine marsh and wetland habitats are particularly difficult to have economic values assigned."

It dwells at length on the great value of the wetland areas which will be affected by the bridge, including their tremendous productivity for fish and shellfish, birds, other animals, and man. It adds "the wetlands are of educational and recreational value as natural museums and laboratories."

On the Oyster Bay side is one of a limited number of wetland complexes remaining on the north shore of Long Island. It is of major

*The New York metropolitan region, as defined by the Tri-State Regional Planning Commission, includes most of southwestern Connecticut. The total area is 7,886 square miles. Its population in 1970 was 19,032,000, or 9.4 percent of the nation's total, located on 0.2 percent of the surface of the United States, for a population density of 2,410 persons per square mile.

importance as a fish and shellfish breeding ground, and as a migratory bird wintering habitat. The proposed bridge crossing will go through Mill Neck Creek (a portion of the Oyster Bay Natural Wildlife Refuge) and part of Ferry Beach, both public recreational and parkland areas.

On the Rye side, the approach crosses more wetland areas, including Rye-Playland Park and Manursing Island. In the Manursing Island area this is Kirby Pond, with tidal mud flats and the North Manursing Wildlife Sanctuary, which is a haven for marine life and water fowl. The report concedes that this marshland is presently well preserved.

Three alternative access routes are considered on the Oyster Bay side, and four on the Rye side. Each access route passes to a greater or lesser extent through or over the above described areas. The statement concedes adverse impact, but minimizes this with the comment that if the water fowl, fish, and woodland animals do not like it near the bridge, they can go elsewhere.

h. *Alternatives.* With respect to alternatives, bridge crossings further east were rejected on the grounds that they would be more costly, and do less to alleviate existing traffic congestion.

A tunnel or combination bridge-tunnel alternative was considered and also rejected on grounds of greater expenses as well as engineering difficulties. Moreover 6 to 8 large ventilation towers would be required for a tunnel, and its construction would create major environmental disruption along the bed of the Sound.

As noted above, virtually no attention was given to the increased use of rail service, including existing rail facilities over the Hellgate Bridge. While rail travel would not accomplish everything that the proposed bridge would in terms of making various parts of the country more readily accessible to residents from other parts, it would go a long way towards solving the business and commercial objectives, including the eventual reduction of existing road traffic. As noted above, this approach would avoid most if not all of the serious and permanent damage to the environment and ecology which would be inflicted by the bridge. Finally, greater use of rail service, unlike the bridge, would fulfill the mandate of the Tri-State Regional Planning Commission for a balanced and augmented mass transportation system.

Even the "do nothing" alternative, glossed over by the statement, would seem far better than the bridge. People will not increase traffic and its concomitant noise and air pollution substantially unless they are given the facilities to do so. The bridge is one such facility.

3. SUPPORT FOR THE BRIDGE

The bridge project is supported by the New York State Department of Transportation, the Metropolitan Transportation Authority (Dr. William J. Ronan, Chairman), and Governor Rockefeller.

4. OPPOSITION TO THE BRIDGE

The bridge is opposed by large number of citizens and residents on both the Nassau County and the Westchester sides of the Sound, as well as residents of Connecticut where the traffic impact upon the already overcrowded Merritt Parkway and Connecticut Turnpike will be severe. Among the opponents are: The Connecticut Southwestern Regional Planning Agency, Governor Thomas Meskill, Mayor Julius Wilensky of Stamford, Mayor Edmund Grainger of Rye, the Sierra Club, the National Audubon Society and various local chapters, the Regional Plan Association of New York, Sound Action, Non-partisan Civic Action (Locust Valley, New York), Long Insland Environmental Council, The Nassau County Board of Supervisors, Nassau County Executive Ralph Caso, New York Congressman Lester Wolff and Ogden Reid, Connecticut 4th District Congressman. Stewart B. McKinney, Senators Lowell Weicker and Abraham Ribicoff, the Nassau County Planning Commission, the Town Councils of Rye, Tarrytown, Mamaroneck, Oyster Bay, Bayville, Mill Neck, and Lattington, the Road Review League, the New York State Environmental Lobby, Citizens for Sound Planning, and the Association to Save the Norwalk Islands.

The New York State Legislature has twice voted to strike the Rye-Oyster Bay Bridge from the New York State Department of Transportation's list of authorized projects, but Governor Rockefeller has twice vetoed the bills. A third bill has just been introduced in the current session.

5. IMPACT ON CONNECTICUT

As Stamford's Mayor Julius Wilensky and the Southwestern Regional Planning Agency have noted, the impact of the Rye-Oyster Bay Bridge on southwestern Connecticut will be severe. The most frequently expressed grounds for opposition in Connecticut are, among others:

1. The heavy overloading of the Connecticut Turnpike and Merritt Parkway with commercial and passenger traffic, with resulting traffic problems in the cities of Fairfield County.

2. The dangerous barrier for commercial shipping and pleasure boating on Long Island Sound which would be created by the bridge.

3. The undesirable visual impact on Long Island Sound, which is the region's principal recreational resource.

4. Adverse effect on shellfish grounds, wildlife areas and marshland areas at both extremities of the bridge.

5. Resulting greater imbalance into the already unbalanced transportation system by encouraging more longhaul truck traffic to and from Long Island and southern New England.

6. Further decline in rail freight service to Long Island and southern New England.

7. Increase in truck noise and air pollution as well as consumption of fuel at a time when there is a growing shortage of fuel.

8. Encouragement of longer work trips and further "urban sprawl".

The Connecticut Department of Environmental Protection and Department of Transportation are currently reviewing the bridge project and are planning a joint statement.

There is no question that under the National Environmental Policy Act and other applicable federal statutes, citizens and residents of Connecticut have standing to complain to the sponsoring authorities, to attend public hearings, and otherwise protest and oppose this bridge.

6. LITIGATION

On February 13, 1973, in a suit brought by the City of Rye and others, the U.S. District Court for the Southern District of New York enjoined the New York Department of Transportation and Metropolitan Transportation Authority from going forward with public location hearings until they have solicited the views of applicable federal, state, and local agencies and advisory groups, and made these views and other pertinent information on the bridge location available for public inspection well before such hearings. A companion suit in the Eastern District of New York against the Federal Highway Administration seeks a determination that the Coast Guard, rather than the New York State agencies, must prepare the impact statement required under the National Environmental Policy Act.

AMENDMENT NO. 33

(Ordered to be printed and to lie on the table.)

Mr. PEARSON. Mr. President, the Federal-aid Highway Act of 1970 established a new categorical program for Economic Growth Center Development Highways. This was a program for demonstrating the use of highways in promoting rural development and balanced national growth. It was funded at the level of $50 million for fiscal 1972 and 1973.

A considerable portion of the language of this provision was drawn from my proposed Rural Development Highway Act of 1970. The Federal-aid Highway Act of 1972 passed by the Senate last year retained the Economic Growth Center Development Highways provision with the modification that secondary as well as primary roads were to be included in the program. Also funding for the program was increased to $100 million for fiscal 1975.

Under the provision of this program individual Governors select growth centers within their State for highway development projects. Under the Federal-aid Highway Act of 1970, 111 such growth centers around the country were approved by the Secretary of Transportation. Each State had at least one and no more than three such centers approved by the Secretary.

The economic growth center program authorizes the Secretary to pay up to 100 percent of the cost of engineering, economic, and planning studies for these special projects and the Federal share of the highway projects themselves may be 10-percent more than for regular primary and secondary roads.

Mr. President, the economic growth center highways provision has been eliminated from the bill reported by the Senate Public Works Committee (S. 502). I submit an amendment today to restore the language approved by the Senate last year.

Mr. President, this is not a major program and the amounts of money involved are limited. However, its principal value is that it provides a mechanism for encouraging the States to give more conscious and careful thought in planning the use of highway funds in stimulating balanced economic growth in the rural areas. I believe that if effectively administered this can be an extremely important tool in the overall goal of rural development and balanced national growth which we all now recognize as being of vital importance.

Mr. President, I ask unanimous consent that an article from the magazine Highway and Urban Mass Transportation describing the economic growth center highway program be printed in the RECORD at this point. This article, I think, does a very effective job of describing the potential of this program.

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

ECONOMIC GROWTH CENTERS SELECTED FOR HIGHWAY PROGRAM

(By John T. Berg)

The Federal Highway Administration recently designated 111 small cities and towns

as Economic Growth Centers eligible to participate in a 2-year highway demonstration program authorized by the Federal-Aid Highway Act of 1970. Not all the cities so designated will actually build demonstration projects, but those selected by their Governors for funding will share in an allocation of $50 million each for Fiscal Years 1972 and 1973. These funds are to be used as "ad-ons" or "sweeteners" to normal Federal aid primary allocations in amounts not to exceed 20 percent of the cost of any one project.

This program, designed to demonstrate the conditions under which highway projects can help to provide a catalyst to the development of small urban centers in predominately rural areas, grew out of an increasing national concern with the declining quality of life in rural America and the increasing social costs (e.g., congestion, crime, pollution, etc.,) associated with the growth of large urban centers in the United States.

Reports by a number of commissions (e.g., The President's National Advisory Commission on Rural Poverty (1967), the Advisory Commission on Intergovernmental Relations (1968)), several Congressional hearings, and recent Annual Reports of the Council of Economic Advisers have expressed this concern and have recommended that Federal programs be established that would afford citizens in both rural and urban areas greater choices in employment and residential opportunities, including opportunities for the migrant closer to his present home and in a milieu similar in many respects to his customary way of life.

PATTERNS OF ECONOMIC GROWTH

Although much remains to be learned about the most efficient means of attaining these objectives, an examination of historical patterns of economic growth in the United States gives some indication of the process that has brought social and economic benefits to residents of particular locations.

In the early development of the United States, settlement patterns were heavily influenced by the distribution of arable land. A number of small population centers developed in agricultural areas to service the day-to-day needs of the farm population, while larger more widely spaced centers carried out functions that were less frequently needed or which required the advantages of a centralized concentration of activities.

As the Nation developed beyond the agricultural stage, the advantages of urbanization (e.g., the central location of specialized firms within a large industry, the local availability of various types of business and social services, large and well organized product and input markets, face-to-face business relationships, etc.,) became more important as determinants of the pattern of economic development. The growth of manufacturing and service industries in urban areas led to further expansions of large population centers, while technological advances in primary industries, such as agriculture and mining, that had formerly provided employment for large numbers of rural residents allowed more output to be produced by fewer and fewer workers.

SHIFT TO THE CITIES

Thus, the expansion of activities in large population centers and decreases in labor requirements in rural areas led to a steady flow of migrants into the cities. In 1920, for the first time, more residents of the United States lived in urban places than in rural areas. By 1950, the rural farm population had fallen to 23 million, a drop of almost nine million since 1920, and only one-third of the population resided in rural areas. During the next decade nearly half of the counties in the United States declined in population.

These counties were for the most part rural and constituted large areas of the Great Plains, Southern and Western Corn Belts, lower South, South Central, Appalachian and Ozark Regions, and Upper Michigan.

During the 1960's migration from rural to urban areas continued, though at reduced rates. While 44 percent of all counties had population losses and 75 percent of all rural counties experienced net out-migration, some rural areas, particularly in the south and southeast, developed an embryonic ability to retain their population. Economic and technological changes, including advances in the transportation and communications industries, the greater availability of technical talent and civilized amenities at more and more locations throughout the country, and the increasing congestion of large urban areas, led many industries, particularly the "footloose" industries that no longer need to be tied to a fixed area or resource base, to look to rural areas when making location decisions.

GROWTH CENTERS

Many proponents of policies designed to direct a flow of resources back to rural areas feel that such policies will have the best chance of success if they take full advantage of existing market forces and concentrate on enhancing the economic and social opportunities available in rural communities which have shown an ability to adapt to the economic changes that have taken place in recent years. Such places are called "growth centers" and are deemed to have a better chance of sustaining economic growth than are surrounding communities because they are endowed with a superior array of human, capital and natural resources, or because they have a more diversified economic base and well developed infrastructure.

By enhancing the growth potential of locations with strong linkages as trade, service, employment and social centers with nearby rural areas, benefits of economic and social development can be reinforced in the center and transmitted to residents of surroundings areas. To achieve the greatest possible success, such a development strategy should be fully coordinated with existing and planned Federal programs whenever possible. A concerted, coordinated and expanded program of Federal, State, and local governmental activities will help provide the necessary minimal conditions to spur private industry to locate and expand in or near selected growth centers, and will propel the growth centers and their surrounding areas to further advances.

HIGHWAY INVESTMENTS CAN BE INSTRUMENTAL

Because of the prime importance of integrating smaller urban areas with the surrounding towns and countryside and with larger urban and metropolitan centers, highway investments made in conjunction with other public and private investments can prove to be instrumental in meeting the objectives of a development scheme focusing on growth centers. Thus, the Economic Growth Center Highway Demonstration program is designed to assist rural areas not only by providing existing growth centers with improved accessibility, but also by providing highway planners with information about the types of social and economic settings in which highway improvements are a necessary condition for future economic development.

The criteria set forth in the legislation authorizing the program required that growth centers be geographically and economically capable of contributing significantly to the development of the surrounding area, that they have a population not in excess of 100,000, that demonstration highway projects to receive funding under the program be on the Federal-aid primary system, and that the selection of centers within the Appalachian Region and the Economic Development Regions take into account the purposes of the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965. In addition, administrative criteria were developed which emphasized the importance of other local and regional development programs and previous planning efforts, the possibility of private commercial and industrial activities, the amount if industrial diversification, the past role of centers in providing employment or residence opportunities for nearby residents or recent immigrants, and potential viability based on private and public investment plans.

HOW SELECTED

In order to obtain the maximum demonstration information from the program an effort was made to select centers in as many economic and geographic settings as possible. Each State was, therefore, requested to submit not more than three centers as program candidates and to supply supporting information. It was expected that at least one center from each State would meet the conditions of the program. In response to this invitation, growth center recommendations were received from 49 States and Puerto Rico.

These recommendations were then reviewed by a panel composed of representatives of the Federal Highway Administration, the Office of the Secretary of Transportation, the Economic Development Administration of the Department of Commerce, and the relevant Title V regional economic development commission to determine from the supporting material submitted by the Governors whether centers recommended met the criteria set forth in the legislation and the Instructional Memorandum issued by FHWA (IM 50–6–71). Governors were informed by the Federal Highway Administrator as to which centers were approved and were requested to have State highway departments develop projects in accordance with the usual Federal-aid primary procedures.

A few brief descriptions of approved growth centers may help to indicate the diversity of the centers, as well as the patterns of development that have made these communities important as centers of economic activity in rural areas.

ONE EXAMPLE

For instance, one center, located in the southern region of the country, has a population of over 50,000 and serves as a major trade center for a 13 county area with a population of 225,000. The basic industry in the area is agriculture, with the growth center serving as a major regional market for cotton and as one of the leading livestock markets in the State. Abundant timber resources also supports a thriving forestry industry.

Population growth of 30.3 percent over the past decade is one indicator of the viability of this growth center, particularly when that growth is contrasted with a 7.7 percent growth rate for the State and a population decline of 4.9 percent for the State Economic Area in which the center is located (a State Economic Area is a relatively homogeneous subdivision of a State, consisting of counties which have similar economic and social characteristics). Economic strength is also indicated by a 20 percent increase in the number of manufacturing establishments in the area over the 1963–67 census period and an increase in value added by manufacturing over that period of 24 percent. The expansion of trade activities in the center led to a 50 percent increase in both retail and wholesale sales over the same period.

Economic forecasts for the next twenty years indicate that the economy of the growth center will continue to expand and that residents of surrounding rural areas will find increased opportunities to commute to the growth center to find employment. The population of the center is expected to

reach 100,000 by 1990, with total employment expanding by 50 percent. Employment in the center of people living outside the urban area is expected to increase by 31 percent by 1990.

The present transportation system in the growth center area is adequately meeting current needs but highway improvements will be needed to meet future demands caused by expected economic development as well as to stimulate that development by providing improved transportation connections to the urban center for residents of surrounding rural areas and by allowing an expansion of traffic movements from the center to larger urban areas.

OTHER FEDERAL AGENCIES INVOLVED

Several communities that received growth center designation under the FHWA program were also viewed as growth centers by other Federal development agencies. One of these centers, located in the southwestern region of the United States, is an Economic Development Administration growth center and is regarded as a growth area by the Appalachian Regional Commission.

The population of this center grew by 23 percent during the 1960's and is currently 13,520. The 1970 census indicates that 29.5 percent of the population five years of age and older had moved into the center since 1965. Manufacturing employment in the center was approximately 4,000 in 1970, with 55 percent of those employed engaged in metal production, 15 percent in textile, 10 percent in the processing of agricultural products, and 7 percent in apparel production.

Thus, a well diversified industrial base and the rapid immigration that has taken place in recent years are among the economic indicators that give the center bright prospects for future growth.

A concentration of Federal and State programs is another reason for expecting rapid economic and social development in the area. The community's largest employer recently received a 5 million dollar loan from the Economic Development Administration. The expansion financed by this loan is expected to increase the firm's employment by 38 percent. Other agencies, including the Appalachian Regional Commission, the Department of the Interior, the Department of Health, Education and Welfare, the Department of Transportation, the Environmental Protection Agency, and various State agencies, have approved funding for projects such as land development for recreational use ($2.8 million), a regional library ($250,000), a vocational education school ($445,000), a regional airport ($636,000), a college classroom building ($1.5 million), and a sewage treatment plant ($195,000).

State and local officials feel that this center's potential for steady growth over the coming decades will be greatly enhanced by improvements in its highway facilities. The major east-west route in the area goes through the central business district of the center and is already severely congested. It is felt that a planned bypass route will do much to help the central business district by relieving that congestion, will assist the industrial expansion of the center by making adjacent lands accessible, and will provide greater opportunities for commuting into the center by rural residents of surrounding counties.

FACTORS OTHER THAN POPULATION

The viability of some of the centers selected for participation in the program was not exhibited through past population growth. For these centers, other factors, such as the importance of the center in its regional economy, recent changes in industrial mix, income, employment and trade patterns, or public and private investment plans, indicate that future growth can be expected.

One of these centers, located in northern New England, experienced a population decline of 12.8 percent during the 1960's. Despite this population loss, due in large part to the closing of a major military base, there are several indications that the community has the potential to become a major growth point in the rural region that it serves. Both the Economic Development Administration and the New England Regional Commission have evaluated the prospects of this area and have designated the city as a growth center to receive special emphasis in their programs.

The major role that the center plays in regional trade activities is indicated by a 15 percent employment increase in the retail and wholesale trade industries between 1960 and 1970, as well as by a 25 percent increase in retail sales and a 5 percent increase in wholesale sales during the 1963–67 census period. The center is also a regional transportation center of increasing importance. Air traffic at a recently opened international airport is already heavy and is expected to increase substantially over the next few years. The completion of a planned air cargo distribution complex at the airport will greatly enhance the role of the city as a regional distribution center. Another planned development that will do much to insure the future viability of this growth center is an air industrial-commercial park to be constructed on the grounds left vacant by the abandoned military base.

VARIETY OF CHARACTERISTICS

With 111 approved centers in 48 States and Puerto Rico, these brief surveys can illustrate only a few of the many characteristics that made certain communities eligible for growth center designation. Similar characteristics were found in growth centers throughout the Nation, but the importance of any particular growth factor varied according to geographic location, population size, and resource endowment.

The average population size of the centers is 22,795, with a range from 1,140 in Palmer, Alaska, to 76,215 in Pittsfield-North Adams, Massachusetts.

Summary statistics for the entire program indicate that 78 of the centers experienced population growth over the past decade, with 62 percent of these having population increases greater than the national average. In five of nine census divisions in the U.S., the weighted average population growth rate of the FHWA centers was greater than the growth rate of the division. Fifty-six percent of the centers grew faster than the State Economic Area in which they were located. Over the 1963–67 census period, retail sales growth in 58 percent of the centers, and wholesale sales growth in 47 percent of the centers, was greater than the State average. Forty-six of the centers had an increase in the number of manufacturing establishments over the period and the weighted average growth rate of value added in manufacturing for all centers was 44.9 percent. This latter figure compares to a national growth rate of 34.6 percent.

DIVERSITY AND STRENGTH

A further indication of the diversity and strength of the centers is the fact that two of the centers are new towns, two are major service, trade, and employment centers for large Indian Reservations, five are State capitals, 70 are county seats, six are major recreation centers, 22 are cities already designated as growth centers by the Economic Development Administration, 20 are growth areas designated by the Appalachian Regional Commission, and 17 are recognized as growth areas by Title V Regional Commissions.

The interest created by the Economic Growth Center Development Highway Demonstration Program has been overwhelming. The Federal Highway Administration has received letters expressing such interest from hundreds of organizations and individuals throughout the Nation. Other Federal agencies, such as the Departments of Health, Education and Welfare; Housing and Urban Development; and Agriculture; and the Office of Economic Opportunity have requested information about the program and are utilizing the FHWA list of approved centers to determine areas where joint efforts might be productive in assisting rural development.

The States are presently performing "before" studies to establish the economic base of each center and to provide a benchmark for future program evaluation. Hopefully, the evaluation phase of the program will provide much useful information to those concerned with planning transportation systems. The determination of the types of economic settings in which highway investments can provide a necessary catalyst to social and economic development will add to our knowledge and will assist in future highway planning and evaluation efforts.

AMENDMENT NO. 36

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, I am submitting today on behalf of myself and the Senator from New York (Mr. BUCKLEY) an amendment that I intend to call up at some point during the debate on S. 502, possibly tomorrow.

The purpose of this amendment is very simple. It would insert language that is virtually identical to a provision in the 1970 Federal-Aid Highway Act in place of committee language in this bill that I believe is unfair and unwarranted.

The issue is a very clear one: Should a State continue to receive Interstate System moneys after it completes its portions of the Interstate System?

I believe it should not. Senators BUCKLEY and SCOTT joined me in filing individual views on this issue in the committee report on S. 502.

The Interstate System was established as a special program with a set goal—completion of a national system of limited access roads for high-speed travel to link most of the major cities of the Nation. It was not intended as a funnel of funds to other programs.

By 1970, some States were nearing completion of their segments of the Interstate System. Because those States receive allocations of interstate moneys on the basis of the cost of completion of the system, such States were faced with an apportionment so small that the State could accomplish very little interstate work, possibly a mile or 2, in any given year.

So the Congress in the 1970 Federal-Aid Highway Act included a provision guaranteeing such a State no less than one-half of 1 percent of the interstate apportionment. My amendment would reinstitute that exact 1970 language.

Thus, instead of such a State receiving possibly one-tenth of 1 percent of the interstate funds—based strictly on an apportioning of funds on the cost-of-completion basis for the system—those States suddenly received one-half of 1 percent to assure a better continuity of work.

Now, the committee bill says, in effect, that because such States will soon be finished, they will be "penalized" unless the committee language is adopted. The only reason a State could possibly be "penalized" is because the Congress in 1970 sought to speed up the allocation of funds to such States.

I do not see how it can now be argued

logically that such a double benefit to such States is justified.

The committee version of one-half of 1 percent would provide that during the period of authorizations of this bill—$3,250 million—any State would be guaranteed a minimum of $16,250,000 after completing its interstate program, and this "interstate" money would be added to the States' regular primary, secondary, or urban systems funds, to be spent at the prevailing 70–30, Federal-State rate.

Evidence indicates that there are three States which will receive their final Federal allocation needed to complete their segments of the Interstate System during the life of this bill, if the 1970 minimum is continued. These States and their remaining costs of construction are:

First. Delaware—which needs $29,018,000 in Federal funds to complete its portion of the interstate, according to the Department of Transportation's revised cost-of-completion estimate.

Second. Nebraska—$27,568,000.

Third. North Dakota—$28,938,000.

I ask unanimous consent that a table of the estimated funds needed to complete the Interstate System be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks, together with a copy of my amendment.

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

(See exhibits 1 and 2.)

Mr. DOMENICI. Mr. President, it should be noted that any State with less than $100 million in Federal interstate work to complete is a potential beneficiary of this provision.

Actually, I believe that such a minimum payment following a State's completion of interstate work would discriminate against those States that have not finished their work on the Interstate System. All States now receive funds for other systems—urban, primary, et cetera—as part of a national program. This committee provision will give additional amounts to those same programs only because a State has completed its share of the interstate. This "interstate windfall" would have no relation to national needs or national formula.

Later in this decade, when possibly 20 States have completed their interstate work, it would be necessary to set aside 10 percent of the interstate program funds—one-half of 1 percent times 20 States—for construction totally unrelated to the Interstate System. Such a diversion of funds will hamper the flexibility of the Congress to increase the primary-secondary-urban program and complete the Interstate System in a reasonable period.

Such a 10-percent diversion—$325 million at current levels—would be equivalent to half the national primary system program in this bill—$650 million yearly. It would approximately double the primary road funds available to those post-interstate States, with no equivalent increase for the States that have not finished their interstate work.

In the effort to provide a transition for a few States, the committee's one-half of 1 percent minimum would create new inequities that will undermine a rational and reasonable Federal-aid highway program.

When the Senate developed this earlier one-half of 1 percent minimum for those States nearing completion of their interstate segments, the Senate Committee on Public Works explained in Senate Report No. 91–1254:

Section 5. Minimum One-Half Percent Apportionment Factor for Interstate System.

This section would amend Section 104(b)(5) of title 23, to insure that no State receives less than one-half of one per centum of the apportionment for the Interstate System in any year. This provision is necessary because of the problem encountered in Delaware, Idaho, Nebraska, Nevada, New Hampshire, and North Dakota whose cost of completion of the Interstate System has become so small in relationship to the total cost of completion of the Interstate System as to make it difficult for each of these States to maintain a meaningful level of construction activity on the Interstate System. This situation is the result, in part, of controversies which have halted work on certain segments of the System, the designation of the additional 1500 miles of Interstate System provided by the Federal-Aid Highway Act of 1968, and the fact that the States involved have done an excellent job in bringing their portions of the Interstate System to early completion.

This situation raises the problem of the transition from the present Interstate program to any major post-Interstate program. Therefore, subsection (b) would require the Secretary to make recommendations by February 1, 1972, with regard to the apportionment of funds and matching requirements on Federal-aid highways in those States which will be completing construction of the Interstate System during this funding period.

That evaluation mentioned in the above paragraph was submitted as part of the national highway needs report, House Document No. 92–266, part II, dated April 10, 1972, on pages VII 56–58.

In that needs report, the Department of Transportation explained in part that—

A moderate reduction in the level of Interstate authorizations would enable an orderly completion of the Interstate System and a smooth transition to a post-Interstate program. . . . By phasing down the Interstate apportionments . . . more money will be available for other programs such as the rural system and Special Urban Fund. This would permit more money to go to the States which have finished their Interstate mileage and would aid in the transition for such States from the Interstate program to the post-Interstate System.

Clearly, the Department found no basis for a special postinterstate windfall to States that have finished their interstate work.

In conclusion, I should also point out that the committee did not follow its usual careful procedures in considering this provision. There was no attempt to examine this proposal in terms of demonstrated highway needs in accordance with priorities, supported by hearings and studies.

In short, I believe that the provision was considered too hastily, given its very significant long-term consequences.

For these reasons, I hope the Senate will vote to strike the committee's one-half of 1 percent language, and to substitute my proposal, which is identical to the 1970 act.

EXHIBIT 1

ESTIMATED FEDERAL-AID AND STATE MATCHING FUNDS TO COMPLETE THE SYSTEM AND APPORTIONMENT FACTORS FOR DISTRIBUTION OF 1974 AND 1975 FISCAL YEAR AUTHORIZATIONS

[Dollar amounts in thousand]

| State | Estimated Federal-aid and State matching funds required to complete system | Estimated Federal share of funds required to complete system | Apportionment factors (percent) |
|---|---|---|---|
| Alabama | $419,751 | $377,776 | 2.074 |
| Alaska | | | |
| Arizona | 394,353 | 371,717 | 2.040 |
| Arkansas | 154,103 | 138,693 | .761 |
| California | 1,300,203 | 1,189,556 | 6.529 |
| Colorado | 416,314 | 379,179 | 2.081 |
| Connecticut | 589,617 | 530,655 | 2.913 |
| Delaware | 32,242 | 29,018 | .159 |
| Florida | 641,298 | 577,168 | 3.168 |
| Georgia | 505,400 | 454,860 | 2.497 |
| Hawaii | 210,313 | 189,282 | 1.039 |
| Idaho | 88,544 | 81,744 | .449 |
| Illinois | 1,001,172 | 901,055 | 4.946 |
| Indiana | 245,655 | 221,090 | 1.214 |
| Iowa | 216,581 | 194,923 | 1.070 |
| Kansas | 245,488 | 220,939 | 1.213 |
| Kentucky | 299,828 | 269,845 | 1.481 |
| Louisiana | 616,222 | 554,600 | 3.044 |
| Maine | 107,078 | 96,370 | .529 |
| Maryland | 777,626 | 699,863 | 3.842 |
| Massachusetts | 631,835 | 568,652 | 3.121 |
| Michigan | 726,017 | 653,415 | 3.587 |
| Minnesota | 472,538 | 425,284 | 2.334 |
| Mississippi | 181,792 | 163,613 | .898 |
| Missouri | 389,545 | 350,591 | 1.924 |
| Montana | 206,061 | 187,928 | 1.032 |
| Nebraska | 30,631 | 27,568 | .151 |
| Nevada | 94,604 | 89,874 | .493 |
| New Hampshire | 89,465 | 80,519 | .442 |
| New Jersey | 572,979 | 515,681 | 2.831 |
| New Mexico | 183,430 | 169,599 | .931 |
| New York | 780,873 | 702,786 | 3.858 |
| North Carolina | 370,997 | 333,897 | 1.833 |
| North Dakota | 32,153 | 28,938 | .159 |
| Ohio | 624,038 | 561,634 | 3.083 |
| Oklahoma | 147,514 | 132,763 | .729 |
| Oregon | 502,487 | 463,595 | 2.545 |
| Pennsylvania | 998,670 | 898,803 | 4.933 |
| Rhode Island | 181,820 | 163,638 | .898 |
| South Carolina | 167,178 | 150,460 | .826 |
| South Dakota | 72,467 | 65,959 | .362 |
| Tennessee | 281,910 | 253,719 | 1.393 |
| Texas | 930,236 | 837,212 | 4.595 |
| Utah | 226,441 | 213,443 | 1.172 |
| Vermont | 77,331 | 69,598 | .382 |
| Virginia | 879,500 | 793,991 | 4.358 |
| Washington | 723,711 | 655,899 | 3.600 |
| West Virginia | 467,696 | 420,926 | 2.310 |
| Wisconsin | 237,002 | 213,302 | 1.171 |
| Wyoming | 111,919 | 103,559 | .568 |
| District of Columbia | 492,358 | 443,122 | 2.432 |
| Total | 20,146,986 | 18,218,301 | 100.000 |

EXHIBIT 2

AMENDMENT No. 36

On page 68, line 19, strike subsection (b) through line 12 on page 69, and insert:

(b) No State shall receive less than one-half of 1 per centum of the total apportionment for each of the fiscal years 1974, 1975, and 1976 under paragraph (5) of subsection (b) of section 104 of title 23, United States Code. In addition to all other authorizations for the Interstate System for the three fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $55,000,000 for each such fiscal year for such System. Such authorization shall be apportioned to each of the States receiving apportionments under section 103 of this Act of less than one-half of 1 per centum for each such fiscal year, so as to insure that each such State will receive for each such fiscal year an amount equal to one-half of 1 per centum of the total apportionment for each such fiscal year under section 103 of this Act, as required by the first sentence of this paragraph.

## EXTENSION OF ECONOMIC STABILIZATION ACT OF 1970—AMENDMENTS

AMENDMENT NO. 34

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (S. 398) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 35

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to Senate bill 398 supra.

## ADDITIONAL COSPONSORS OF AMENDMENT

AMENDMENT NO. 20 TO 929

Mr. PROXMIRE. I ask unanimous consent that the Senator from Florida (Mr. CHILES), the Senator from Nevada (Mr. CANNON), and the Senator from Iowa (Mr. HUGHES), be added as cosponsors to my amendment No. 20 to S. 929 which would establish a ceiling on fiscal year 1974 spending at $265 billion.

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

## NOTICE OF ENERGY CONSERVATION HEARINGS

Mr. JACKSON. Mr. President, for the benefit of interested Senators, I wish to announce that the Committee on Interior and Insular Affairs will hold hearings on the subject of energy conservation on Thursday and Friday, March 22 and 23. The hearings will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building, pursuant to the Senate's National Fuels and Energy Policy Study—Senate Resolution 45, 92d Congress.

In recent months, increasing attention has been focused on the desirability of conservation as a means of reducing energy demand. The purpose of our hearings is to review the nature of energy demand; to explore the potential for reducing this demand through conservation measures; and to examine the economic, political, and social consequences of alternative energy conservation practices. In addition to identifying major conservation opportunities, the committee wants to examine the various alternative mechanisms available—such as pricing policy, taxes, statutory standards, and educational programs—for achieving conservation objectives.

For this purpose the committee has invited several distinguished economists to discuss the problems with and the prospects for energy conservation. We also have invited the Conservation Foundation to convene a panel of representatives of environmental groups for this purpose.

I ask unanimous consent to have printed in the RECORD a series of questions and policy issues prepared for the use of witnesses participating in these hearings Other interested and affected parties may submit statements in 10 copies for the record, which will remain open until May 1, 1973, for this purpose.

There being no objection, the questions and policy issues were ordered to be printed in the RECORD, as follows:

GENERAL QUESTIONS AND POLICY ISSUES HEARINGS ON CONSERVATION OF ENERGY

INTRODUCTION

All witnesses and groups or individuals preparing statements for the record should cover the four general issues of List A. To the extent practical, they should also address those specific questions on List B that are within their areas of competence. Witnesses may deal with these issues either in their testimony or if necessary may respond later with a more detailed statement for the record.

*A. General issues*

I. To what extent is it possible to reduce energy demand by achieving greater efficiencies in the whole energy cycle from production of resources to end use of energy?

II. Is it possible to reduce energy demand substantially without producing undesirable political, economic or social consequences?

III. What are the most significant opportunities for conserving energy (a) in the next ten years and (b) over the longer term?

IV. If a national energy conservation program is desirable, what should be its major elements? What specific legislative or executive actions should be given priority to achieve conservation objectives?

*B. Detailed questions and policy issues*

Answers to the following detailed questions should be supported wherever practical with historical and current data, quantitative estimates or projections, and reference to more complete sources of underlying data and analysis.

1. What is the composition (by form of energy used) of energy consumption in the United States today and what are the principal factors underlying the increase in consumption in each of the major consuming sectors: residential, commercial, industrial and transportation?

2. Looking ahead, what is the projected U.S. energy consumption on a yearly basis between 1973 and 1985? What are the assumptions with respect to such factors as economic conditions, energy prices, environmental requirements, and research and developmental efforts on which such projections are based?

3. Do the energy industries have the ability to meet the projected consumption of oil, coal, natural gas and electricity in this period from domestic sources or from a combination of domestic and foreign sources? What are the major constraints on their ability to do so?

4. To what extent can tax, pricing or other regulatory policies affect demand in specific energy consuming areas? For example, how sensitive are industrial and residential demand, respectively, to electric rates? How great an effect would a tax on horsepower have in reducing gasoline consumption?

5. Can educational programs be effective in achieving conservation objectives? If so, what kind of programs might have the greatest impact on energy demand?

6. Is it desirable, and if so, feasible to reduce energy demand by regulating promotion and advertising which advocates life styles based on high energy use?

7. Is there a means of measuring the quantitative savings in energy achieved through specific conservation measures against the adverse social or economic impact of such measures?

8. Is it desirable, and if so, feasible to subsidize, directly or indirectly, more plentiful fuels in order to conserve fuels in short supply?

9. Is it desirable, and if so, economically and technically feasible to stretch the use of available fuel resources over a longer period of time through more efficient methods of production and end use controls?

10. On a fuel by fuel basis, how much of energy consumed is necessarily unusable for thermodynamic reasons and how much is unnecessarily wasted? For example, what percentage of the energy content of fossil fuels is converted into electrical energy during the generation process and how much appears as heat? How much of the energy content of fuels used for space heating remains contained within the structure heated and how much is discharged into the atmosphere?

11. In general, for the four major consuming sectors, which methods for reducing energy waste are the most feasible between 1973 and 1980, and after 1980? and what are the economic costs involved? How will such methods affect or be affected by:

The projected demand for energy?

The economic structure as a whole and individual fuel uses in particular?

Technological constraints affecting development of increased efficiency?

Technological advances which would increase efficiency?

Systems use of energy?

Environmental constraints on fuel uses?

Consumer costs?

Traditional modes of life style?

Reprocessing of products developed from fossil fuels not used for combustion such as lubricating oils?

What lead times will be required to implement each of the above indicated methods?

What additional research and development will be required before the feasibility of such methods can be ascertained?

(a) The transportation sector.

The transportation sector currently utilizes 25% of the nation's total energy. By 1980 that figure is estimated to undergo a substantial increase. Responses should consider such subjects as:

(1) Short term improvements in engine design;

(2) Practicability and impact of major shifts among transportation modes;

(3) Relative energy efficiency of mass transit systems;

(4) Proposals for gasoline allocation, levies on automobile weight and horsepower, and improved traffic flow;

(5) Fundamental changes in urban and land use planning.

(b) The residential/commercial sector.

This sector accounts for 21% of national energy consumption. Responses should cover all aspects of the engineering, design and construction of buildings as related to energy consumption including such subjects as:

(1) Insulation;

(2) Selection of heating fuel;

(3) Design criteria;

(4) Requirements for appliances and other energy devices;

(5) Heat recovery, increased recirculation of heated or cooled air, etc.

(c) The industrial sector.

The industrial sector consumes 29% of the total energy used nationally. Responses should concentrate on the energy intensive industries and cover such subject as:

(1) Energy properties and relative merits of fuels in use, including possible fuel substitutions;

(2) Efficiency of individual processes; and prospects for developing less energy-intensive alternate processes;

(3) Phasing out of domestic energy-intensive industries or processes (and possible relocation in energy surplus regions);

(4) Incentives for accelerated retirement of old equipment and addition of more energy efficient equipment;

(5) Upgrading of existing equipment;

(6) Recycling, especially of metal.
(d) Electric utilities.
Electric utilities consume 25% of our national energy. Responses should consider such subjects as:
(1) Potential fuel substitution as a means of conservation;
(2) Greater efficiencies in transmission through high voltage lines, ac/dc current, etc;
(3) Measures for smoothing the daily and seasonal demand cycles and its effect on conservation;
(4) Increases in generation efficiency in conventional plants through use of fuel cells, MHD etc.;
(5) New technology to replace fossil fuel steam turbines;

## ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON AGING OF LABOR AND PUBLIC WELFARE COMMITTEE—COAUTHORS OF S. 775

Mr. EAGLETON. Mr. President, I wish to announce that a hearing has been scheduled on S. 775, the Research in Aging Act, on Tuesday, March 27, 1973. The hearing will be held in room 6226, Dirksen Senate Office Building at 10 a.m.

I request at this time that the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Michigan (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS), be added as cosponsors to S. 775.

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

## NOTICE OF FOREIGN AGRICULTURAL POLICY SUBCOMMITTEE HEARINGS

Mr. HUMPHREY. Mr. President, the Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture and Forestry will begin hearings March 23 on the world food situation and international agricultural trade in room 324 Russell Office Building. The dates scheduled are March 23 at 10 a.m.; April 4 at 1:30 p.m.; and April 5 at 10 a.m. Governmental witnesses will be heard on March 23 and April 4 and public witnesses on April 5. Anyone wishing to testify should contact the committee clerk as soon as possible. Oral presentation of public witnesses will be limited to 10 minutes. Additional hearing dates in April will be announced later.

## ANNOUNCEMENT OF HEARINGS ON IMPROVING CONGRESSIONAL CONTROL OF THE BUDGET

Mr. METCALF. Mr. President, the Government Operations Subcommittee on Budgeting, Management, and Expenditures will conduct hearings on April 2, 9, 11, and 12 on bills to improve congressional control over the Federal budget.

The bills to be considered will include:
S. 40 (Senator BROCK).
S. 565 (Senators NUNN and TALMADGE).
S. 703 (Senator BELLMON).
S. 758 (Senator BEALL).
S. 846 (Senators PERCY, BYRD of Virginia, and CRANSTON).
S. 905 (Senators STEVENSON, ERVIN, MATHIAS, and MCGOVERN).
S. 1030 (Senator HUMPHREY).
S. 1215 (Senator METCALF).

Other bills not yet introduced, which deal with the subject and are referred to the subcommittee, may also be considered. The subcommittee will also consider the recommendations of the Joint Study Committee on Budget Control.

The hearings will be held in room 3302, the Government Operations Committee hearing room, beginning at 10 a.m. each day.

The subcommittee plans to hear testimony of Members of Congress on Monday, April 2. We shall, of course, attempt to schedule on 1 of the other 3 hearing days those Members who wish to testify but cannot do so on Monday, April 2.

All persons wishing to testify or submit statements should get in touch with Staff Director Vic Reinemer or Chief Counsel E. Winslow Turner, telephone 225–1474, room 161, Russell Senate Office Building.

## NOTICE OF HEARINGS ON S. 798, THE COMMUNITY SUPERVISION AND SERVICES ACT

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee's Subcommittee on National Penitentiaries, I wish to announce hearings for the consideration of S. 798, the Community Supervision and Services Act, beginning at 10 a.m. on March 22, 1973, in room 2228 of the Dirksen Office Building.

This legislation is designed to provide clear legislative authorization for a program of pretrial diversion in the system of Federal district courts. Pretrial diversion has been experimented with in a number of cities and it is clear from the evidence which has been presented today, that such an approach provides a meaningful way of dealing with alleged offenders, to provide opportunities for rehabilitation at a savings in the time of our busy courts and at a savings in dollars and cents to taxpayers and potential victims of crime.

These hearings will include representatives of all facets of criminal justice, including the Department of Justice, the American Bar Association, the U.S. Chamber of Commerce, and the Baltimore pretrial diversion project.

Any person who wishes to testify or submit a statement for inclusion in the RECORD should communicate as soon as possible with the Subcommittee on National Penitentiaries, room 6306, extension 225–8994.

## NOTICE OF HEARINGS ON EDUCATION OF THE HANDICAPPED

Mr. RANDOLPH. Mr. President, the Senate Subcommittee on the Handicapped has scheduled hearings on the following four bills: S. 896, Education of the Handicapped Amendments of 1973; S. 6, Education for All Handicapped Children Act; S. 34, the Autistic Children Research Act; and S. 808, the Screening for Learning Disabilities Act.

The hearings will be held Tuesday, Wednesday, and Friday, March 20, 21, and 23, in room 4232 Dirksen Office Building, beginning at 9:30 a.m. each day.

Persons wishing to testify on these bills should contact Mrs. Patria Forsythe, professional staff member of the Subcommittee on the Handicapped, area code 202, 225–9077.

## ADDITIONAL STATEMENTS

## DISTURBING DEVELOPMENTS IN PUBLIC TELEVISION

Mr. BROOKE. Mr. President, scarcely more than a month ago, I expressed in this Chamber my deep concern about actions taken and proposed by the Corporation for Public Broadcasting. At that time, the Corporation Board of Directors had announced its intention to take over control of the national interconnection system linking most of the Nation's 234 public television stations. As I pointed out in my remarks on February 1, such an action would be clearly in violation of both the spirit and the letter of the Public Broadcasting Act of 1967, which established the Corporation for Public Broadcasting and charged CPB with the task of aiding the development of a national system of public television and radio stations.

Today I must express again my concern about the actions of CPB, but this time concern is coupled with indignation. At its March 7 board meeting, CPB moved further down the path toward a Government-operated television network and made the prospect of either bland, innocuous programing or of Government propaganda ever more likely. Again I must insist that the Corporation's action violates the law passed by Congress.

On March 7 the Corporation announced the final list of programs which it intends to fund for the 1973–74 season. Among the grants announced was one for $800,000 for the production of 26 documentaries, with the insidious stipulation that the subject and content of each documentary must meet with the prior approval of the CPB board. This proposal is absolutely without precedent in public television and it certainly was never intended by Congress. In the past, CPB has left program content up to the individual producing stations, while retaining to itself the right to discontinue future funding for

programs and series that failed to meet CPB standards. If the Corporation lacks confidence in the ability and integrity of a producer, it should by all means disburse its production money elsewhere. But this proposal for prior review of program subject matter and content amounts to nothing less than censorship. It would be a very sad day for this country when a quasi-governmental organization, charged with the distribution of Federal tax dollars, sets about the business of controlling the production of television programs for national consumption.

News reports of the CPB board meeting have focused on which public affairs programs are still in CPB's good graces and which programs have been left empty-handed.

I agree with those who lament the Corporation Board's decision to discontinue a number of outstanding programs explicitly requested by the Nation's public TV stations—programs such as "Firing Line," "Thirty Minutes With," and "Bill Moyers' Journal." But I feel that it is far more serious to find the Corporation making programing grants that are gift wrapped with the shackle of censorship.

Nor has the Corporation confined its power to grab for absolute control of public television to illegal assumption of programing powers. The CPB board on Wednesday went on to approve a resolution which reaffirms its previously stated position that control of the interconnection system belongs rightfully and legally in its hands. CPB claims that the Public Broadcasting Act gives it ultimate responsibility for the interconnection system, including the crucial matters of program selection and scheduling. CPB then goes on to state piously that it will exercise its responsibility in a "spirit of maximum cooperation with public broadcasting licensees." In other words, the Corporation may choose to consult the stations about interconnection policies, but it reserves the right to ignore the stations' expressed views. The Corporation rejects the idea that the stations should have power over the interconnection system which was originally established to serve their needs.

I submit that this is at best a distorted view of congressional intent in passing the Public Broadcasting Act of 1967 and an interpretation straight from "Alice in Wonderland." The legislation expressly forbids the Corporation from operating the national interconnection which it was to help establish. I quote from the language of the legislation:

> The Corporation may not own or operate any television or radio broadcast station, system or network, community antenna television system or interconnection or program production facility. Section 396(g)(3).

The Corporation has taken the totally disingenuous position that this language simply prohibits the technical operations of the system by CPB, and does not prohibit determining which programs will be distributed to the national system and which would not. This position is an insult to the intelligence of the Congress, Mr. President, for it requires only a modicum of sense to realize that the congressional prohibition I have quoted did not refer merely to placing videotapes on a machine and pushing a button to send programs across the country. Clearly what the Congress was concerned with was control of the content and policies of the interconnection and it is precisely these matters which the Corporation for Public Broadcasting was ordered to keep away from.

The recent CPB actions are indeed puzzling in light of what President Nixon expressed last summer. In vetoing the enlarged public television appropriation, the President stated the system was too centralized in Washington and that there should be more local control. I agree with the President's stated desire for localism. Regrettably, the Corporation for Public Broadcasting has totally ignored his desire. The Corporation must heed the President's message and the stipulation of the Broadcasting Act that it:

> Carry out its purposes and functions and engage in its activities in ways that will most effectively assure the *maximum freedom* of the noncommercial educational television or radio broadcast systems and local stations *from interference with or control of program content or other activities.* Section 39(g)(1)(D). (Emphasis added.)

I cannot stress adequately my fears about the future of public television if the Corporation for Public Broadcasting is not set aright. Nor can I emphasize enough my conviction that the only way to keep the Government funds which help support public broadcasting free from even the hint of Government restraint and censorship is to guarantee that decisionmaking power for program selection and scheduling is kept firmly in the hands of the licensees scattered across the country. They represent the diversity of this country's population from Aberdeen, S. Dak., to Yakima, Wash., with cities like Boston, Los Angeles, and Waycross, Ga., in between. Control of the system which links these stations and gives them their collective strength should be kept in their hands as Congress clearly stated in the Public Broadcasting Act. Public television needs our continued support to bring more and even better programs to the Nation, but it also deserves our careful scrutiny to protect it from the fatal dangers of centralized control.

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## JAPAN: A NATION OF COMPANY MEN

Mr. FULBRIGHT. Mr. President, Mr. Tom Braden, one of our most distinguished columnists has written a piece on the industrial genius of Japan, which appeared in the Washington Post of March 13.

It is a lucid and succinct explanation of the remarkable efficiency of Japanese industry.

It is also a warning to us to change our old fashioned habits and ideas or suffer the consequences. We should reexamine some of our assumption about the merits of competition and the effects of paternalism. We can no longer afford obsolete prejudices and practices.

I recommend this piece to my colleagues and ask unanimous consent to insert it in the RECORD.

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

[From the Washington Post, Mar. 13, 1973]

### JAPAN: A NATION OF COMPANY MEN

(By Tom Braden)

TOKYO.—When William D. Eberle, President Nixon's trade negotiator, turns up here next month to demand trade concessions from the Japanese, he will find them acquiescent. They have already decided to concede. They will import our beef; they will import our oranges; most important of all—and it was a decision taken in anguish—they will import our computers. But one thing they cannot concede. And that may be the one thing which will make a failure out of William D. Eberle.

On paper, Mr. Eberle's problem seems relatively simple. It is to reduce the flow of dollars into Japan and thus srtike a balance of trade. Decrease the value of goods Japan sells to the United States; increase the value of goods Japan buys from the United States. Eberle is not a high-protectionist and neither is his boss. The Nixon Administration is aware of the perils of tariff wars and properly cautious about the international recession which tariff wars can bring. Therefore all would seem to be ready for the neat balance which will restore the dollar in comparison to the yen.

But the "thing"—I don't know another short word for it—may ruin all. The "thing" is Japan's system of labor relations. It virtually ensures that Japanese goods will undersell American goods of similar value and comes awkwardly close to ensuring that Japanese goods will be better made than American goods of similar price.

Consider the way the "thing" works by imagining yourself for a moment a Japanese worker, about 24 years of age and looking for a job. You won't have any trouble finding one; there is no unemployment in Japan. But you will choose among various companies and the one you choose will be the company for which you will work until the day, at 55 or 60, you retire. What this means for Mr. Eberle is trouble.

Next to his country and his family, the Japanese feels loyalty to his company. He sings the company song; puts suggestions in the company box; stays after hours to attend the company social; goes on weekends or vacations to the company spa; saves (at an astonishingly high rate of interest) at the company bank; borrows (at an astonishingly low rate of interest) from the company fund. The company buys the land on which he builds his house and sells it to him cheaply over 15 or 20 years. When he retires, the company pays him a substantial pension, and when he is ill, he stays free at the company hospital. Meantime, he is assured that unless he steals the company money or in some other way outrages decency or the law, he will never be fired, laid off or demoted.

The "thing" is simply remarkable. An American who views it for the first time can fall into the error of imagining it as a means by which the rich rob the poor—as the company store of the 19th century sometimes robbed the American workingman. But it is not like that at all. It is cradle-to-the-grave security on the job. And the Japanese worker gives in return his best performance, his total loyalty and his freedom of movement. "You don't quit a job in Japan," a worker at the Panasonic television factory told me, "People would think you were not a nice person."

An American is also likely to scoff at the "thing" as square, unsophisticated, overly "sincere."

But it works. And as long as it works, William Eberle and his successors are going to find it very difficult to make American goods compete in the world's market with goods made in Japan.

## MR. PRESIDENT ROTH

Mr. SCOTT of Pennsylvania. Mr. President, I was delighted when the Gridiron Club of Washington selected Robert Roth of the Philadelphia Bulletin as its president this year.

I ask unanimous consent that a tribute to Mr. Roth which appeared in the March 11 issue of the Bulletin be printed in the RECORD.

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

MR. PRESIDENT ROTH

This is that one weekend of the year during which *two* presidents share attention in Washington, D.C.

One is, of course, the President of the United States.

The other is the President of the Gridiron Club of Washington. And this year the President of the Gridiron Club is The Evening and Sunday Bulletin's Robert Roth whose columns from Washington appear regularly on the adjoining Opinion & Review Page as well as on Page One of the Sunday Bulletin's News & Views section.

Mr. Roth, who presided last night at the annual Gridiron Club dinner, is a perceptive journalist. He is a conscientious writer. His news coverage and his Commentary and analyses have illuminated the Washington scene since the administrations of Franklin D. Roosevelt.

Mr. Roth's elevation to the presidency of the Gridiron Club is a tribute to his standing among Washington correspondents. The Gridiron Club is composed of just 50 of the national capital's most respected newsmen. Among his peers Mr. Roth stands high in his journalistic skills and in his dedication to truth and to the free flow of information.

Each year since 1885 the Gridiron Club has had as its dinner guests 500 or so notables in government, diplomacy, politics, business and the armed forces. Club members lampoon these greats and near-greats in satirical skits. For one night, protocol is eased and men of prominence put aside the loneliness of power and laugh at themselves and with their fellows.

In an era in which laughter, especially at one's self, is an increasingly rare commodity, it becomes all the more precious. Thus The Bulletin, with what we trust will be accepted as pardonable pride, salutes and congratulates Mr. President Roth for his part in all of this.

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## COSMETIC SAFETY ACT

Mr. EAGLETON. Mr. President, I am sponsoring the Cosmetic Safety Act (S. 863), a bill to give the FDA the authority it needs to insure that only safe cosmetic products are available to the public. Briefly, my bill would require full ingredient and cautionary labeling of cosmetics, premarket safety testing by manufacturers, and registration of manufacturers. It would also require the filing of statements of composition for each product and the filing of complaint letters with the FDA on a routine basis.

Recently two articles have come to my attention which underscore the need for legislation of this kind. Both deal with the so-called feminine hygiene sprays—products which have been on the market only since the mid-1960's and now comprise over a $50 million market. Officials at the FDA have long been aware that these products present a substantial risk of injury to users while having little or no practical utility.

The article by Prof. Joseph Page, Georgetown Law Center, outlines the fruitless struggle that has been waged by consumer advocates seeking tighter regulation of these products. Professor Page concludes that,

When reluctant regulators administer toothless laws, the result is a charade at the public's expense.

This article appears in the current issue of Washington Monthly.

The second article, by Ross Evans of the Washington Star-News, presents further evidence that the Federal Food, Drug and Cosmetic Act should be amended to require premarket safety testing by manufacturers of cosmetic products. According to this report Ciga-Geigy, manufacturer of triclosan, has discontinued selling this germ-killer to Alberto-Culver for use in FDS, the largest selling feminine hygiene spray. Ciga-Geigy is not convinced that such use is safe, although it has been used in FDS for several months.

I ask unanimous consent that these articles be printed at the close of my remarks.

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

[From The Washington Monthly, March, 1973]

WHAT THE FDA WON'T TELL YOU ABOUT FDS

(By Joseph A. Page)

When feminists are looking for a good illustration of what's wrong with American business, they often point to feminine hygiene sprays. Denounced as both useless and hazardous by doctors and promoted through advertising demeaning to women, the sprays are a classic case of adding injury to insult.

One part of the feminine hygiene deodorant story that has not been explained is the federal government's role. For nearly two years, a combination of weak laws and timid administrators has kept the government from taking the steps necessary to protect the public. The latest installment in this continuing story came in February, 1973, when the Food and Drug Administration (FDA) failed to issue long-expected regulations for the sprays and gave no clue to its next step.

Feminine hygiene sprays are not, as their name might imply, related in any way to health; their only function is to guard against "vaginal odor." That such an odor exists has long been known, but that it is anything but normal was hardly suspected before 1966, when the first of these deodorants hit the U. S. market. The sprays usually contain alcohol, scent, an antibacterial (until recently, the now-banned hexachlorophene), and an aerosol propellant.

The medical world is generally skeptical of the sprays. Doctors stress that routine cleanliness is the best protection against odor; as *The Medical Letter* advised its physician-readers recently, "It is unlikely that commercial deodorant feminine hygiene sprays are as effective as soap and water in promotion of a hygienic and odor-free genital surface." For those who have an odor problem soap can't solve, the sprays may actually be a danger. Physicians point out that odors can be a sign of disease, and that by blocking normal warning signs, a too-assiduous use of deodorant could delay needed treatment.

Deodorant sprays left the pages of *Mademoiselle* and attracted government attention because of their enormous commercial success and the numbers of consumer and doctor complaints that followed. The boom began when Alberto-Culver beat its competitors to the market and introduced FDS in 1966. In short order other sprays joined it, but the real expansion did not come until 1969. Then, in a decision that was to vaginal sprays what the 21st Amendment was to brewers, the National Association of Broadcasters decided to reverse its long-standing rule against televised advertisements for "intimate products."

At least 30 different brands appeared, some seeking distinction by offering "flavors." (Cupid's Quiver, for example, features raspberry, champagne, jasmine, and orange.) Sales jumped from $20 million in 1969 to $67 million in 1971. To convince women of the need for a product which didn't exist before 1966, the four leading manufacturers spent over $8 million on advertising in 1971. A prime target is the youth market. Last spring, one manufacturer offered spray samples for 25 cents to more than a million women in college. Some 209,000 of them responded.

The market fell off in 1972, mainly because hexachlorophene, an ingredient in some of the sprays, received widespread publicity as being responsible for the deaths of more than 30 babies in France. Vaginal deodorant manufacturers have now removed this toxic chemical from their formulas. (A current TV commercial actually seeks to capitalize on this turn of events by advertising that Warner-Lambert's Pristeen is now free of hexachlorophene—although the company had previously done virtually no labeling or advertising to inform the consumer that Pristeen *did* contain the chemical.) *F-D-C Reports*, a trade publication, has quoted an Alberto-Culver official as insisting that the corner has already been turned and that sales of market leader FDS will soon return to 1971 levels.

MEDICAL PROBLEMS

If this were merely a tale about the wilder fringes of the beauty industry, we might dismiss the story as one more example of how the American economy keeps people in jobs. But evidence is accumulating that vaginal sprays pose serious hazards.

The risks arise from what the sprays do to the sensitive pubic region. In the few years the products have been on the market, there has not been time to determine whether there are any long-term risks. Experts feel the most serious problems may not be apparent until the sprays have been tested over time. In any event the short-term medical record is alarming enough. The most common reactions are itching, burning, and rashes, often leading to conditions technically known as cervicitis, cystitis, urethritis, vulvitis, and vaginitis. Once inflamation sets in, it can be persistent; in 18 cases investigated by the government, patients required an average of 30 days to recover.

The government has a responsibility to protect the consumer from hazards like these. The agency responsible, the Food and Drug Administration, has floundered, and the story of its hesitation tells a lot about how government can fail.

Some critics point to sexism as an explanation for the government's failure to take the problem seriously. When Congress, the FDA, and the spray industry are all run by men, they ask, how can women get a fair shake?

GYNECOLOGICAL GRUMBLINGS

The Food, Drug, and Cosmetic Act of 1938 provides the legal framework for FDA authority over the sprays. When the first vaginal deodorants reached the market in October, 1966, there was no regulation requiring that the companies notify the government of this historic event. In fact, the law does not even oblige cosmetics manufacturers to tell the FDA that they are in business, let alone what products they peddle or what ingredients the products contain. There was (and still is) no requirement that companies test cosmetics

for safety before marketing them. Only if a cosmetic is adulterated or misbranded can the agency invoke legal sanctions, the most drastic being seizure of the product. But a company can challenge these sanctions in court, and the burden is on the agency to prove that the law has been violated.

From the manufacturer's point of view, there is only one complication in this permissive arrangement. Sometimes, under FDA rules, a cosmetic is not just a cosmetic, but a drug as well. If it is, then the FDA can require the product to meet the same standards as other drugs, most crucial of which are pre-marketing safety tests. The line between "cosmetics" and "drugs" is therefore important, but it is also exceedingly fine. The main test seems to be intent: the law states that a cosmetic may be a drug if it is "intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease," or "is intended to affect the structure of any function of the body."

Until the summer of 1971, the FDA called the sprays cosmetics and let it go at that. Then disturbing signs appeared. Complaints from consumers claiming injury from the sprays were arriving at a rate higher than usual for a cosmetic, and there were sustained grumblings from the medical profession. Several letters from gynecologists describing adverse reactions their patients had suffered after using the sprays appeared in medical journals. Fifteen doctors from the student health service at the University of California at Santa Barbara wrote to Virginia Knauer, President Nixon's Adviser on Consumer Affairs, urging that the sprays be withdrawn from the market.

There was also a prod from elsewhere in the government. The Federal Trade Commission (FTC), responsible for scrutinizing the product's advertisements, formally asked manufacturers to back up their advertising claims with facts. Under the FTC's admittedly cumbersome procedure, this could be a first step toward issuing complaints about deceptive advertising.

The FDA's response was to meet with industry representatives and ask them to cooperate by voluntarily furnishing the agency with information, including safety-test data. The weaknesses in the Food, Drug, and Cosmetic Act forced the agency to take this approach. Unlike the FTC, which has legal authority to subpoena information from industry, the FDA must rely on the manufacturers' good will.

On August 12, 1871, Gus S. Kass, vice president of Alberto-Culver, complied with the FDA's request, and several other companies sent information on consumer complaints, ingredients and testing. Warner-Lambert, however, chose not to let the agency see any data, despite ads claiming that Pristeen "has been developed out of intensive research and tested in leading hospitals under the supervision of gynecologists."

The Alberto-Culver material described tests performed on animals and humans to determine irritancy, rate of hexachlorophene absorption, and levels of hexachlorophene in the blood (as well as odor evaluations made by trained "sniffers"). But the company omitted information on how much of the spray normally penetrates to internal areas, which is surprising since millions of women had been using the product for several years.

THE RACE TO THE MARKET SHELF

The reason for this less-than-thorough testing was Alberto-Culver's determination to beat the competition to the market shelf. Warner-Lambert was actually the first company to test-market a vaginal deodorant, but Alberto-Culver won the race to national distribution, advertised heavily, and established FDS as the market leader. The competition has yet to recover.

The commercial success entailed certain sacrifices, one of which was adequate safety testing. When FDA's medical officials looked over the Alberto-Culver test data, they were not pleased. "The information contained in these studies does not contribute anything to our understanding of the injuries reported to us," wrote Dr. John Gowdy of the FDA's Bureau of Foods, in a memorandum dated November 24, 1971. Dr. Benson C. Schwartz of the agency's Bureau of Drugs concurred, reporting, "The clinical studies submitted are inadequate and not controlled."

Alberto-Culver put forward the best face it could, especially when FDS was challenged in court. When one woman sued for injuries she attributed to FDS, Alberto-Culver's Gus Kass said in a sworn answer to an interrogatory:

"To determine whether FDS was irritating under use conditions: 31 women *completed* the test over a period of five weeks. The study was conducted under the supervision of a gynecologist. The product was applied to the pubic-vaginal area either two or four times daily. Conclusion: *No* irritation or other abnormality which could be attributed to the use of FDS was observed." [Emphasis added.]

This account makes for an interesting comparison with Dr. Schwartz's description of the same study:

"*Thirty-two* human subjects were started on an uncontrolled study in which each patient was examined by a physician and then given a can of FDS to use either two times a day or four times a day depending on her preference. Each patient was then examined at intervals for signs of irritation or erythema. No smears or cultures were made. Patients were not restricted as to other medications and douches. *One patient dropped out,* leaving 31 subjects. The patient that dropped out did so *because of irritation on the right inner thigh which became progressively worse,* forcing her to drop out of the study after two weeks.

"Comment: The company states they found no irritation or other abnormalities which could be attributed to the use of their product. Upon careful review of each clinical report form, seven of the 32 patients showed signs of symptoms of irritation or erythema. *This would give a reaction rate of just under 25 per cent.* Furthermore, if each clinical report form is read, the bias of the examining nurse becomes very obvious as she belittles every positive finding—attempting to blame it on anything but the feminine hygiene deordorant spray." [Emphasis added.]

Recent attempts by public interest advocates to investigate test data sent in by Alberto-Culver and the other companies provoked a flurry of evasive, often contradictory responses at FDA and one unusual result. Shortly after the first request for disclosure, the Alberto-Culver test data was mysteriously and "inadvertently" sent back to the company.

LET THE SPRAYER BEWARE

Between these less-than-reassuring tests and the growing pile of complaints, the FDA was being pushed to act. Internal FDA memoranda prepared by scientists in the Bureau of Foods and the Bureau of Drugs during October, 1971, spelled out the dimensions of the safety problem: four manufacturers admitted receiving 383 complaints, physicians reported approximately 30 injuries, and the FDA received 18 complaints directly from consumers.

The usual reported adverse-reaction rate for cosmetics is one per million units sold. On the basis of the above figures, the rate for vaginal deodorants was running about 10 times higher.

With these facts in hand, the FDA had to confront the problem of what action to take. In typical bureaucratic fashion, its response was to hedge.

What happened within the Bureau of Foods illustrates how promptly regulatory proposals can be watered down as they pass through the pipeline. In an "action memorandum" dated October 19, 1971, a medical officer in the Bureau argued for a ban on the sprays:

"I would suggest that products intended to prevent the development of skin odor in the external perineal [genital] area and dispensed from pressurized containers be considered hazardous per se and may not be offered for sale in interstate commerce unless adequate evidence is presented to the FDA that they are safe under reasonable conditions of use. Since no product presently on the market meets these conditions, they should all be recalled and it would be incumbent on those who propose to market such products to determine the offending ingredient or ingredients and take such corrective measures as might be indicated to make the product safe."

This drastic proposal must have horrified his superiors, for on the same day, the office of the acting director issued an action memorandum repeating the earlier memo verbatim, but deleting the recall provision and changing the conclusion to find that the sprays "may be hazardous." This left the Bureau of Foods committed to the requirement of warning labels which the first October 19 memo had proposed as "a less Draconian approach."

Meanwhile, the Bureau of Drugs was also studying the problem and suggesting regulatory approaches. An August 4, 1971, memorandum argued that vaginal deodorants were mislabeled and hence subject to recall:

"The claims made for the product are misleading in that: they imply that one spray will prevent odor all day; they state that the product(s) have been tested by gynecologist(s)—an implied claim of medical efficacy; they state that the product "stops odor before it starts," implying prophylactic benefit; they state that the product "keeps you fresh all day every day," implying a change in body function or condition; they imply medical benefit in pathologic vaginal problems which are odiferous and should be treated by a physician. . . . Moreover, in permitting these products to masquerade as cosmetics, we presently allow them to be sold with labeling that is false and misleading, lacking adequate precautionary statements and instructions for use."

SIMMONS ON SENSITIVITY

A subsequent Bureau of Drugs memo added the point that the terms "hygiene" and "deodorant" are misleading "as they [the sprays] in no way promote hygiene (either cleanliness or health) nor are these products proven or accepted deodorants in this area." But, instead of pursuing this line (which would have acknowledged the Bureau of Foods' jurisdiction over the sprays as cosmetics), the Bureau of Drugs pressed for an agency finding that sprays containing hexachlorophene were drugs. The memo of October 4 spelled out the reasons:

"1. *The nature of the use.* . . . They are intended to be sprayed on and around the perineal area . . . and quite likely in the vaginal area. . . .

"2. *The nature of hexachlorophene.* . . . It kills bacteria [whose] . . . balance is in fact important to body function. . . . Products which alter bodily function are considered to be drugs.

"3. *Recent serious challenges to the safety of hexachlorophene.* . . .

"4. *The possibility of masking the need for medical treatment.* . . ."

Dr. Henry E. Simmons, director of the Bureau of Drugs, spelled this out in more

elegant form in an action memorandum dated October 29, 1971:

"The vulva and vagina represent areas of the body that are in a constant state of change. Marked variations occur daily, hourly, and even momentarily under the influence of hormonal stimulation, sexual stimulation, pregnancy, and normal aging.

"From a psychological standpoint, a physical standpoint, a cultural standpoint, and a sexual standpoint it would be an understatement to call this a sensitive area."

This was sound medical judgment and plain common sense. Moreover, it led to the inescapable conclusion that vaginal deodorants ought to remain out of the hands of consumers until the manufacturers proved their safety with valid data obtained through sound testing procedures. In other words, the products *should* be regulated as drugs. Whether they *could* be classified as drugs under existing law and its interpretation by the FDA and courts was another matter.

In a September 29, 1971 memo to a medical officer in the Bureau of Drugs, the FDA's newly appointed legal counsel Peter Barton Hutt gave his opinion of how the law had been construed: "Antibacterial agents [such as hexachlorophene] in deodorants are not intended to affect a bodily function or prevent disease, but only to promote attractiveness." He added that "a representation that a product contains hexachlorophene may well be sufficient to classify it as a drug claim," but warned that the threat of such a classification would merely induce manufacturers to stop making the claim.

A paper Hutt delivered while a partner in a Washington law firm and general counsel to the cosmetics industry's trade association spelled out the fine distinction the FDA had drawn between a "product that absorbs perspiration or masks its odor, or prevents odor by germicidal or bacteriostatic agents that act upon odor-producing bacteria" (a cosmetic) and a "product designed to reduce perspiration odor by reducing the perspiration itself, through a change in the sweat grands" (a drug).

SLOW DOWN, DON'T MOVE TOO FAST

So near the end of 1971 the FDA was stewing busily, but a firm policy decision on the sprays was never reached. Instead, the agency began to move against hexachlorophene because of increasing evidence that the chemical was unsafe. Since most of the sprays contained hexachlorophene, some officials felt that reducing the amount of the chemical might solve the spray problem. This was at best a partial solution, since neither the FDA nor the companies had yet discovered which ingredient actually caused the irritation. In fact, some of the sprays without hexachlorophene caused as many complaints as the rest.

One approach the FDA took was to urge manufacturers to remove hexachlorophene from the sprays voluntarily. On November 10, 1971, FDA press officer John T. Walden said the agency acted because the chemical was not only potentially harmful but unnecessary. "There is no medical justification for [hexachlorophene] in feminine hygiene deodorant sprays," Walden said. Ever ready to pick up the gauntlet, Alberto-Culver President Leonard Lavin immediately sent an angry telegram to HEW Secretary Elliot Richardson and FDA Commissioner Dr. Charles C. Edwards demanding that Walden be fired and claiming that Alberto-Culver had "voluntarily submitted to the FDA scientific findings which completely refute Walden's irresponsible statements." The next day Lavin flew to Washington to meet with Dr. Edwards and repeat his demand. The Commissioner didn't sack Walden, but that wasn't Lavin's real objective. He was out to silence the FDA, and he seemed to succeed, for at the conclusion of the meeting, Dr. Edwards promised he would have no comments for reporters concerning the status of the sprays.

On January 7, 1972, the FDA made its first move, publishing a proposed regulation which, if adopted, would have limited the amount of hexachlorophene in drugs and cosmetics. The use of the chemical in cosmetics could continue only if it served as a "preservative" rather than an active ingredient, at a concentration no higher than 0.1 per cent—and only if manufacturers could not find an alternative preservative. Interested parties were given 60 days to comment.

The FDA never explained the basis for its "preservative" loophole. There was no doubt that the companies were using hexachlorophene as an active ingredient in vaginal deodorants; under this ruling, they could keep on using the toxic chemical in the same amounts as before, calling it a "preservative."

The period for comment expired on March 8, and the usual bureaucratic delay settled over the issue. It took the deaths of 30 babies in France from talcum powder containing hexachlorophene to jar the agency into decisive action. On September 27 the FDA promulgated its final restrictions on the use of hexachlorophene in drugs. The new order retained the preservative loophole and the 0.1-percent limit, but, in response to a written comment submitted by the author and one of his students, it also incorporated a requirement that calculations of the hexachlorophene content in aerosol products be made exclusive of the propellant. A letter from an FDA medical officer in *The New England Journal of Medicine* said "evaporation of the propellant may raise the concentration of hexachlorophene to as high as 95 per cent on the skin immediately after application."

The morning the order was published, industry representatives rushed to the agency and met with FDA compliance officers to argue that the propellant should be included in the hexachlorophene level measurement. The industry, which had already planned to remove hexachlorophene from its sprays, was concerned because the ban would prevent it from selling existing stock. The encounter lasted all of 10 minutes. No FDA scientific personnel attended. That afternoon, following a conference with Peter Hutt, a decision was made to accept the industry position—demonstrating that the agency doesn't always act slowly.

Representatives of women's labor, and consumer groups met with Dr. Edwards to protest the FDA's decision. Though Dr. Edwards refused to budge on the measurement issue, the FDA did modify its final regulation to ban the use of any hexachlorophene in cosmetics which might come in contact with mucous membranes.

A GAME OF CHARADES

At the same time, an article in the October, 1972, issue of *Ms.* told readers that Bureau of Foods chief Robert M. Shaffner had predicted that by the time the article was published, the FDA would have issued a regulation requiring warning labels for the sprays.

On October 20, an advisory committee of obstetricians and gynecologists set up to counsel the FDA voted its opinion that the sprays should be considered drugs and that there is inadequate evidence of their safety and some presumptive evidence that they are unsafe.

The agency seemed to be regaining momentum. In late January, 1973, word leaked out that the FDA was on the verge of requiring warnings on spray labels, so that an intelligent consumer would think twice about using a vaginal deodorant.

But in less than two weeks the regulations had once again been delayed indefinitely. Despite all the internal memos and valiant efforts of medical officers within the agency, the FDA persisted in being soft on the manufacturers. The companies can continue to use the word "hygiene" on labels, misleading though it may be; they do not have to warn users to seek medical help if certain symptoms appear; they do not have to give directions that would insure that the sprays are not applied with excessive force (or at too close a range) and in such a way that the ingredients will not reach the vaginal orifice.

While failing to come to grips with the problem of vaginal deodorants, the FDA adopted an elaborate scheme of "voluntary regulations" drawn up by the cosmetics industry to create the impression of adequate self-regulation in order to obscure the need for new legislation. Instead of asking for legislation to strengthen its inadequate laws, or using what powers it could to regulate the hazardous, poorly tested sprays, the FDA has continued to cooperate with the industry in delaying reform.

When reluctant regulators administer toothless laws, the result is a charade at the public's expense. It may be a while before a better illustration of this truism comes along. Congress, by failing even to hold hearings on the subject, has long demonstrated its indifference to cosmetics regulation. Whether the saga of the sprays will ruffle this blanket of neglect remains to be seen.

Meanwhile, the FDA has begun to receive complaints of adverse reactions to a deodorant tampon, and has met with the manufacturer to ask politely for a list of ingredients and safety-test data. And so it goes.

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[From the Washington Star, March 7, 1973]

HYGIENE SPRAY ELEMENT DROPPED BY DRUG FIRM

(By Ross Evans)

A pharmaceutical company has announced that it has stopped selling its exclusive germ-killing agent triclosan, for use in feminine hygiene sprays—a move that poses another obstacle for spray manufacturers seeking a replacement for federally banned hexachlorophene (HCP).

Dr. Frank Lyman, director of industrial medicine of the Ciba-Geigy company, told a Food and Drug Administration advisory panel yesterday that his firm, which holds a patent on triclosan, no longer will sell it for use in the feminine deodorants without explicit FDA authorization for the spray maker.

He had told an October meeting of the same panel that he would not recommend the use of the agent in vaginal sprays, although he knew of "no obvious hazard from such use," according to FDA minutes of the meeting.

Hexachlorophene was used as a germ-killer in many sprays until September, when it was banned by the FDA as a health hazard. The ban was relaxed, however, to allow the sale of existing stocks of HCP sprays.

Of "about a dozen major brands" which had included HCP, two replaced the HCP with some other germ-killer, and four reformulated without germ-killers, an FDA official said. Other brands have not yet reported their new formulas to the FDA, he said. Without a germ-killer a spray is merely a perfume.

THREE CATEGORIES

The FDA advisory panel, studying the effects of germ-killers, expects to make a report this summer dividing anti-germ agents into three groups: generally recognized as safe, not safe, and unknown.

The FDA panel's recommendations, may determine whether any germ-killers are recognized as safe for use in vaginal sprays and whether the FDA will choose to classify them as drugs, which would make them more strictly controlled. They are now classified as cosmetics.

Lyman said later that the only major brand including the germ-killer was Alberto-Culver's FDS. It accounts for a sizable share of the $53 million spray market, according to Richard Sykes, a Ralph Nader associate.

TOXICITY UNKNOWN

Sykes said toxicity levels of triclosan were unknown, citing Lyman's October statement that the liver was a possible "target" of toxic concentrations of the agent.

Sykes said it is possible, but unproven, that women using germ-killing vaginal sprays are more vulnerable to fungus infections.

## THE UNITED NATIONS AND INTERNATIONAL STABILITY

Mr. BROOKE. Mr. President, there are many individuals in the United States and elsewhere who continually disparage the United Nations as an imperfect, nay ineffectual organization in the international system. In many areas such criticisms have a certain degree of validity, especially in regards to the questions of peacekeeping and peacemaking. However, I believe that those who see little merit in a continuation of the United Nations are extremely myopic in their failure to perceive that there are no feasible alternative ways to provide the necessary services to humanity now rendered by the United Nations.

The basic question the critics of the United Nations fail to provide a satisfactory answer to is this: What would happen should there be no United Nations? As I have pondered this question, I have come to the conclusion that an international system lacking a United Nations or its functional equivalent would be a far less stable and far more dangerous system.

In regards to why I believe the United Nations to be an important and necessary entity in our world, I call the attention of this body to an excellent article by Prof. Kenneth W. Thompson published recently in VISTA, the magazine of the United Nations Association. The article is entitled, "On Replacing Lost Gods." In regards to the function of the United Nations, Professor Thompson states:

> With the breakdown of the ruling dogmas of freedom, progress and science and the attendant uncertainty and powerlessness that many feel, the United Nations may be more vital than its founders dreamed.

I fully concur with this thought and I believe that in an age of alienation and instability the world can only ignore the United Nations at its own eventual peril.

I ask unanimous consent that Professor Thompson's article be printed in the RECORD.

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

ON REPLACING LOST GODS

(By Kenneth W. Thompson)

Learned Hand, U.S. vs. Associated Press, 1943: "Right conclusions are more likely to be gathered out of a multitude of tongues than through any kind of authoritative selection. To many, this is and always will be folly; but we have staked upon it our all."

One taproot idea of Western civilization is faith in freedom and the free marketplace. Americans tend to believe that truth will win out over falsehood, right over wrong, reason over unreason in free and open debate. In the interplay of forces of justice and injustice, justice rules the future and behind the dim unknown stands God keeping watch above His own. Another taproot idea is faith in the inevitability of progress. History is on the march. Even the Marxist heresy prophesied that history was moving irresistibly through thesis and antithesis toward a new synthesis, the classless society. Capitalism foresaw the day when increasing production and rising living standards would transform the spiritual no less than the material lives of everyone. A third credo is faith in science. Science has its own momentum and inner logic. It provides the framework and the terms for decisions, taking the place of old-fashioned moral reasoning. It can save man because it leaves nothing to chance. It is grounded in knowledge and facts.

The world crisis is upon us because all three of these regnant ideas—freedom, progress and science—have come under question. What seemed indisputable and irrefutable a generation ago is no longer self-evident. Two-thirds or more of the world's people in the developing countries appear willing to trade freedom for order or for order coupled with economic growth and national prestige. Unbridled freedom in national and world assemblies leads to impasse and chaos and to a shift in the locus of decision to other agencies: the executive in national governments and the great powers in world politics. Freedom of speech and assembly unbalanced by respect for the freedom of others brings pressure, not for freedom but its restriction. We hear pitifully little talk of freedom in certain quarters: whether among the most hard-pressed and beleaguered nations of Africa and Asia or among the defenders of the status quo and the rich and the powerful.

If freedom has fallen under a cloud, however, *progress* as the dominant belief of the culture is yet more in eclipse. Indeed its antithesis, an all-pervasive sense of powerlessness, has spread throughout the land. All too many of our people see mankind and the world not as "growing better and better every day in every way" (Coué) but the very opposite. They have self-doubts about a society that brings us consumer goods but not happiness. But more serious than this, they doubt their ability or their government's or the world's to turn things around. The Club of Rome Report is unnerving not because of its stark and pessimistic diagnosis of present trends of overpopulation, pollution, resource depletion and famine but for the implication however intended that nothing can be done about it. The end of the era of progress has left us—apparently—not with a steadier and more realistic grasp of our prospects but with a failure of nerve and a sense of impotence. How ironic that, in the most powerful nation in the world, people should feel so powerless vis-a-vis the great problems of the 1970's, their governments, their families and across the broad front of threatened individualism. And the more they talk of "people power" or personal potency, the less convincing are their words to themselves or others. It is as though so many words had been uttered in the era of progress about inevitable advancement or invincible man or the transformation of human nature (most recently the process of the "greening of America") that we no longer believe our own words. Could it be that the age of overkill and oversell has left us satisfied and immobolized? Are we alternately the victims of too much and too little faith? Do we vacillate between the role of true believers and total cynics? Is there some profound and as yet unexplored connection between the death of the idea of inevitable progress and the birth of McLuhanism? Have we found greater difficulty coping with our discovery that life is more often a roller-coaster than an escalator precisely because electronics and technology have made us observers glued to the tube, not actors in life's drama?

I do not know the answers, nor perhaps even the proper questions to ask, but I am persuaded that one aspect of the present crisis is our response to history's refutation of inevitable progress. A discovery that had to be traumatic has paralyzed our will to act in a new age of uncertainty, and this as much as objective factors lies at the roots of the crisis.

We must seek the fountainhead of the moral crisis beyond the problems of freedom and progress. It is bound up somehow with the elevation of science to an autonomous, self-contained and all-controlling force in civilization. Our predicament is illustrated in a dispatch from Canada reported in the New York *Times* (August 26, 1972) about Peter Pollen of Victoria, British Columbia, a successful car dealer turned mayor, battling to turn back urban sprawl built on the premise that big is good and bigger is better. The specter of row on row of billboards and crowded apartment buildings and cars sucked into the cities by capital funds overconcentrated on highway development prompted Mayor Pollen to ask: "Who is the enemy?" He answered: "It's the American scene basically. You guys are screwing up your world in the United States, but we're not going to screw up ours." His critics, Canadian developers, struck back by saying, "You can't stop growth"—in other words, the irresistible march of science and technology.

Herein the moral problem. We live in a culture that tends to translate and resolve every issue of moral and social choice in technological terms. If science and technology can build a larger and faster airplane, build it. If research and development, to which we devote 22 percent of our defense budget, can create more lethal weapons, we must have them. If the SALT talks put constraints on quantitative increases, we shift to qualitative refinements. If the family is in travail, the answer isn't in the substance of love but in the techniques of sex manuals. And in the final illness, when neither the doctor nor the family can face the moral choice of prolonging life or accepting death, the availability of techniques and treatment makes the decision for them. Science has become an autonomous force and, by its dramatic advances, coupled with the retreat from moral reasoning, has in this age of numeracy preempted the field.

The message is not that science will destroy us any more than it is that science can save us. Nor is the solution to be found with those moralists who frame every issue in the vocabulary of absolute right and wrong. The challenge we face is to rediscover the habits of moral reasoning that reduce social choices neither to techniques nor to moral absolutes. Professor Paul Freund of the Harvard Law School speaks of the need to look at values not as abstractions but in the context of living social problems. In our fantasies and particularly at election time, we look at the world in categories of simple right and wrong or good and evil. In real life, values cluster together, compete and are in conflict, and can lead, depending on the choice of one or the other, in utterly different directions. Value choices are seldom if ever between good and evil. They more often involve a choice among rights and rights: free speech versus crying fire in a crowded theatre, intellectual curiosity versus the right to privacy, freedom versus order, peace versus justice, freedom of scientific inquiry versus the right of a graduate student to build nuclear weapons in his kitchen. Moral discrimination in human life is less mathematics or science than playing the juggler's act in keeping eight or ten values in view and in balance.

The problem is twice compounded in foreign cultures. How are values that do not exist in the culture stimulated and inculcated? The new nations face problems not only in balancing values in a social context but in inculcating new values toward work, time, achievement, status and perseverance, which have no cultural roots. These are not simply behavioral matters but grow out of the fundamental conception people have of the meaning and purpose of life. Status in Indonesia is a product not of hard work but of inner perfection. There is no Protestant ethnic. Hard work is secondary to a more elemental factor, the condition of the soul. Or take birth control. Large families are highly valued and so is the economic well-being and symbolic immortality achieved through the work and lives of many sons. Science may offer new and efficient techniques, but their acceptance or rejection depends on cultural values.

Or consider violence. The problem in part arises because basic human drives long dormant and controlled can break loose. In Indonesia, the practice is not to leave money to one's children, but this lies athwart the need for savings and capital formation. Young people flood the cities so that 50 percent of the population below 17 are urban youth. Development in cities such as Jakarta is phenomenal and prices skyrocket. Jakarta has a per capita income of $300 and the rest of the country has less than $100 per capita. This has a profound effect on social cohesiveness within the nation, for an elite lives at an international level and the poor are far below it. But also within the cities the youth wait for jobs that never come. The juxtaposition of affluence and poverty, hope and despair, lead to reactions of anger and fear. Violence remains close to the surface; there are naked expressions of pent-up frustration and greed. The great problem is how to keep despair from erupting into violence and stay on top of the problems of living in huge metropolitan areas. It also involves the need to think about the underlying sources from which violence springs.

The point is that, at home or abroad, we need to look beyond science to the aspirations incarnate in man and embedded in culture. If we look only at what man is now, there is little hope for the future. Man has the capacity to be both more and less than he was and is. There are strengths and resources in every man and society that can help them to move ahead. For example, traditional Javanese society embodies the values of self-restraint, sharing and moderation. Americans are generous, voluntaristic and responsive to a mission. The task is to cast these in ideological terms so they can take on behavioral patterns and generate social action. But neither freedom nor progress nor science can do this. It requires leadership and an act of will—but in a context more complex than commonly understood.

This brings us to the United Nations and our underlying faith that "right conclusions are more likely to be gathered out of a multitude of tongues." With the breakdown of the ruling dogmas of freedom, progress and science and the attendant uncertainty and powerlessness that many feel, the United Nations may be more vital than its founders dreamed. The crux of the problem is the need for limited, proximate and interim faiths less vaulting than progress and science but more durable and lasting notwithstanding. More than a century ago, President Lincoln spoke of Americans as a people "destitute of faith but terrified by skepticism." Because so much of ancient faith was shaped in a more simple time of sheep and shepherds, we cast about for substitute faiths. Some find it in the political religion of nationalism, others in the bitch goddess success and still others, among them some of our young, in a curious blending of nihilism, asceticism and moral superiority. Others suffer because their dream has indeed come true but has left them bereft of true satisfaction.

Wilfred Jenks, the beleaguered head of the International Labor Organization, has observed that our dilemma is believing in the United Nations while awaiting the emergence of something better. This kind of faith is never easy to sustain, but we had better grow accustomed to it. The alternative, as we have seen with science or progress, is to link hope to a singular purpose, achieve or fail to approximate it, and fall into despair when utopia is not forthcoming. There may even be some virtue in the fact that the United Nations is as fragile an institution as it is, thus saving its members from self-righteousness and pretentiousness. For it is a fact that the structure of the world reflected in the United Nations bears little relationship to political realities. The two nations of North America are outnumbered 40–2 by the votes of the African states. China with 800 million people can be outvoted 40–1. Is it any wonder that the great powers have tended to act outside the United Nations? Yet in doing so they run the risk of weakening the framework of the only world institution within which global peace can be pursued. It is understandable that the United States and the Soviet Union, for example, would be impatient with the delays, the demands to which they are subjected and the checks to their power within the United Nations. But would these demands be any less outside a constitutional framework? Have the great powers felt any more powerless in seeking to impose their will, say, on Vietnam or on Cuba? And how is one to compare the reactions of the rest of the world to American actions in Korea undertaken within the United Nations framework to those in Vietnam pursued outside the United Nations, and what lessons can we learn?

The crisis in the United Nations is but a reflection of the moral crisis outside its halls. Its actions are no better and no worse than those of its members. And its strengthening and weakening occur as regnant themes and ideas ebb and flow. The United Nations at birth was undergirded by the same dogmas of freedom, progress and science at work in the culture. It was illusory then to speak of "open covenants openly arrived at" or of diplomacy under klieg lights. Dag Hammarskjöld left mankind a legacy of what could be accomplished through "quiet diplomacy" that demonstrated how fruitful and complementary free debate and the healing processes of private diplomacy could be. *Progress* was proclaimed by Cordell Hull who spoke of the new international organization as eliminating alliances, the balance of power and those ancient rivalries among states that congealed in power politics. Yet the living United Nations while failing to eradicate these primordial forces has discovered ways, at its best, of controlling them and ameliorating their most damaging effects. And whereas *science* was rather naively enshrined in UNESCO and other UN agencies, its wisest practitioners have recognized the need to go beyond science, to organize and use it, as was done in Stockholm at the UN Conference on the Human Environment, and to mobilize all the moral force inherent in "the conscience of mankind" to keep science's destructiveness in check.

I believe in the United Nations because it is a far more pragmatic institution than some of its early spokesmen made it out to be. Primarily because it provides a forum for a multitude of tongues to be heard and a process through which a multitude of interests can be accommodated, it is more indispensable now than in the innocence of its infancy. Interest can be balanced against interest and claims and counterclaims registered through voices and votes, not bombs and bullets. The greatest challenge of the 1970's is for men and nations to live with uncertainty—with the decline of old certainties and dogmas. We need one another, yet we fear one another, we hurt one another, turn to aggression and walk a collision course. Because the first order of business of the UN is to harmonize interests, maintain international peace and security and deal with the underlying causes of conflict, its task is an unending one.

In this task and through its manifold activities in social and economic programs, the United Nations is building a stronger world system. Its movement in this regard is bound to be evolutionary not revolutionary, glacial not millennial. If we can help it to carry out this mission, defend its credibility, reinforce its strengths and remedy its weaknesses—and above all not abandon it in isolation, we may yet save ourselves and the world.

## ERVIN HONORED AT TEXAS TECH

Mr. BENTSEN. Mr. President, I wish to bring it to the attention of my colleagues that the distinguished senior Senator from North Carolina, SAM ERVIN, has recently been honored as the public official who has done the most over the last year to defend freedom of the press.

The award was the first annual Thomas Jefferson Award presented jointly by the Texas Daily Newspaper Association, the Texas Association of Broadcasters, and Texas Tech University. Senator ERVIN had been nominated for the award by the North Carolina Press Association.

The award, which was presented to Senator ERVIN on February 16 in Lubbock, Tex., carried the following inscription:

To the Public Official Who Has Made an Outstanding Contribution for the Defense and Preservation of the Freedom of News Media.

The award was presented to Senator ERVIN by Guy Ryan, the immediate past president of Sigma Delta Chi, the national journalism society, who described the Senator as—

An institution—a man who has dedicated 50 years of his life to the service of his fellowman in the battle to preserve America's freedoms. He is one of the few diehards of our time who insist that the founding fathers meant precisely what they said. In these critical times when the freedom of the press is facing its most serious challenge in modern history, we are truly grateful to men like Senator Ervin, for his leadership in helping to preserve this fragile freedom, not simply for the press, but for the people.

I would echo the sentiments by Mr. Ryan, and congratulate my colleague on his well-deserved recognition.

## SENATOR RANDOLPH EXPRESSES APPRECIATION FOR "OLDER WORKERS WEEK"

Mr. RANDOLPH. Mr. President, on Monday while I was necessarily absent, the Senate considered and passed House Joint Resolution 344 to provide for the designation of the second full calendar

week in March 1973 as "National Employ the Older Workers Week."

I welcome the approval of this resolution which focuses attention on the urgent need for the development of employment programs to assist older workers who can contribute significantly to the progress of our Nation. It was my privilege to sponsor a similar resolution in the Senate in which 23 Senators joined as cosponsors. The Senate measure was Senate Joint Resolution 49.

I express appreciation to Senator CHURCH, the chairman of the Special Committee on Aging; my colleague from West Virginia, Senator ROBERT C. BYRD, the majority whip; Senator EASTLAND, chairman of the Judiciary Committee; and Senator HRUSKA, chairman of the Judiciary Subcommittee on Federal Charters, Holidays and Celebration, for their cooperation and assistance in bringing this measure to passage.

## A HIGHER PRIORITY FOR SCHOOLBUS SAFETY

Mr. JAVITS. Mr. President, the central issue in "schoolbusing" should really not be desperation—only a relatively lesser percentage are involved in transportation. The central issue, rather, should be schoolbus safety, involving almost 20 million of our children who each day travel in some 285,000 buses to and from school. In 1971, the most recent data available indicate that there were 47,000 schoolbus accidents, killing 150 and injuring 5,600. While this record is considered superior to the automobile safety record, the fact remains that it is still much too high. The safety and well being of our children merit every action that can be undertaken.

Radio station WINS in New York from time to time broadcasts editorials on issues of public interest. A recent editorial broadcast underscores the importance of effective action for schoolbus safety and I commend it to the Senate. I ask unanimous consent that it be printed in the RECORD.

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

A HIGHER PRIORITY FOR SCHOOLBUS SAFETY

The belated return of ice and snow to roads in this area is a reminder that winter is a dangerous time of the year for all vehicles, including school buses. It also reminds us that Congress failed to take action on school bus safety legislation introduced last year by Senator Javits and Congressman John Wydler of New York. Their bill was an outgrowth of studies begun after a fatal 1970 bus crash involving Long Island day school students. It appeared assured of passage following the more recent tragic school bus crash in Rockland County which killed several youngsters and injured many others. Yet, somehow, the bill got lost in the shuffle of presidential election year political priorities.

But, it's another year and Senator Javits and Congressman Wydler have introduced a bill now called the School Bus Safety Act of 1973. It would authorize the Secretary of Transportation to set up reasonable requirements to promote school bus operational safety, including driver qualifications. He would be empowered to order a 60-day halt of any school bus operation where major safety hazards are discovered. With almost 20 million of the nation's youngsters riding school buses daily, this legislation demands a higher priority. It should not take another school bus tragedy to convince our Federal lawmakers that this safety legislation should be approved at once.

## HEALING THE POOR OF BEAUFORT-JASPER

Mr. HOLLINGS. Mr. President, on Sunday, February 25, there appeared in the Washington Post an article entitled "Healing the Poor of Beaufort-Jasper." The article, written by Mrs. Natalie Davis Spingarn, former Assistant Director of the Center for Community Planning at HEW, presented an excellent insight into the conditions in Beaufort and Jasper Counties, S.C.

I wish to thank Mrs. Spingarn for her thorough accounting of the day-to-day lives of the people being served by the Beaufort-Jasper comprehensive health program. Mrs. Spingarn's article is an honest look at the development of an overall program for the hungry and poor in this Nation.

This program which began in South Carolina in 1969 has served as a model for similar programs across the country.

I again wish to express my appreciation to Mrs. Spingarn for bringing this program to the attention of her readers.

I ask unanimous consent that the article be printed in the RECORD.

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

HEALING THE POOR OF BEAUFORT-JASPER

(By Natalie Davis Spingarn)

BEAUFORT, S.C.—One morning recently, Mrs. Evelena Glover stocked her black bag (the kind family doctors used to carry) with pill bottles, carefully checking each against a doctor's prescription. She then went about one of her average days of 10 house calls and 50-odd driven miles.

"I love this work," she explained in the melodic Gullah accent of the coast. "It's something I've wanted to do for a long time, and when my husband took sick, I began. I enjoy meeting people, going about among them. So many people are so lonely out there; they like me to come and help relieve them of their sufferings."

By "out there" Mrs. Glover meant the marshy tideland country, dotted with tarpaper shacks, mobile homes and occasional ante-bellum mansions, an area where people are mostly poor and isolated. It is the target area of the Beaufort-Jasper Comprehensive Health Services project, a program developed under an Office of Economic Opportunity grant and now expected to be moved over to the Department of Health, Education and Welfare, at least for the time being.

The program is one of about 100 such efforts started throughout the country with aid from OEO and HEW, only it isn't typical of most of the programs. Besides such traditional problems as diabetes and pneumonia, the project has increased its task to deal with non-traditional, environmental ills—the inability of a mother, for instance, to rid a child of worm infestation when the child returns from the doctor to use the bare backyard soil, home of other worm eggs, as his toilet. Other neighborhood centers offer less comprehensive care in varied ways; some are linked to university medical centers, hospitals, prepaid medical plans or other community groups. Some projects are more "passive," offering good care if the poor come and get it, but do not work as aggressively to reach those who need help. And Beaufort-Jasper, generally, has a different flavor than most neighborhood health centers: It has its reception and treatment rooms, its well-stocked central laboratory and pharmacy, and miniversions of both in four satellite centers. But much of this project depends on wheels.

A STABILIZED CRISIS

Sixty-five thousand people live in the 1,300-square-mile Beaufort-Jasper coastal area, including the 139 residents of Daufuskie, one of more than 65 islands dotting the coast that are accessible only by boat or air. Forty per cent, or about 25,000 of these men, women and children have standards of living below federal poverty guidelines ($4,200 a year for a family of four, $2,100 for an individual living alone).

In the late 1960s, a young physician and a U.S. senator first drew national attention to the poor health of these South Carolinians. Dr. Donald Gatch, one of the 18 doctors practicing full time or in semi-retirement in the two counties, testified about the hunger of the residents and about the worms that infested 80 per cent of the children. Sen. Ernest Hollings (D-S.C.) toured the area, and told the country of a shack that had no lights, no heat, no running water, no bath, no toilet, and only a slab of fatback, a half-filled jar of locally harvested oysters and a stick of margarine as food for the 16 inhabitants.

"Dr. Kenneth Aycock, our state health official, who was accompanying me," reported Sen. Hollings, "tentatively diagnosed a man in the house as suffering from pellagra, a disease supposedly nonexistent in this country. In the same house one small child had rickets and another was recovering from scurvy . . ."

Such diseases—more usual in underdeveloped nations—as well as substandard housing and a lagging economy, have not been eradicated in the program's three years, and no real record is available to measure progress. Only recently has a trained evaluator begun to develop statistical indices—such as the decline in the infant mortality rate in Beaufort and Jasper Counties, which stood at 62.4 per 1,000 births in 1965, among the highest in the nation.

And there have been breakdowns in the project's system. For instance, the medical director, Dr. Jerry Galloway, 34, was distraught some weeks ago when two isolated elderly persons froze to death in their separate shacks when the weather dipped to 20 degrees, a wintery low for South Carolina. Ironically, the crew from the project had been putting the finishing touches on a little weatherproof house for one of the victims. But, with a backlog of 800 referrals, they are always racing to catch up with the need, and the woman had not yet been able to move into her new home.

But the staff believes that it has at least stabilized the health crisis, prevented epidemics, and begun to make progress with the 14,000 to 15,000 people now registered in the project—about 80 per cent black, with many more adult women (32 per cent) and children (48 per cent) than men (20 per cent)—a fact that holds true, according to program analysts, in populations served by other health centers, rural and urban.

THE PARAPROFESSIONALS

The project's director is a dynamic black layman, Thomas C. Barnwell Jr., whose family has lived in this area for two centuries. He heads a staff of 206—including six doctors, three dentists, eight registered nurses, six licensed practical nurses, and some 70 paraprofessionals, most of them unheard of ten and even five years ago. Besides the riverfront headquarters in Beaufort, the staff is divided among four satellite centers. There are not enough of most skills to go around; the three dentists, for example,

work in mobile home dental units at Hardeeville and Sheldon; the mental health team (a psychologist, psychiatric social worker and psychometrist) work with the public school system out of the St. Helena center.

The professionals depend heavily on the paraprofessionals, like Mrs. Glover, to help them practice a high quality of medicine.

Mrs. Glover, a 49-year-old widow and mother of five grown children, is paid $165 every two weeks—not quite $4,000 a year. She and the other family health workers trained for six months before they began making rounds, taking temperatures or blood pressures or pulses, giving bed baths, teaching cane and crutch walking or the elements of good nutrition, checking diabetics and other chronic patients, giving pre- or post-natal care. Everyone knows them, tells them their troubles. Often they spot a child with pneumonia or someone else who needs a doctor, or they refer a family which needs help to get its septic tank inspected. Each takes care of about 95 families. They often work more than their 9-to-5 day and are on call at night for emergencies. When a patient needs medical help at night, he is most likely to call either his family health worker or his driver—the two staff people he knows best.

"They are very intelligent," says Director of Nurses Estelle Rodriguez. "The only problem is that many are servicemen's wives stationed here at the Marine base (Parris Island). Too often they have to move on in too short a time after we train them. I don't know what we'd do without them."

Another more recently added project paraprofessional, the "health education action worker," combines the tasks done by a health educator, teaching good health habits or roundworm prevention, with those of a community worker and advocate—going to meetings, encouraging residents to work on their own sanitation problems, bringing in guest speakers to speak on sex education or family planning, helping people who wish to quilt or make ceramics and market their wares. Sixteen health education action workers now work out of all the satellite centers. The conventional professional social worker is absent from the project.

ENVIRONMENTAL PROJECTS

As Frederick Drake walks down the street, the people come up to him, asking when he's going to put in their deep wells or screens or septic tank. At 52, the former Marine sergeant stops, takes time to talk patiently, explaining public health licensing or inspection requirements. "They bug me day and night," he says. "It would be so expensive for them to put in a well themselves. There are so many people waiting for such things that the doctors have had to set priorities. Whoever finally puts that deep well in turns into the Lord himself. They idealize me!"

As the project's environmental health director, Drake's work links public health with classic medical care, and the list of "environmental health priorities" the doctors have set for him attests to the magnitude of his task:

Patients with no electricity (no matter what the medical diagnosis is, he has to try to get electricity for them);

Paralyzed or partially paralyzed patients and those who are severely crippled with arthritis;

Amputees;

Stroke patients, if left partially disabled;

Pregnant patients;

Families with small children (below 5 years of age) whose homes need screens, adequate heat, electricity, refrigeration;

Patients over 65 years;

Heart patients;

Emphysema & asthma patients;

Children with impetigo;

Diabetics.

The environmental staff tries not to spend more than $300 per family—a goal which compounds the amount of juggling Drake must do.

Mrs. Louise Simmons, 86, is an example of his patients. Blind, alone, a kerchief wrapped around her head, she shuffles about at midday in a yellow bathrobe and pink slippers. Drake and his men have built her a tiny white sparkling clean house, right next to her dark, broken-down shack, and she has furnished it with sturdy, plain tables, chairs and bed. They hope to add an indoor bathroom, so she will not have to use the woods in back, and a deep well for "potable" drinking water (many residents have used shallow wells which do not produce safe clean water).

"I am sick," Mrs. Simmons explains. "They'll come to take me to the clinic Thursday next week. Lord knows I appreciate what you all have done for me, sergeant! What keeps me is serving God, doing right, serving the good master."

"COMPREHENSIVE" CARE

"Comprehensive" is a mod word in health care circles these days, with different meanings for different people. To the insurance-minded, both public and private, it describes the financial planners and most private physicians, the range of services offered in one convenient place. To the patient it is coming to mean not only financial and geographical access to a wide range of services, but also that all of these services be available right away in the right order and in the right place, when he needs them. Community-minded doctors now tend to feel that everyday, ordinary primary care should be the cornerstone on which other sorts of care can be built: A patient should find his way into a health care system through his own doctor, not through a diabetes control or multiphasic screening program.

If all Americans were entitled to the sort of comprehensive care the Beaufort-Jasper patient gets, the nation's health delivery system and its financing would have to be restructured. When the patient first comes to a center, either on his own or with a family health worker, he and his family are registered, given complete physical exams, and medical histories recorded. The family health worker follows up, visiting the patient's home, and trying to add a social and environmental dimension to the clinical assessment. From then on, he gets the same sort of treatment and medications as in a good modern doctor's office most places in the country—and much more care in his own home when he needs it.

In a city like Washington, patients without cars who cannot afford taxi fare and who are not sick enough for ambulances can suffer greatly on two-hour bus trips to hospital clinics: Some forgo the benefits rather than make the trip. By contrast, in Beaufort and Jasper Counties, where there is no public transportation, the project shuttles 18 minibuses, cars and stationwagons on regular assignments. Some bring patients across causeways and drawbridges to the satellite centers; others take staff members out on emergency errands; others take patients to special clinics or consultants at neighboring hospitals. The drivers, working by two-way radio with the clinics, often spend 70-hours weekly, sometimes starting at 5 a.m., to bring patients to doctors. Once a month, too, a medical team goes by boat to Daufuskie Island to treat residents there. The project is still trying to work out a less arduous, more efficient transportation system.

If a patient needs hospital care, he is sent to private Beaufort Memorial Hospital; there is no limit on the days he can spend there, which may account for a strained relation with the hospital administrative staff, which has accused the project of overcrowding the hospital. Over 1,000 patients will be hospitalized this program year, with over $300,000 paid to Beaufort Hospital—65 per cent by the project, almost all the rest covered by Medicaid and Medicare. The hospital gets the full going rate for project patients—about $60 per patient day. If a patient has special or unusual medical problems—a child with a leukemia, for instance—he is sent to the Medical University of South Carolina in Charleston, at least for initial treatment; the state pays that bill.

Dr. Galloway is somewhat dissatisfied with the complex referral system through which patients are sent to specialty clinics in and around Beaufort for consultations, held on different days in different places. However, patients are provided transportation to the surgeons or cardiologists or orthopedic specialists and the consultations are paid for so they are better off than many middle-class patients left wandering on their own through the impersonal medical jungle. Over $36,000 will be paid to consultants this program year.

The federal government picks up the bill for the project—over $750,000 the first year, $1.7 million the second, almost doubled this year to $3.2 million. This covers more than most neighborhood health projects, and includes both the everyday "primary care" and long or serious illness or costs. Estimates now run from $275 to $300 a year per patient—a sum which is competitive with the cost of packages offered by established prepaid group practice plans in this country, considering the medical needs of the project's patients and everything they get for it. This cost estimate is also well under the national average of public and private health dollars spent per capita in a year: $395.

Though the total spent on health in the United States is large—about $83 billion—it represents only 7.6 per cent of the gross national product. Sixty per cent of these health dollars goes to the private sector, and roughly 1 per cent of the amount spent in the public sector (which includes Medicare and Medicaid) goes to projects like Beaufort-Jasper.

And while it has long been true that the best medical care in the United States was enjoyed only by those who could afford it and get to it, the Beaufort-Jasper project represents a switch: Under law it can serve only the very poor. The near-poor, a sizable number, are left out, a fact which worries Dr. Galloway and his colleagues. They have about 2,500 patients on Medicaid and over 800 on Medicare. But South Carolina does not take advantage of the provision of the federal Medicaid law which aids the "medically needy only," so cannot pay for the 7,000 area residents just above the poverty line.

THE FUTURE?

Though the Office of Economic Opportunity is due to die June 30, the Nixon administration's budget does not call for a similar fate for OEO's comprehensive and HEW's neighborhood health centers. Projects like the Beaufort-Jasper are expected to be transferred to HEW to join the more "mature," less experimental or economically oriented projects that have preceded them. Funding levels are even due to rise slightly—from about $185 million to $198 million for both OEO and HEW centers; the total of all such centers, including migrant, maternal and child health and family planning efforts, will be $354 million through June, 1974. By that time, it is expected that, unless there is a new national health care financing system, they will have to depend on some, as yet unclear, sort of special revenue sharing.

The ultimate individual fate of such projects is far from certain: They could be abolished altogether or they could be converted into different kinds of programs under national health insurance (which would not, in all likelihood, deliver the same environmental health services offered at Beaufort-Jasper—that would be left to other, perhaps local public health or environmental agencies). Still, in a debate on national health proposals, the need they have revealed and the diverse ways in which they have tried to meet that need will be of great interest and concern. A national financing mechanism would only give local communities like those in the Beaufort-Jasper project the chance to organize delivery systems and adapt them to their needs.

## CIVIL DISOBEDIENCE

Mr. STEVENS. Mr. President, each fall the Veterans of Foreign Wars conducts a national speech contest for high school students. This worthwhile program annually involves over 50,000 students and encourages them to think out their role in our democracy. This year's theme was "My Responsibility to Freedom."

Representing Alaska is Miss Becky Hayworth, a senior at East High School, Anchorage, Alaska. Becky is the daughter of Mr. and Mrs. Gus Hayworth, both of whom are instructors in the Anchorage school system.

Miss Hayworth has some interesting comments to make on her "Responsibility to Freedom." I ask unanimous consent to insert into the RECORD this thought-provoking speech.

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

Henry David Thoreau once wrote in his essay, "Civil Disobedience," of men who blindly serve the state with no thought of their own judgment or moral sense. He put them on a level with wood, earth and stones and said they commanded no more respect than men of straw or lumps of dirt.

He saw them as machines and work animals, not men. He later wrote, "I think that we should be men first, and subjects afterward."

And so from Thoreau came Ghandi, and from Ghandi came King, and from these and many others came what was to be known as Civil Disobedience. Consciences were searched, laws were broken, and in my opinion men became the better for it, for they became "thinking men," no longer blind wooden robots of the state.

To my way of thinking unless a government is a perfect government, with no sign of injustice or corruption; unless a government has reached the highest point attainable by such a system; unless a government is ordained by God and kissed by angels; unless these things are true, then there is a need for Civil Disobedience.

Indeed, civil disobedience is the reason for its own existence, for there would be none if none were needed. However, it is needed and will come about when the state blunders in the dark, for we are men and women of flesh, not of straw.

To clear up the matter about the term civil disobedience, some of the things it is not are revolution, insurrection, and conscientious objection.

It does, however, employ one thing, disobedience to the State, or more simply, the breaking of laws. Now right away people shrink back in fear as the word, "criminal" forms in their minds, but it is only fair to look at this more closely.

First of all, since it is civil disobedience, not obedience we are speaking of, it should naturally follow that the State would have to be defied. This is where it differs from conscientious objection, as that is something which is provided for, if inadequately enough, under the law.

Secondly, the laws broken are not broken by criminal minds as necessarily criminal acts. They are broken as acts of conscience because they are unjust laws.

Civil disobedience, then, involves laws defied for the sake of moral principle. Ideally, no violence enters into the conflict. It is many times a symbolic act, such as draft card burning and often an extremely sacrificial one, as protesters are beaten, attacked and carted off to jail.

I would now like to present two arguments in favor of civil disobedience; the first, individually, the second, collectively.

We live in a time of unpopular laws, though I imagine one could say that about any period in history. Our young men are sent off to fight and die in Vietnam by laws, our minorities are discriminated against by laws, and our youth are forbidden to protest, by laws.

The question comes to mind to what do you as an individual owe your allegiance to first, your country or your conscience? I for one agree with Thoreau in that we should cultivate our respect for right more so than for law. Otherwise, we cannot condemn Nazi Germany under Adolf Hitler, for the people at that time were only following their laws.

Law is such an everchanging idea. Can we afford to mold and shape right to fit the law, or should we not mold and shape the law to fit what is right?

This then brings me to my second argument; one in which civil disobedience is not only good for the individual but for a nation as a whole.

First of all, however, let's discard the belief that "America", love it or leave it, my country right or wrong constitutes patriotism. If a child does something wrong, it would be very unwise for the parent to say, "Go ahead and do what you want. You're my child, right or wrong, and I love you."

This kind of humoring is not love or loyalty; it is condoning a sickness. If a person is sick we try to cure him. Why then is it so anti-patriotic to want to cure your own country of whatever diseases it might have.

To me, civil disobedience is one of the highest forms of patriotism there are. It means stepping out of the beaten path, and going the other way. It involves suffering and sacrifice so that we can have the kind of nation like we planned back in 1776, not like what we've got in 1973.

If we are indeed satisfied with the situation in this country today, and if we expect no more than what we have, then that is what we will get.

But is that really what we want? I hope not. I hope America is willing to wake up to the fact that we are a long way from perfection, that satisfaction can only bring about stagnation, and that civil disobedience, when necessary, brings about change.

As Oscar Wilde wrote in 1891, "Disobedience in the eyes of anyone who has read history is man's original virtue." Let's keep it that way.

## A TRIBUTE TO MRS. FRED W. MORRISON

Mr. ERVIN. Mr. President, I was delighted to learn that Mrs. Fred W. Morrison, a North Carolinian and longtime personal friend, has been recognized in the March 1973 issue of the Leaves magazine as one of the outstanding civic leaders of the Washington, D.C., metropolitan area.

A native of Laurinburg, N.C., Emma Neal McQueen Morrison has given generously of her time and talent to a host of worthy enterprises. She is a member of the board of visitors of St. Andrews Presbyterian College, in North Carolina; has served as a director of the Girl Scouts, the Young Women's Christian Association, and the Davis Memorial Goodwill Industries; and, is a national trustee of the Harry S. Truman Library.

As the Leaves article points out, her most outstanding contribution may very well be her work as a member and chairman of the board of the Roanoke Island Historical Association. This association is dedicated to the preservation and commemoration of Roanoke Island, N.C., the site of Sir Walter Raleigh's "Lost Colony."

Mr. President, North Carolina has given our country many outstanding leaders and Mrs. Morrison is certainly one of them. Mrs. Ervin and I are very proud to claim Mrs. Morrison and her husband, Fred W. Morrison, as close personal friends.

I ask unanimous consent that the magazine article to which I refer be printed at this point in the RECORD.

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

MRS. FRED W. MORRISON

Mrs. Fred W. Morrison, of 4965 Glenbrook Road, wife of the prominent and well known attorney, is an outstanding example of inspired and inspiring leadership.

Emma Neal McQueen Morrison, a native of Laurinburg, North Carolina, was educated in North Carolina schools and colleges. After graduation she began a business career as Secretary for the State Tax Commission. When Governor O. Max Gardner opened his law office in Washington she came with him as his secretary. However, her business career soon gave way to marriage when she married Governor Gardner's law partner, Fred W. Morrison. Her involvement in area civic and cultural affairs followed very quickly as her many capabilities became known.

She is a Life Member of The Woman's National Democratic Club, serving there in a number of important capacities including that of President—1950–1952. She was Chairman of the Inaugural Ball Invitation Committee for President Kennedy's Inauguration, and President of the North Carolina Society of Washington. She has served as a Director of The Davis Memorial Goodwill Industries, The Girl Scouts and The Young Women's Christian Association, as well as a National Trustee of The Harry S. Truman Library.

Mrs. Morrison is successful in anything she attempts. She was one of the prime movers and most dedicated officials on The D.C. Committee to raise funds to build the Harry S. Truman Library. She is a Fellow of the Library at the present time.

Through living in Washington, the Morrisons maintained close contact with North Carolina. They have a home at Kill Devil Hills, on the Outer Banks of North Carolina. Mrs. Morrison has beautifully restored her childhood home in Laurinburg. The original part of the house was built in the 18th century. Each addition has been restored in

keeping with the period in which it was built.

Their only daughter, Mrs. Walter Stroud, lives in North Carolina with her husband and three charming little daughters. The Morrisons understandably spend a great deal of time in their native state.

Six years ago, Mrs. Morrison was designated "The North Carolinian of 1967," and for good reason.

She received the Charles A. Cannon Award from the North Carolina Society for the Preservation of Antiquities in 1965, and the Frederick H. Koch Award for distinguished service in theater arts from the Carolina Dramatic Association in 1970.

She is a member of the Board of Visitors of St. Andrews Presbyterian College, and Vice Chairman of the Historic Bath (N.C.) Commission. In 1955, she was elected to the Board of The Roanoke Island Historical Association.

She has devoted most of her time in recent years to the work of the Association, serving as Chairman since 1961.

The Association was founded in 1931, the outgrowth North Carolinians justifiably felt for the events that transpired on Roanoke Island at Fort Raleigh where the first English colony in North America was established in 1585, some 23 years before Jamestown, and 36 years before Plymouth Rock.

Mrs. Morrison soon found herself with a prime interest in the history of Fort Raleigh.

Celebrations at the site of Fort Raleigh had begun in the 1880's, when Roanoke Islanders and a group of people from the mainland met to consider the commemoration of events connected with the site at a community festival.

A few years later, they formed the Roanoke Colony Memorial Association, and the group acquired the traditional spot. In 1921 a movie was made at Fort Raleigh by the North Carolina Department of Education, with local people acting the part of the colonists, and scenes from this movie were re-enacted in commemorative exercises in the following years.

In 1926, a large scale pageant was seen by some 5000 people, including the British Ambassador to the United States. All of those attending had to come to the Island by boat, as completion of bridges and roads to and on Roanoke Island did not materialize until 1931. It was in that year that The Roanoke Island Historical Association was formed.

From 1931 to 1937 great efforts were made by the Association to have Fort Raleigh ready for the 350th anniversary celebration of the establishment of the first English colony in North America. A number of people collaborated in designing and building the original Waterside Theatre. Much work was necessary to get it ready for the opening date, July 4, 1937, and the Federal Government cooperated by furnishing labor and supplies.

Paul Green, successful playwright and native son of North Carolina was asked to write a special drama to commemorate this special event. The result of his talent was an innovation in the artistic world, a symphonic outdoor drama, depicting the founding of the first English colony in the New World. He called it "The Lost Colony." It immediately captured the interest of the music and dramatic world, opening to a distinguished, most interested and capacity audience, on July 4, 1937.

The story is now well known:

In 1585 a group of English subjects landed on Roanoke Island under the command of Governor John White and claimed the land for Queen Elizabeth. He named it "Fort Raleigh", in honor of Sir Walter Raleigh who had persuaded the Queen to sponsor and finance the expedition. Many hardships were suffered by the colonists, but there were joys too. Virginia Dare, the first child of English parents born in the New World was born on August 18th, 1587. Indian raids were frequent, and Governor White returned to England to secure aid and provisions for his new colony, expecting to be back at an early date. He left the colony in charge of brave men and courageous women who made valiant efforts to maintain the colony and keep up the spirits of the small settlement.

But England's troubles with Spain prevented Governor White's return until 1590, and there he found his colony in ruins, with no sign of any of the colonists. No trace of them was ever found, and only the word "Croatoan" crudely carved on a tree gave mute evidence that they had been the victims of an Indian massacre.

But if so, other evidence of such a horror had been removed, and "The Lost Colony" does not end on this grim note. Instead, Paul Green preferred to think that in the face of increasing danger, the colonists had deemed it necessary to seek another location. He wrote a moving end to this first British settlement. The lovely, poetic plaque on the gate to the Elizabethan Garden at Fort Raleigh records this end as Paul Green envisioned it. "From this hallowed ground on Roanoke Island, they walked away through the dark forest and into history."

"The Lost Colony", as presented that first summer in 1937 was a great success. It received nationwide publicity when President Franklin D. Roosevelt saw it on Virginia Dare's birthday August 18.

Succeeding years brought good seasons and bad seasons to the production. "Outdoor dramas" had arrived. They began springing up all over the United States. By 1968, there were 31 productions of classical, historic, religious, and many original outdoor dramas based on heritage, playing in 21 states including one in Alaska! Audiences had to be shared, but "The Lost Colony" played on, suspending only During World War II.

Production was resumed in 1946, again with good seasons and bad seasons, but always playing to enthusiastic audiences. Outdoor drama was here to stay!

But, in 1947, as luck would have it, part of the stage and buildings of the Waterside Theatre were destroyed by fire. After some rebuilding and repair, the drama continued, using the same buildings and much of the same equipment that had been intended initially to last only one season! So, "The Lost Colony" marched on, and by 1950 over 500,000 people had seen the drama, just in the summer, since 1937.

Then, came 1960, and Hurricane Donna, demolishing the entire back stage of the Waterside Treatre! Something had to be done if the drama was to open in the summer of 1961!

Something WAS done! Civil Defense granted $25,000 in disaster assistance, and other donors provided another $20,000 to replace the destroyed old building with permanent structures, and to repair other damage. The drama opened on schedule, and had a successful summer.

But more—much more—work was needed, with a sure hand to pilot the course to successful completion the high standard the Roanoke Island Historical Association had set for itself.

The efficient, guiding hand was found in Mrs. Morrison. On the Board since 1955, conversant with all the troubles that had beset the Association and "The Lost Colony", she was elected Chairman November 28, 1961.

The Association, working with the National Park Service, acquired 120 additional acres of land at Fort Raleigh, which had been designated a National Historic Site in 1941. By the summer of 1962, a new theatre, replacing the old one, seating approximately 2000 people, was ready. Many other improvements on the site were in evidence, landscaping and rebuilding, with the National Park Service providing $125,000 for the work as part of their future expansion program. Mrs. Morrison's fine hand and persuasive power was very evident in all of this. She spent hours on end, interviewing people and planning for the future of the Association.

In 1963, in addition to being Chairman of the Association, she was named Producer of "The Lost Colony", the first person to hold that title. This in recognition, not only of her ability, but also of her loyalty and dedication.

Now she expended even more time and energy seeking out the best talent available to further obtain her objective, of not only making the theatre the best possible in which to produce "The Lost Colony", but to improve the staging, lighting, costumes and scenery.

To that end, she formulated, aided and abetted by her Board of Directors, a "five year plan". She persuaded Joe Layton, of Broadway and Television fame, to join the Association as Director and Choreographer, and top theatre designers and technicians were brought to Roanoke Island each summer from New York City. Each summer too, the production played to rapt audiences, with changes and improvements evident in each succeeding production.

The goal was achieved, and the "Layton touch" is evident in every facet of the beautiful and moving drama.

In addition to the revitalization of the drama, Mrs. Morrison turned her attention, time and energy, to other improvements in Fort Raleigh. A Craft Shop, improved Visitor Center, Activities Center, and other buildings were erected, and an improved parking lot was provided. The Garden Club of North Carolina, Inc., established an Elizabethan Garden of striking beauty, with its combination of formality and natural setting, and they maintain it with exquisite care.

An Educational Building was built for rehearsals, and for courses for college credit during the season.

Four handsome apartment buildings were erected for members of the cast. 64 persons can be housed in these apartments located in beautiful Morrison Grove.

In putting "The Lost Colony" on a firm, business-like and successful basis, Mrs. Morrison accomplished something that had eluded Lost Colony supporters for nearly three decades. She gives of herself unstintingly, her time, energy and material things as well. Her husband is justly proud of her contributions to the cultural well being of North Carolina, and he approves her frequent trips to the state to personally oversee the many important details of her work there, and to attend the number of Board of Directors meetings required for these smooth running projects.

Mr. & Mrs. Morrison were honored in 1970 by being given the U.S. Department of Interior's Conservation Service Award for their "service to The Roanoke Island Historical Association, Fort Raleigh National Historic Site, and The Lost Colony drama."

Mrs. Morrison is also an honorary citizen of Dare County, where Fort Raleigh is located, and the people of Dare County have established "The Morrison Award" in honor of the support given to the performing arts by Mr. and Mrs. Morrison. The Morrison Award is given annually to a recipient selected by the Awards Committee who has "demonstrated through highest standards of excellence, significant achievements and creative accomplishment in writing, producing, di-

recting, and performance in drama, music, and dance, and other aspects of the Arts."

The first award, in 1967, was given to Paul Green, the author of "The Lost Colony". Andy Griffith, of television fame, who played Sir Walter Raleigh in the drama for several years beginning in 1947, was the recipient of the Award in 1969, and Joe Layton was recognized for his outstanding contribution in 1970.

So, in citing community women for their qualities of leadership, none can surpass Emma Neal Morrison for ability, loyalty, and planning. Those qualities, combined with her charm, personality and friendliness, have, indeed, made her an outstanding leader.

## HOME PRESERVATION ACT OF 1973

Mr. TAFT. Mr. President, on Thursday, February 22, Senator CRANSTON and I introduced the Home Preservation Act of 1973. This comprehensive legislation would provide a variety of means to help preserve and upgrade our Nation's housing. It is ridiculous to continue pouring money into new construction and urban renewal without making a concerted attempt to save the suitable housing we already have.

In the last several weeks at least two Ohio newspapers have printed editorials on this bill which I believe should be shared with the entire Senate. I ask unanimous consent that the editorials be printed in the RECORD.

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

[From the Cincinnati (Ohio) Enquirer, Mar. 2, 1973]

'TIS WORTH A TRY

Sens. Robert Taft Jr. (R-Ohio) and Alan Cranston (D-Calif.) have shown at least an excellent sense of timing with their recent coauthorship of legislation that would encourage the preservation and upkeep of existing housing in America.

Waste, defaults, foreclosures and outright scandals in the federal programs aimed at providing new housing for the nation's poor have induced President Nixon to call for a moratorium on such programs while the whole idea of federal housing subsidies is rethought at the federal level.

At such a time, new ideas should be welcomed, and the Taft-Cranston bill is such an innovation, one with a great deal of merit.

Until now, the emphasis has been on the building of new housing, often with the corollary of razing many old homes which could have been preserved and been made livable at considerably lower cost than the new construction. (In fact, there are many who believe that the older homes were better constructed and more esthetically pleasing than the newer models have been.)

The Taft-Cranston bill would provide government credit so that homeowners and landlords in deteriorating neighborhoods could make the necessary repairs to keep the old homes up; this would be done by extending existing mortgages, obviating the need for new loans. In addition, the elderly and handicapped would be allowed low-interest loans for repairs. Also provided in the "Home Preservation Act of 1973" would be various experimental programs.

At a time when the nation is searching for new alternatives and initiatives in housing, the Taft-Cranston bill is certainly worth a try. And at an estimated start-up cost of $50 million (not high by federal-spending standards), it could be a real bargain.

[From the Toledo (Ohio) Blade, Feb. 25, 1973]

SAVING AGAINST RAZING

Federally subsidized housing has invited enough black eyes to deserve a critical review and overhaul of procedures with unsparing attention to local sponsors, developers, builders, and financial institutions across the nation. A halt to federal funding is justifiable until a way is found to ensure that public resources actually deliver to needy families what is pledged.

In the interim, however, this puts no roofs over heads where need continues greater than ever. Directing attention to this void, Ohio Senator Taft, joined by California Sen. Alan Cranston, is urging that more emphasis be placed on keeping existing housing in good condition.

The bill, proposing $50 million toward this end, could be viewed as a fallback from earlier years. But given the cost of today's construction, the gaping vacant areas leveled under urban renewal with pitifully few replacement homes, and the antagonisms ungenerously raised against relocated housing projects, it deserves prompt attention.

Most important, it would make money available to owners of property in deteriorating neighborhoods to make needed repairs. FHA guarantees could, for example, be used to extend existing mortgages. And elderly or handicapped owners unable to afford repairs could borrow up to $5,000 at 3 per cent. Those in severe circumstances could get all or part of the loan interest free, with payment deferred during their lifetimes. Still others would be saved needless foreclosures for failure to make mortgage payments during temporary loss of income due to unemployment or illness with interim loans.

Senator Taft estimated that Ohio alone has some 250,000 substandard dwelling units. To save what is here while the Administration re-evaluates its national housing policy may be the most that is now possible, and the least that should be done without delay.

## PROTECTION FOR THE TEXTILE INDUSTRY OF THE UNITED STATES FROM UNFAIR COMPETITION OF FOREIGN COUNTRIES

Mr. HOLLINGS. Mr. President, on behalf of Senator THURMOND and myself, I bring to the attention of the Senate a concurrent resolution passed by the General Assembly of South Carolina on February 16, 1973. The South Carolina General Assembly passed this resolution to petition the President to take action that may be necessary or desirable to protect the textile industry of the United States from unfair competition of foreign countries.

On behalf of Senator THURMOND and myself, I ask unanimous consent that the concurrent resolution be printed in the RECORD.

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

CONCURRENT RESOLUTION

To memorialize the President of the United States to take such action as may be necessary or desirable to protect the textile industry of the United States from the unfair competition of foreign countries

Whereas, representatives of the textile industry predict that the ten percent devaluation of the dollar announced by the Secretary of the Treasury, George P. Shultz, will do little if anything to curb the rising volume of textile imports; and

Whereas, it is believed that retaliatory measures such as at least a ten percent surcharge on textile imports should be put into effect immediately to combat the unfair competition of foreign countries to the textile industry of the United States. Now, therefore.

*Be it resolved* by the Senate, the House of Representatives concurring:

That the President of the United States is hereby memorialized to take such action as may be necessary or desirable to protect the textile industry of the United States from the unfair competition of foreign countries.

*Be it further resolved* that copies of this resolution be forwarded to the President of the United States, the Secretary of Commerce, and to all members of Congress from South Carolina.

## PROBLEMS FACING THE FISHING INDUSTRY

Mr. HOLLINGS. Mr. President, the Christian Science Monitor of Boston, Mass., has made an outstanding contribution to understanding of the problems facing the fishing industry of the United States in a series of articles concluded Saturday, March 3. The Senate Committee on Commerce, Subcommittee on Oceans and Atmosphere, which I am privileged to chair, is genuinely concerned about these problems. A number of bills are now before the committee addressed to such problems as overfishing, limits of territorial jurisdiction over fisheries stocks, import taxes, and other matters.

Because of the critical nature of our fisheries problems, and the importance of this industry, I commend these articles to the attention of my colleagues and ask unanimous consent that they be printed in their entirety in the RECORD.

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

OCEAN PLENTY: FACT OR FANTASY?

(By Peter Tonge)

Some of the world's most modern trawlers work out of Hull, the famed North-of-England fishing port. Watching them come in laden with cod, haddock, and halibut gives a misleading sense of abundance that masks a disturbing trend.

While you admire a ship's bounty, her captain brings out his log. This shows his crew must work ever harder for its catch. For the trawlers generally, fish harvested per man-hour has been declining in recent years. Logs of vessels of other nations working traditional Atlantic fisheries show similar trends.

Statistics such as these, recurring globally, have exploded what biologists call the "impossible dream" of the 1950's that food from the sea could wipe out world hunger. They have tarnished the more realistic dream of the 1960's that seafood, efficiently exploited and distributed to the needy, could at least meet the world's need for protein.

Instead of developing the sea's food potential in a biologically sound manner, fishing nations have intensified use of traditional fishing grounds and species to the point of diminishing returns. Now they face the choice of seeing the returns from fishing level off far below what they could be or of

changing their ways to make the fullest possible use of the ocean's bounty.

NEED TO EXTEND PRIMITIVE AQUACULTURE

As this series of four articles outlines, the latter course involves using species at which many fish eaters have turned up their noses. It means extending today's primitive aquaculture, the farming of the sea, to become a major industry. It calls for cheap, effective methods of preserving seafood so it can reach needy people in hot countries where the fresh product quickly perishes.

It requires greater help from advanced fishing nations to enable developing countries to get a better share of ocean products. And it demands, above all, gaining and using the biological knowledge to conserve the sea's living abundance even while harvesting it to the fullest extent feasible.

At a quick glance, it is easy to appreciate how the myth that the sea could meet all mankind's food needs arose. The sea's plant life every year fixes 19 billion metric tons of carbon. That is the primary biological productivity. It is enormous.

A metric ton is 2,205 pounds. And those 19 billion tons of basic production support 2 billion tons of animal products of a kind men might like to harvest. Today's world catch of about 70 million tons compares rather poorly with such figures.

Making comparisons such as that is misleading. Men could not hope to harvest enough food from the sea to meet all needs, as biologists such as Bostwick H. Ketchum of the Woods Hole Oceanographic Institution have frequently pointed out. The difficulties of harvesting the vast quantities needed are too great. But, Dr. Ketchum notes, when it comes to supplying mankind's protein needs, "the sea is of tremendous importance."

"DOUBLING THE CATCH" POSSIBLE

Today's catch could very likely be more than doubled. That is to say nothing of the potential of acquaculture to add even more to the seafood basket. But, if men continue to fish only traditional species, they can probably only add another 20-to-30 million tons to the annual catch even by extending operations in the still underfished southern hemisphere waters.

"People eat fish they are familiar with, the kinds mother used to serve," says Dr. Ketchum. "They are reluctant to try new species." In fact, of the more than 20,000 species in the world's oceans, man exploits only a few dozen.

A mere seven marine families account for some 70 percent of the catch. Anchovies lead, followed closely by the herring-sardine-menhaden family. Then comes the group that includes cod, pollack, haddock, hakes, and others. Bottom-dwellers, such as plaice or flounder, are a minor part of the total haul.

Now scarcity is forcing fishermen to think again about their prejudices. They have seen the herring go into eclipse in waters between Iceland and Norway. They have watched the tasty haddock decline off North American shores. They have found the hake shoals disappearing in South Africa and South American fisheries.

A long-sustained rise of between 6-and-7-percent in the annual fish catch after World War II had encouraged fishermen to ignore biologists' warnings about over-fishing a handful of species. "Many in the industry, and more on its fringes, just could not see an end to the expansion," Dr. Ketchum says.

ANCHOVETA SWELLS WORLD TOTALS

That was before the marked decline of some species and before the 1969 harvest setback. That year the fish catch fell for the first time in a generation. It promptly jumped back to record heights in 1970 and has climbed since then but at lower rates.

In recent years, the fantastic hauls of anchoveta off the coast of Peru have been largely responsible for favorable world totals. But unfavorable climatic conditions have severely cut back on catches this past season.

Meanwhile oceanographers, relieved that the myth of superabundance has been destroyed, suggest that a doubling of the present world harvest could be reached in the next two decades.

While the traditional fishing grounds have been largely depleted of certain species, there are encouraging signs of plenty in the Indian Ocean. Other still underexploited areas include the Patagonian shelf and the coastal waters of Australia and New Zealand.

Once thought to be too tropical to be a significant fish producer, the Indian Ocean basin alone should increase the world fish catch by a further 10 million tons a year, according to United Nations estimates.

Sardinella (a type of sardine) is particularly abundant in the Arabian Sea. Mackerel and tuna are plentiful in the Bay of Bengal, indeed throughout much of the Indian Ocean.

A natural phenomenon known as upwelling, in which nutrient-rich waters from down near the seabed are brought up to the surface, accounts for the good fishing in some of these areas.

The rich deep waters feed the tiny floating plants which in turn are the foundation for the fish populations of the world. A similar occurrence accounts for the remarkable productivity, most years, off the coast of Peru. It also takes place off the west coast of Africa in both the northern and southern hemispheres, and to a considerable degree in the Antarctic.

SPECIES NOT "SOCIALLY ACCEPTABLE"

Even in the so-called overfished regions there is still an abundance of fish which for the present, anyway, are not "socially acceptable."

Coley is a case in point. It is more abundant in European waters than its close relative, the cod. But it is a black fish, even though the flesh itself is white. The consumer, it seems, is turned off by the sight of a strange color. It is the same with sebastes, another cod species, but red in color.

As a result, these perfectly good eating fish tend to be used for fish meal along with capelin, a newly tapped resource, too easily damaged to be sold as fresh fish.

It is the same in other parts of the world. The fertile George's Bank off the northeast coast of the United States may have been depleted of its haddock. But it is far from depleted of its fish. The spiny dogfish and the smooth dogfish are abundant there. Prepared correctly, they are decidedly tasty. But a fussy public tends to reject them because they are a small species of shark.

Then there are the underfished long- and short-finned squids. Americans, by and large, won't look at them. So a grateful Japanese fishing fleet moved in last year to take 30 million pounds of the delicacy back to the restaurants of Tokyo and elsewhere.

Some 500 million pounds of crabs are said to be there for the taking off the New England coast. The tanner species in Alaska is another vast and unexploited crab resource. Then there are Spanish and Jack mackerel, pollack, groupers, and croakers which the American National Fisheries Institute classifies as "alternate species" suitable as a food source.

KRILL POPULATION THRIVES

Krill, a fingernail-sized crustacean which once supported vast herds of whales before man decimated the huge mammal, thrives all along the antarctic coast, and to a slightly less degree in arctic waters, too.

One estimate suggests that the krill population alone could increase the annual marine harvest by a factor of five. The trouble is that it has to be hauled from very distant waters. Moreover, its present value to man appears questionable.

A Soviet experimental fleet hauled in some 20 tons a day during a visit to the Antarctic last summer. These were pressed into 21-pound bricks considered to have a 24-percent protein content.

Whether the krill could ever be processed economically into food for human consumption is debatable. But it could be turned into fish meal. It might well be useful as a food for other fish raised in aquaculture programs.

New varieties of fish apparently have been introduced fairly readily into the Soviet Union.

Recently, the Romanians are reported to have placed specialists in seafood preparation abroad six trawlers with instructions to try out and discover suitable methods for preparing any and every species of fish caught during an experimental run in the Mediterranean.

Then too, public taste does change of its own accord. A generation ago Scottish fishermen groaned out their displeasure whenever scampies were hauled in along with the whitefish they were seeking. All they could do was shovel "the little pests" back into the ocean.

Now, however, the scampie, or Dublin Bay prawn, is $5 a plate in many London restaurants. And the Scottish fishermen complain when fin fish are mixed in with their scampie catch.

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NEED CHICKENS EAT BETTER THAN PEOPLE?

(By Peter Tonge)

In broiler plants around the world chickens grow plump and tender on fish-filled meals that are among the most protein-rich diets available. In fact, chickens eat a whole lot better than many people.

Nutritionists want to change this. If ocean resources are to have meaningful impact on world hunger, fish must do for people what it now does for the chicken, hog, and other livestock.

For people to get fish protein second hand via the fried chicken or pork chop is an extravagant process. Growing animals consume far more protein by weight than appears at dinner.

To this end, technology is being developed to get more fish to man as fish products. Much stress is being laid on the development of a highly nutritious fish flour and on fish-bone separating techniques. Atomic radiation in food preservation also appears very promising.

The fish flour or fish-protein concentrate (FPC) is still largely in the development stage. But once economically produced, it will "significantly aid" in getting fish to rural and otherwise underdeveloped areas where it is most needed and where the more perishable seafood products cannot be delivered in acceptable condition. Moreover, the same fish now being converted to chicken meal could go into the production of FPC for humans.

The normally prolific anchoveta haul off the coast of Peru, currently depressed by adverse weather, could supply the entire protein requirements of South America. Instead, all of this harvest goes into fish-meal production for animal feeds.

FISH-MEAL DEMAND GROWS

Before World War II fish meal accounted for no more than 10 percent of the annual fish catch. Now the process consumes 35 per-

cent of the roughly 70 million tons of fish harvested around the globe.

According to United Nations Food and Agriculture Organization figures, fresh fish for human consumption takes the next largest slice—27 percent. Freezing, curing, and canning take up 14, 13, and 9 percent respectively.

As yet, the consumer shows a marked preference for fresh fish, though none of man's staples is more unsuited to such a preference, says Ray Pariser of the Massachusetts Institute of Technology's Sea Grant Project office.

A fish out of water is a decidedly unstable thing. It spoils so readily that the ancient Romans even saw fit to ban the sale of a fish the moment its skin was dry.

In contrast, FPC of human food quality is a tasteless, odorless product that is stable as long as it is kept dry. Its value lies in its ability to enrich foods, baking products in particular, without changing the taste or texture of the baked commodity.

Chile and Sweden are leaders among almost a dozen nations developing FPC. Chilean law already provides that the moment FPC can be produced economically in bulk it must be added to all baking flours. To a limited degree, this is already being done. Meanwhile, the Swedish firm Astra Nutrition has launched a 25,000-ton factory ship with the necessary equipment to manufacture FPC on board.

PROTEIN BREAKDOWN BY ENZYME

Solvent extraction and a biological method akin to digestion in which fish protein is broken down by an enzyme are the principal approaches to FPC production. Both mean that virtually any fish can be used, provided it contains no natural poisons. Boniness, color, or flavor would prove no drawback.

In the United States, FPC has been stored at 110 degrees F., 90 percent humidity, with little loss in nutritional value. This indicates excellent shelf life even in tropical climes. Likewise, the very high temperatures (1,200 degrees F.) used to bake Arabic bread did not noticeably reduce the additive's food value.

It takes 6.6 pounds of whole fish to make one pound of FPC, a reasonably impressive yield considering fresh fish is 72 percent water.

A study by the Massachusetts Institute of Technology's Department of Ocean Engineering suggests that FPC made from fish costing a cent a pound will cost 23 cents a pound. Fish at two cents a pound yields 29-cent FPC. At three cents a pound, fish gives 36-cent FPC, and so on.

This means FPC prices could fluctuate widely depending on the cost of the raw material. Fortunately, fish waste can be processed just as well as whole fish. Moreover, U.S. Government scientists say that 10 grams (less than half an ounce) could fill the daily animal protein needs of the average human being.

In recent tests at the University of Rhode Island, rats fed bread containing 5 percent FPC grew five times faster than those fed unfortified bread. Those fed bread with 10 percent of the additive grew eight times as fast.

WASHINGTON STATE PROGRAM ENDS

A five-year federally funded American FPC program in Washington State recently came to an end when Congress declined to extend the experimental period. Even so, the technology developed has not been wasted, says Dr. Bruce Stillings of the National Marine Fisheries Service. Federal approval may still be forthcoming at a later date, and "private industry might choose to run with the ball," he says.

Meanwhile, the National Biscuit Company of the United States has joined with Astra Nutrition to develop baking products enriched with FPC. Much of what is being done is still under wraps. But "we believe FPC can play an important role in boosting nutritional standards," says Wayne Anderson, director of nutrition for the company's new-products division.

The Japanese, too, are interested in FPC. But their major breakthrough in recent years has been the development of a fish-meat emulsion with good storing qualities. It is used extensively in the production of a fish sausage and other processed fish foods.

The production of roughly one million tons of these sausages a year has helped make the Japanese the biggest pro-rata consumers of fish in the world—between 80 and 90 pounds of fish a year against 11 pounds for Americans.

Meanwhile, irradiation promises a different type of seafood preservation. The U.S. Atomic Energy Commission's research into pasteurization and sterilization using gamma rays now is completed. Results have proved "very satisfying," says Martin Moon, a spokesman for the commission.

The radiation technique either pasturizes or sterilizes the product. A pasteurized fish would still require refrigeration as does milk but need not be frozen. A sterilized fish would need only to be wrapped to go onto the shelf.

Radiation is a form of cooking. But because it is classified as an additive, all foods treated this way require Federal Food and Drug Administration approval before being marketed. Petitions to the FDA for approval of irradiated papayas and strawberries have already been compiled. But fish, says Mr. Moon, is still some way down on the list.

Meanwhile, several machines are increasingly coming into use which automatically separate fish meat from bones and skin. Meat from the boniest of fish can be obtained for human consumption this way. Moreover, the machine extracts virtually all the meat available. A cod, for instance, when filleted the old way yields 30 to 35 percent meat. The new machines frequently extract 45 to 50 percent.

A recently patented South African invention enables twice the meat to be extracted from the spiny lobster. Previously only the tail of this lobster was marketed. Now meat in the legs, claws, head, and other small cavities of the body are extracted by the machine, which reportedly took 20 years to develop.

These and similar technological advances, then, can help make the most of seafood resources. But, says Mr. Pariser, "we in the West must become a little less fastidious. We must accept fish sausages and reconstituted fish meat more readily than we do."

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BRINY FURROWS YIELD BUMPER CROPS

(By Peter Tonge)

In the attractive English resort town of Lowestoft, lab-reared turbot that would overlap the largest of dinner plates rest lazily one on top of the other in the tanks.

Some 18 months previously, they would barely have obscured an American quarter or an English two-penny piece. From less than bite-sized, each has grown into a substantial 4-to-4½ pound family dinner.

Over in Washington State's Puget Sound, the calm water erupts into a furious boiling as hundreds of fish compete for the food that is thrown in. They are year-old salmon reared in pens much as the poultry farmer raises his chickens.

The end product is plate-sized salmon, 8- to 10-ounce gourmet items now finding their way to restaurants around America.

Slowly the biological knowledge and technology which make possible such mariculture operations are accumulating. Research and development projects, few and far between prior to the 1960's, have multiplied many times as people the world over see a growing need to farm the sea.

HOW TO EXPAND PRODUCTION?

Agriculture, the largest of all food-generating systems, came into being with neolithic man around 7,000-10,000 B.C. It enabled the world to become the humanly populated planet it is. But with future population growth the need is to expand food production considerably. Most estimates suggest that it must double in the next 30 years for nutritional standards to remain as they are today, let alone improve.

For its part, agricultural productivity is expanding somewhat more slowly than the population growth. It is unlikely to improve very dramatically, agronomists point out, because most of the roughly one-third of the earth's land surface suitable for cultivation has already been put to the plow. Hence the growing awareness of the sea as an important food resource.

The annual ocean harvest, which for so long grew at double the population rate, held out a rainbow promise of plenty for decades. But evidence that the sea is a finite, if renewable, resource has become all too obvious in recent years as fisheries become overworked. Aquaculture, or mariculture when referring only to the sea, remains the one hope of significantly boosting marine productivity.

LONG-TERM POTENTIAL

It has long-term potential of meeting man's meat-protein requirements. This assumes, of course, that the offshore pollution menace can be controlled and that indiscriminate exploitation of coastal waters, the only suitable areas for mariculture, cease.

The almost startling Indonesia success with mariculture in recent years suggests that the UN hope is not misplaced. In the past four years the annual value of the Indonesian fish harvest has jumped from $500,000 to $21 million.

Increased ocean fishing is only part of the answer. The coastal ponds that now ring the northern part of Java have made a major contribution. Milk-fish, and shrimp are the prime products of these ponds. A good pond now yields around 2,000 pounds of fish a hectare (approximately 2½ acres). Scientifically managed experimental ponds have yielded four times that figure.

No fin fish, shrimp, or lobster, however, can match the productivity of the shellfish. Moreover, man has mastered the techniques of husbandry for mussel and oyster raising to a greater degree than for any other species.

RAFTS TRAIL LARVAE

In Spain's Galician bays, some 1,500 rafts trailing 20-foot ropes, to which the mussel larvae attach themselves, produce 80 million pounds of meat a year.

The Japanese, long-time masters of oyster culture, use a similar approach. They now average 46,000 pounds of oyster meat a year for every acre under production. The Australians are becoming increasingly important producers, using rafts. Several U.S. operators, too, are opting for this three-dimensional approach, modifying it slightly in the New England areas to make allowances for the harsh winters that prevail there.

It has been calculated that were Japanese success with the tasty oyster to be duplicated on just 1 percent of the world's continental-shelf areas, it would be enough to satisfy the estimated world need for animal protein in the year 2000. This assumes, of course, that methods of getting the meat quickly and cheaply to the people will be available.

Part of the fantastic success of the Spanish mussel crop lies in the fact that a natural phenomenon known as upwelling takes place. This brings to the surface nutrient-rich water which promotes rapid growth of microscopic plants on which the bivalves feed.

EXPERIMENTS UNDER WAY

Experiments to pump the deep rich waters to the surface are being undertaken in some areas. But so far, the process appears too costly to be feasible in the near future. Combining such an operation with air-conditioning needs in the tropics may prove economical, however.

On the other hand there are alternate methods of enriching seawater. Promising experiments are currently taking place at the Woods Hole Oceanographic Institute in Massachusetts, using treated sewage waste.

The program has been under way now for two years using large fish tanks. Soon the project will be upgraded with the opening of a plant capable of treating large volumes of sewage "under conditions as close as possible to those that will be encountered in a commercial operation," says biologist John H. Ryther.

In effect the system would turn a waste product—sewage—into oyster meat. Present results suggest that sewage from a town of 50,000 persons could be used to produce 900 tons of oyster meat a year. The value of such a crop would be $5 million at present prices.

In the Ryther experiments, sewage-enriched waters have been found "an excellent culture medium for marine phytoplankton (plants) comparable with, if not better than, the artifically enriched seawater used for many years at the laboratory."

Dr. Ryther says, "There are still many hurdles to cross" before the system becomes practicable. If successful, however, far more than just oyster culture will benefit.

Phytoplankton is the basis of all sea life. Besides the oysters, clams, scallops, and other bivalves, many forms of marine life, including fin fish feed directly on the tiny plants. Some of these herbivores are directly useful to man. Many more are small life forms which in turn are eaten by larger varieties and so on up the food chain to the species sought by man.

The recent success of British biologists in raising turbot from the egg stage through metamorphis to the large flat fish this writer watched clustering together in tanks at Lowestoft, begins with phytoplankton culture.

THE ABUNDANCE OF THE OCEANS IS NOT UNLIMITED

Twice a year a trim-looking stern trawler puts out to sea from Woods Hole on a special six-week cruise. Its purpose: to assess fish populations in something like a million square miles of ocean.

From its findings, the U.S. National Marine Fisheries Service estimates the maximum catch the northwest Atlantic fishing grounds can tolerate the following year without jeopardizing its ability to replenish itself.

Fishing nations and oceanographers the world over may disagree on many things. But there is almost total unanimity now on the need to limit the fish catch in many areas if the resource is to be sustained. Hence the work being done by such as the Woods Hole-based Albatross and similar vessels around the globe.

The so-called limitless abundance of the sea has been exposed as a myth in the past decade, as the catch of species after species has declined in the older fishing grounds.

The beneficial effect of two world wars on North Sea fishing is also being more frequently cited in support of establishing fishing quotas.

STOCKS RECOVERED SPEEDILY

This oldest of European fishing waters was badly depleted of fish—flat fish in particular—when World War I broke out. Hostilities prevented large-scale fishing for four years and when peace brought fishing fleets back into the area, stocks had replenished themselves remarkably. Fish size as well as quantity was up dramatically. It was the same when trawlers ventured out after almost six years of war in late 1945.

If not too depleted, fish stocks would appear to have a remarkable capacity for replenishing themselves.

Since World War II, various international commissions have sprung up to devise common policies governing fishing in a given area or for a specific species.

For instance INCAF, the International Commission for North Atlantic Fisheries, is an area commission. It deals with all fishing in the vast northwest Atlantic. It comprises 16 nations which regularly trawl the area, including the once-rich George's and Brown's Banks off the northeast coast of America.

In contrast, the International Pacific Tuna Commission is concerned only with a particular fish species. All told there are eight commissions covering fishing in the greater part of the oceans. As yet however, they represent a patchwork of national, binational, and multinational agreements, supported only by vague international accord.

UN BOOST HOPED FOR

For this reason, many look to the United Nations Law of the Sea conferences in New York in November and then in Santiago, Chile, in 1974, to lay the ground rules for improved international cooperation.

The conference has been called to write a treaty for the development of ocean resources as a common heritage for mankind. Mineral exploitation, fishing rights, freedom of navigation, and pollution control will be written into the treaty.

For several years now, ICNAF has imposed catch quotas on most Atlantic fish. The results have been marginal, slowing up the decline rather than improving fish stocks. Too little, too late has been a frequent criticism of the approach.

For one thing, incidental catches upset the effectiveness of quota rulings. A ship trawling for, say, mackerel inevitably pulls in other species at the same time. Multiply this by the number of trawlers fishing the region, and the total "additional" catch can reach impressive proportions. Frequently, biologists point out, these incidental catches push the volume of landed fish well beyond the quotas set for the year.

WHAT STEPS TO TAKE?

A major problem of conservation is getting international agreement on what steps should be taken. Biologists from all countries tend to arrive at similar conclusions. But getting political acceptance of their recommendations isn't easy. A call for a cutback in fishing efforts isn't readily accepted by, say, a nation already troubled by unemployment in its fishing industry.

As far back as 1961, Woods Hole biologists warned that a rapid decline of haddock lay ahead unless stringent rationing of the catch was introduced. The warning was ignored. Now the annual haul is a mere 10 million pounds, compared with 85 million when the warning was issued. "Everyone now knows we were right," says Dr. Robert Edwards of the U.S. National Marine Fisheries Service. "It's most frustrating."

Meanwhile, many marine biologists are pressing for limitations on the total catch. This emerged strongly at a recent UN Food and Agriculture fisheries management conference in Vancouver.

Under such a scheme, species quotas would be set, plus an overall catch limit for a given area, such as the George's Bank. When that limit was reached the knife would drop on all fishing, whether all quotas had been reached or not.

NATIONAL MANAGEMENT URGED

There is growing support, too, for coastal nations to manage fishing adjacent to their own territorial waters. Coupled with this is a call for national quotas in which each country may take only a predetermined quantity of fish from a given area. ICNAF has recently begun this form of rationing on some species, such as herring and haddock.

Those proposing extended local control do so in the belief that the coastal nation will be more concerned with conserving stocks in its own backyard than in those of distant nations.

Iceland contends this is the motivation behind its recent claim to a 50-mile territorial limit. Ecuador, Chile, Peru, and more recently Brazil have unilaterally extended their fishing boundaries 200 miles out to sea. "Patrimonial" waters is the term they use, as opposed to "territorial" waters, where full sovereignity is exercised.

Under this system the coastal nation would set all quotas but could not exclude foreign fleets from the area. When the host nation saw fit, for conservation purposes, to cut back on the fishing effort, it would be obliged to restrict its own activities, too.

A major advantage of the system: Those nations lacking modern fleets would be guaranteed an equitable share of the harvest, even if less-sophisticated equipment meant spending many more hours at sea.

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TECHNOLOGY: NEW EFFICIENCY FOR FISHERMEN

HULL, ENGLAND.—In the Shetland Islands, those treeless dots of rock and pastureland off Scotland's northern coast, they know him simply as Jim Smith, sheep farmer.

On hundreds of British trawlers, however, and on many from other lands too, he is the man who gave the industry the first simple fish-gutting machine which every skipper can afford. His achievement typifies the technological progress in fishing that must accompany improved conservation if mankind is to make the most of sea-food resources.

It was four years ago when Mr. Smith, something of a mechanical genius, tinkered around in his barn and came up with a machine to speed up the process and cut down on labor for his fishermen friends.

In fact, it cut the time spent on the gutting operation by two-thirds and subsequently caused the Germans, long-time producers of a gutting machine, to rethink their design and come up with a more compact simple-to-operate version.

CONSTANTLY AWARE OF NEED

European, Soviet, and Japanese vessels are among the most modern fishing craft in the world today. They frequently carry more navigational equipment than a modern liner and almost as many sophisticated detection devices as a warship.

Even so, there is a constant awareness among these fish-conscious nations of the need to improve fish-catching and processing techniques. Growing world population demands it, they say. And only by ever-greater efficiency, they reason, can the price of this millenia-old staple be kept from skyrocketing.

U.S. fish prices, they contend, are partly as high as they are because the once-efficient American fishing fleet now is the most outdated in the world. Hence the U.S. must import fully 70 percent of its present food-fish requirements.

Most fisheries development in West European nations is carried out by a private industry. But the British, and to a lesser

degree the Dutch, have state-controlled operations which assist in this research and development work.

FACTORY SYSTEM DEVELOPED

The British version is called the Industrial Development Unit of the government-run White Fish Authority. But for the IDU, it is conceivable that the efficient gutting machine might not have gone much further than Mr. Smit's barn.

On hearing of the Smith invention, the IDU did feasibility studies on it, thoroughly tested it, modified it slightly, and finally steered it into production.

Since then the machine has been incorporated into a factory layout system for trawlers in which fish are hauled aboard, gutted, cleaned, and stored all in a largely automated operation.

The fishing craft of the near future will be largely computer-run, so that crews may be cut almost in half, says Peter Hearn of IDU. Labor, apparently, remains the highest cost factor in any fish catch. The idea, says Mr. Hearn, is not to put fishermen out of a job but rather to have twice as many craft operating at the same labor costs. Computer-run systems are already in an advanced stage of testing.

Right now, too, the IDU is modifying the U.S. Navy's Transit Satellite System so it can be an effective aid during the highly erratic course taken by fishing vessels on the hunt.

NEW METHODS ADOPTED

Conversion from sail power to steam at the turn of the century is regarded as the most significant step forward taken by the industry. But not far behind that was the adaptation of submarine detection devices and bottom-sounding equipment for locating fish.

Stern trawling, the purse seine, midwater trawls, and a telemetric system enabling a skipper to monitor his trawls at all times are other recent significant advances by the industry.

In the U.S., a remote underwater assessment system has been developed and tested under the aegis of the National Oceanic Atmosphere Administration, according to Marine Science Affairs, 1971. It is a towed submersible which houses an optical system transmitting video motion pictures of marine life to the bridge.

Increased sophistication of the equipment, however, requires a greater expertise on the part of a trawling skipper. In an industry notable for its slender profit margin, improving a skipper only a few degrees helps appreciably in keeping a fishing operation in the black.

For this reason, the IDU here operates a school for skippers, teaching them to make full use of the technology now available. Recently a somewhat taciturn skipper, with some two decades of experience behind him, waxed quite eloquent after completing the course. "It's as if a veil was lifted from before my eyes," he told a group of newspapermen.

"That's what we like to hear," says IDU officials. "We know now we have another profitmaking skipper aboard and that much more fish in the holds."

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## OUR OCEANS—LAST FRONTIER ON EARTH

Mr. HOLLINGS. Mr. President, the United States faced a major technological challenge during the decade of the 1960's after Russia launched and orbited the first Sputnik satellite. America met that challenge, and through our space program, created the most successful and fantastic achievement of man over nature that the world has ever witnessed.

The challenge of the 1970's, however, may well be in the world's oceans. In fact, the oceans are the last frontier on this earth—and we know less about the seas which surround us than we do about the surface of the moon. We have far, far better maps of the moon's surface than we do our own Continental Shelf, a region which holds out the hope of vast treasure for the future.

The United States must provide world leadership in the oceans, even though our commitment may lack the dramatic challenge of reaching some distant planet. I can assure my colleagues that the benefits to mankind through wise utilization of the sea's resources are much greater than those to be achieved by expansion of our space program. I cite protein, minerals and petroleum—not to mention transportation—as specific examples.

Recently, Mr. Peter Bernstein, a journalist for the Newhouse News Service, researched and wrote an outstanding series of articles for the newspapers his agency serves. I have read these articles, and I consider them to be incisive and definitive on the subject of what has become of our Nation's dwindling commitment to an oceans program. I commend Mr. Bernstein. I only wish more of his colleagues would examine the situation. Today, in the United Nations headquarters in New York, the representatives of all the countries of the world are meeting in one of the preparatory gatherings to draft what will become a new constitution promulgating rules of law for three-quarters of the earth's surface—the law of the sea.

The issue is so important that each Member of the Congress ought to be aware of its consequences. It affects our national defense. It affects our transportation. It affects the livelihood of every American fisherman. And it will affect every citizen of this country in the years ahead.

Are the seas important? The very future of mankind, Mr. President, may well be determined by how we learn to understand and use the oceans. And yet today, I cannot help but believe that a government which reacts only to outside stimulus, to political pressure, has ignored the programs so necessary to achieving understanding of the oceans.

I ask unanimous consent that the articles by Mr. Bernstein be printed in their entirety in the RECORD, and I hope that my colleagues will read and understand the message they convey.

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

[From the Springfield (Mass.) Sunday Republican, February 25, 1973]

A PERILOUS GAMBLE WITH SEA IS BEGINNING

(By Peter Bernstein)

WASHINGTON.—A perilous gamble with the sea is beginning on the mineral-rich Atlantic continental shelf.

Beneath thousands of square miles of windswept ocean off the coast from Maine to Florida—a region endowed with some of the world's most productive fishing grounds and rugged natural beauty—government marine geologists are accelerating the search for oil and gas in anticipation of large-scale deep-sea production.

No one, either in government or the petroleum industry, will hazard a guess on when production might begin. That decision is up to the White House. But there is certainty among those involved in offshore production that the timetable for the Interior Department's plan to lease oil and gas drilling rights by 1977 will be speeded up in an attempt to deal with the worsening energy shortage across the country.

"This involves a major decision," said Sen. Ernest F. Hollings (D-S.C.), chairman of the Senate Subcommittee on Oceanography. "It will have an impact for the rest of our lives on the ocean environment, fishing resources, and the recreation rights of all Americans."

Petroleum experts estimate that total deposits along the continental shelf are nearly as great as those off Texas and Louisiana—and potentially greater than the North Sea deposits in Western Europe.

Though much exploratory work remains to be done, official figures from the Interior Department place the untapped reserve at 30 to 42 billion barrels of oil, 5 to 6 billion barrels of liquid natural gas, and 183 to 211 trillion cubic feet of rich natural gas.

In providing fuel for the nation's apparently insatiable energy needs, however, deep-sea drilling, in the view of many ocean experts, poses problems of potentially enormous magnitude: topographic and environmental upheavals from oil spills and chemical wastes in a sea already seriously contaminated by indiscriminate dumping.

Reflecting Congressional concern over the ever-increasing ocean pollution problem, Sen. Edmund S. Muskie (D-Maine) is starting public hearings tomorrow on industry plans for a wide range of oil facilities on the verge of surfacing in dramatic fashion along the Atlantic Seaboard: offshore ports for supertankers, refineries, and storage tank farms.

The hazards of deep-sea drilling were underscored in a report by a special panel of the National Academy of Engineering.

Declaring that offshore accidents can never be completely eliminated, the panel warned that "depending on the nature of the incident, a moderate and controllable oil spill incident can develop, through cascading effects, into an uncontrollable massive intrusion into the environment."

The panel, headed by Dr. George F. Mechlin, vice president of Westinghouse Electric Corp., said further that an equipment failure during drilling operations involving flammable fluids under pressure could produce a "disastrous conflagration."

The Academy Report, which was done at the Interior Department's request, followed an earlier warning from Bostwick H. Ketchum, associate director of the Woods Hole Oceanographic Institution on Cape Cod, who cautioned that "any release of oil in the marine environment carries with it the threat of disastrous destruction of the marine ecosystem and constitutes a danger to world fisheries."

Ketchum, regarded as one of the nation's foremost marine biologists, estimated that oil pollution from all sources—tankers, offshore drilling, refineries, and waste oil runoff—has reached the point where, if evenly spread across the world's oceans, would produce a "visible slick" half a micron thick.

But he pointed out that offshore drilling accounts for only a small fraction—roughly 5 per cent—of the 2 million metric tons of oil that wind up annually in the sea.

While the amount of oil spilled from offshore drilling can sometimes be "frightening," as was made evident from the 1969 San-

ta Barbara spill, it can also be controlled, Ketchum said. Tougher enforcement and stiffer fines would, in his view, give oil companies the incentive to adopt better safeguards.

With carefully written standards and policing, offshore production along the Atlantic Seacoast should be permitted, he said. "It would be wrong to insist on first getting all the answers to complex environmental problems involving oil," he said. "We know enough now to insist on proper precautions."

The American Petroleum Institute, the industry lobbying group, claimed major oil companies are making rapid strides in developing safer and more efficient drilling equipment.

"We won't guarantee there will be no accidents," said Wilson Laird, director of API's Oil Exploration Division. "But we can guarantee a better job in the future than the one we've done in the past."

Laird said geological studies of the Atlantic Ocean floor indicate that the richest deposits along the continental shelf are to be found in a canyon known as the Baltimore Trough which extends from the tip of Long Island, roughly 30 miles out to sea, down to the mouth of Chesapeake Bay.

The trough, he said, is part of the same geological formation from which oil and gas are currently being drawn off Nova Scotia in the North Atlantic.

Rock-core drilling to a depth of 30 feet—the only kind of exploratory drilling currently permitted of the Atlantic Coastal states—has indicated the presence of large oil and gas deposits on the outer rim of the Georges Bank Fishing Ground, about 50 miles due east of Boston, and in the Blake Plateau some 100 miles off the South Carolina and Florida Coasts, he said.

Laird, a veteran geologist who until a year ago headed the Interior Department's office of Oil and Gas, said the projected drilling for deposits 10,000 to 12,000 feet below the ocean floor would take place in water as shallow as 18 feet and as deep as 600 feet.

The key oil policy decisions—whether or not to drill, at which location and when—are in the hands of a White House task force on energy headed by National Security Adviser Henry A. Kissinger, treasury secretary George P. Shultz, and Domestic Policy Chief John D. Ehrlichman.

In recently setting up the task/force triumvirate, President Nixon expressed concern about the nation's growing reliance on imported oil—expected to reach 30 per cent of U.S. consumption by 1980—and called for accelerated utilization of domestic fuel sources.

Given the fact that fuel imports are producing an annual deficit of $2.5 billion in international payments, administration officials are voicing alarm over what they consider a long-range threat to national security caused by the flood of dollars going to Arab countries and other oil producers. The deficit is expected to reach $10 billion by 1980, and no end to the outflow is in sight.

There is fear that some countries might be tempted to use fuel exports for political blackmail or other devious purposes.

Interior Secretary Rogers C. B. Morton declared that an interruption of the imported—oil flow for any reason "could cause great damage to our national economy and internal and external security."

The same concern was echoed by Walter Levy, a leading energy consultant, who cautioned in a recent address to petroleum industry officials that "the United States as a major world power, simply cannot afford an ever-increasing overdependence for its oil supplies on a handful of foreign countries. Otherwise, its security in a narrow sense, as well as its prosperity and its freedom of action in foreign-policy formulation, will be in jeopardy.

Short of a major fuel conservation program, the era of accelerated offshore production looms ahead.

There is no other way to keep pace with the nation's soaring energy demand. Output from the once-rich fields of Texas and Oklahoma is dwindling. U.S. gas reserves have fallen to their lowest level in 15 years. And efforts to drill on Alaska's oil-rich North Slope are stalled in court litigation over the controversial Trans-Alaska Pipeline.

As for alternative sources of oil and gas, the technology for economically producing gas from coal and oil from shale are still years away, officials said.

The new emphasis on offshore production—three oil lease sales a year instead of two in the Gulf of Mexico, and Atlantic drilling—is stirring a hornet's nest of opposition. Environmental and consumer advocates, in particular, are up in arms.

Drilling in the Atlantic would "certainly signal a major retreat for our environmental ethic," said S. David Freeman, former energy adviser to President Nixon and now head of a Ford Foundation Study on Energy.

In his view, the administration approach is a continuation of the old "drain America first" policy: speed ahead with a wasteful pattern of energy consumption, and with higher prices and more pollution.

Oceanographers maintain that a wide array of subjects should be explored over the next few years, including the geophysical structure of the ocean floor, movement of sediment, erosion, bottomlife, the physics of shoaling and breaking waves, rip currents, the origin and impact of storms, and the ocean's capacity to assimilate wastes.

An understanding of these phenomena, in their view, is essential in making long-range plans for the ocean's use. "With this knowledge," a leading government scientist said, "oceanographers will be able to say where we must slow down or stop, like a speed limit on a road."

Otherwise, in promoting offshore drilling and superports to solve the fuel crisis, the nation's oil industry might be creating problems of far greater magnitude than the ones they seek to cure.

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[From the Springfield (Mass.) Union, Feb. 26, 1973]

MOST OFFSHORE OIL DRILLING HIT OR MISS, OFTEN HAZARDOUS

(By Peter J. Bernstein)

WASHINGTON.—Essentially not much has changed since offshore oil production got under way 20 years ago. Drilling is still hit or miss, largely unregulated, and often extremely hazardous.

Oil companies to this day, according to a study done for the Department of Interior, function in a world of their own, tailored to their production needs without having to bother much about safety.

For some things like the design and construction of offshore drilling platforms, there are no government standards for safety and reliability. Nor are there any regulations promulgated either by the U.S. Geological Survey or industry itself for safe drilling equipment, despite the series of massive well blowouts three years ago off Santa Barbara and the Louisiana coast.

DISASTROUS FIRE

The situation is such, a special panel of the National Academy of Engineering reported in the study, that a "disastrous conflagration" could occur from an equipment failure.

Together with earlier reports, the academy study has raised farreaching questions about offshore drilling in the Pacific and the Gulf of Mexico, and the wisdom of allowing oil companies to begin deep sea drilling off the Atlantic coast.

However, domestic oil producers, while acknowledging some shortcomings, maintain that drilling still accounts for only a small fraction of the oil that winds up in the oceans. Stepped-up production along the Atlantic coast, in their view, would pose far less of an environmental hazard than importing the oil in mammoth-sized tankers.

"Refined petroleum carried by tanker is far more toxic than crude oil," said Wipson Laird, director of exploration at the American Petroleum Institute. "We can't guarantee we won't have accidents. But those people in New England are making more noise than the situation justifies."

KENNEDY BILL

Here in Congress, Sen. Edward M. Kennedy is quietly pressing the battle against Atlantic drilling. He plans to reintroduce a bill that would delay drilling for at least 18 months while the National Academy of Sciences studies its potential impact on the coastal environment and economy. The administration opposed the measure in the last Congress on grounds that such studies were already under way.

Behind the debate over offshore drilling there lies a maze of complex public issues and private interests that the combatants on both sides agree touch on the most serious environmental questions in the country today.

On one side is the nation's seemingly unlimited demand for energy. On the other, its equally urgent desire for clean beaches and a quality environment.

So far the country has been able to get by without major difficulty but the crunch is coming. The question now is whether the oil industry can overcome the intense distrust felt toward it by a wide segment of the public, especially among those people alarmed at the prospect of oil production off the Atlantic coast.

BLUNT TERMS

Nearly a year ago, William A. Radlinski, now acting director of the U.S. Geological Survey, stated the problem in blunt terms at a meeting of oil industry leaders in Houston.

He said, "Unless we can demonstrate to the public, federal and local officials, the Congress, and ourselves, that outer continental shelf petroleum operations can be conducted safely, it seems plain that the future development of oil and gas offshore is in serious jeopardy."

Radlinski then proceeded to announce that the geological survey had rejected a series of recommendations made by a task force composed of space agency officials that it establish standards for offshore drilling equipment and pollution—control devices.

Interior Secretary Rogers C. B. Morton has said there would be no lease sales on Atlantic oil and gas deposits until interior officials complete an exhaustive environmental impact study. In so doing he postponed public hearings on possible drilling, and left the question of future sales up in the air.

In the last few months, however, support for Atlantic drilling has come from New York Gov. Nelson A. Rockefeller and former Interior Undersecretary Charles F. Luce, now chairman of the board of Consolidated Edison Company of New York.

AVOID EMOTIONALISM

Sen. James Buckley, R-C, N.Y., warned against too much "emotionalism" over the Atlantic drilling issue. He urged Morton to convene an Atlantic regional conference with participants from "All sectors of society on

the technical and environmental questions involved in offshore drilling. Interior officials said his proposal is under review.

For their part, leading environmentalists involved in the offshore issue hope the government will make no hasty decisions on Atlantic drilling.

"Once offshore drilling gets under way, it will be very difficult to stop," warned Edward Stohbehn, a lawyer for the Natural Resources Defense Council. "We shouldn't jump into this before learning more about drilling. There's not adequate knowledge of what oil is doing to the environment."

Others take a much darker view.

Thomas Macres, Jr., organizer of an anti-drilling group on Long Island called the Committee on Resources Management, claims a conspiracy is afoot to promote offshore drilling.

CONTRIVED CRISIS

"The purported energy crisis has been contrived by government and industry," he said, "to create an atmosphere—a public hysteria over fuel shortages—that will allow drilling off the Atlantic coast."

He said this campaign was reflected in the "blitz" of recent oil company TV advertisements and magazine ads which he believes are designed to "soften up" resistance to offshore drilling.

The real environmental menace, according to Donald G. Comb, a Sierra Club leader in Boston, is not the offshore drilling rigs but all the auxiliary equipment that goes along with them.

"It's the related industry we're worried about," said Comb. "Rigs will require thousands of miles of pipelines, sludge pits, storage tanks, and refineries. There will be no end to the pollution of our shores."

Then there are the commercial fishermen whose catch has fallen off sharply in recent years because of "red tide" contamination and over-fishing by big, mechanized foreign factory ships from countries such as the Soviet Union, Japan, and East Germany.

Fishing industry leaders are taking a cool, wait-and-see approach.

CUTTING CORNERS

"The oil people have a way of cutting corners," said Hugh F. O'Rourke, executive director of the Massachusetts Seafood Council. "They haven't done a very good policing job, and of course we're concerned about a spill like the one in Santa Barbara hitting our fishing banks. Hell, we'd be out of business for a year."

But O'Rourke, whose council represents some 18,000 fishermen in the Massachusetts area, suggested that a compromise might be worked out. "Spills may be inevitable, but they need to be controlled," he said. "Perhaps our guys could play a cleanup role. And maybe some of the money from federal lease sales could be used for fishery research and building new boats. Obviously oil production could be an obstacle to fisheries, but our concern might be minimized if a piece of the action were turned back to our industry," he said.

From the standpoint of ocean scientists, nothing could be more disastrous than an oil spill in the Georges bank fishing ground off Cape Cod, especially during the season when fish larvae float on the surface. Georges bank, long one of the world's most productive fishing grounds, is believed to have large oil and gas deposits beneath the ocean bottom.

The Interior Department, in a recent environmental impact study, described the threat of oil spills from offshore drilling in uncharacteristically candid terms.

"There are no recovery devices capable of picking up oil in rough seas," the report said.

LIMITED EFFICIENCY

The Interior Department explained that while equipment procedures for recovering oil in inland bays and other protected waterways are well developed, their effectiveness is extremely limited in the open sea.

Citing such hazards in its report, the special panel of the National Academy of Engineering cautioned that "Drilling for petroleum in deeper waters and the Arctic offshore will require innovative extensions of current drilling practices, coupled with new technology."

The panel, for example, observed that research is under way to develop subsea drilling units of a type to be enclosed in pollution-proof plastic cones on the ocean floor.

But the eight-member panel, headed by Dr. George F. Mechlin, vice president of Westinghouse Electric Corp., also noted with some dismay that the government plays only a limited role in research and development of advanced oil drilling technology. Consequently, responsibility for building the domes and installing them is left to the oil companies.

API's Wilson Laird, asked about domes being built by Westinghouse and General Electric among other firms, said the technology is still primitive, and that oil companies do not plan to use the domes for Atlantic drilling.

NO PHILOSOPHY

In its report, the panel said the government has developed neither the "philosophy nor policy regarding the testing of present or potential offshore equipment."

The panel found further that the oil companies are under no obligation to make public the results of their research. As a result the panel said, "There is no system by which government keeps current with the results of this research so that it can be applied in the regulation and inspection of the offshore industry."

And, unlike such other industries as aviation, merchant marine, and nuclear power, where relations with government are brought out in the open to increase public understanding of safety factors, no such effort is being made by the oil industry, the report said.

To boost both safety and efficiency and instill more public confidence in the oil industry, the panel recommended the government adopt industry-wide standards for equipment, operating procedures, and inspection, and enforce them by making "adherence to such stands a consideration in the issuance of permits."

OUT OF BUSINESS

The oil companies have always claimed that the application of stringent federal safety regulations would put them at a disadvantage with foreign offshore operations, and drive them out of business.

"Such an eventuality should be considered a possibility, but not as a proven fact," the panel said. "The United States has led in the past, and still does lead, the world in the technological, productive, service, and support aspects of the offshore industry.

"There is every evidence that the (European) countries involved in the North Sea offshore fields are just as concerned with safety as the U.S. Doubtless, so too, will be the nations of the Far East, and South America. Also in the Mideast and in the so-called underdeveloped nations of Africa and the Caribbean Islands, it is to the United States' advantage to sponsor and promote first-class safety provisions in order to husband natural resources and to prevent ocean contamination."

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[From the Springfield (Mass.) Union, Feb. 27, 1973]

AMERICA'S LIFEBLOOD GIVES FIRMS A BARREL OF SPLITTING HEADACHES

"As you read this, the oil is moving. It is moving in tankers across the oceans of the world and up and down the coasts of every continent." . . . From an ad of the Exxon Corp., the world's largest oil company.

(By Peter J. Bernstein)

LONG BRANCH, N.J.—Except for an occasional collision, the traffic never stops. Oil is America's lifeblood, the most valuable cargo on the seas, hauled by an armada of more than 4000 tankers from places as far away as the Persian Gulf and as near as Bermuda.

But getting the cargo from ship to shore is causing a barrel of headaches, not only for oil companies like Exxon, Mobil, and Gulf but for petroleum users across the country.

The problem simply stated is: not a single East Coast or Gulf port can accommodate any of the world's 400 supertankers and 300 more under construction. Concerned about the potential for oil spills, Atlantic Coastal states in particular regard the monster-sized tankers with almost universal dread. But oil industry officials say supertankers are fast becoming the only economically feasible means for carrying oil long distances, and with America's fuel imports growing at an astronomical rate, the question is not whether the big ships will be used but at which ports.

CRUNCH COMING

"The crunch really hasn't started," said Robert J. Blackwell, assistant secretary of commerce for maritime affairs. "But when the gasoline and fuel shortages hit hard, I see people opting to take a little more pollution."

As the administration's leading maritime official, Blackwell said now that the issue is out in the open, opposition to building offshore ports for the big ships has eased in some places. He predicted construction of the first gulf superports would begin this year off New Orleans and Galveston and that a deepwater mooring buoy for big tankers would be operating in three years off North Carolina.

But he said none of the projected superports would be of any help to the New England states, where the fuel shortage has been most severe and resistance to superports and new refineries most intense. Public opposition stopped several oil companies from building supertanker facilities in deep bays off Machiasport, Portland and Searsport, Maine.

So far no clear policy on this politically explosive subject has emerged from the White House. But government officials expect President Nixon to devote considerable attention to the superport issue in his upcoming energy message to Congress.

Congress appears deeply divided on the issue, with some influential lawmakers pressing for superports and others resisting. Sen. Henry M. Jackson (D-Wash.), whose interior committee has jurisdiction over key energy matters, is preparing to introduce an omnibus bill, reportedly with administration support, that would empower the federal government to build superports even if the coastal states don't want them.

Alarmed, Sen. Edmund S. Muskie (D-Maine) raised the matter of coastal jurisdiction before his subcommittee on air and water pollution, and invited Sen. Harrison A. Williams Jr. (D-N.J.), the leading superport critic, as leadoff witness. Williams is urging his Senate colleagues to approve legislation that would grant states the power to block superport construction in federal waters.

"States which face this type of threat should have the power to control any potential offshore development which could result in contamination of the ocean and beach-front environment," Williams said.

The immediate issue, in the view of Williams and most other New Jerseyans who have gotten embroiled in the debate, is the government's designation of two New Jersey sites for superports: a regional facility located about 13 miles off Long Branch, or two local facilities—one off Long Branch and the other off Cape May.

As conceived by the U.S. Army Corps of Engineers together with the Maritime Administration and the Council on Environmental Quality, oil from supertankers as great as 500,000 dead-weight tons would be pumped from the big offshore terminal through 48-inch pipelines to storage tanks on shore. From there the oil would go to nearby refineries owned by Chevron, Exxon, and Hess.

Virtually every major public figure in New Jersey has denounced superports, from Gov. William T. Cahill on down. Cahill, castigating the engineers at a public hearing, said the superport scheme had all the characteristics of "an environmental nightmare."

The state's Director of Marine Resources, Richard Goodenough, estimated that pollution from the superport and satellite oil facilities would generate ocean pollution "equivalent to the raw untreated sewage of 845,000 people." In a state where tourism is the biggest industry, the danger couldn't be more pronounced, Goodenough said.

The Army engineers have agreed to make their final superport site recommendations to Congress this June, and the ensuing debate may well be remembered as one of the bitterest to have been generated by the "energy crisis."

"If one of those supertankers breaks up, the damage costs may be staggering," said Leon Billings, a Muskie aide. He said some thought is being given to increasing the amount of liability for which vessel owners must compensate victims of a spill. The maximum compensation is now $14 million under the 1970 Water Pollution Act, but there is growing doubt whether $14 million would cover property damage from a supertanker spill.

In addition, a move is afoot to give the underutilized National Oceanic and Atmospheric Administration veto power over construction plans for offshore ports and nuclear power plants.

The administration, without waiting for the terminals to be built, or even the selection of their sites, awarded $382 million in contracts for the construction of six U.S. supertankers.

The tankers are part of an overall award of $660 million for 16 transport ships. They are scheduled for completion in 1975 or 1976, will have a draft or depth of 67 to 70 feet and a capacity of 225,000 to 265,000 tons. At present, only one port in the continental United States—Seattle—can accommodate the new ships. They are about six times larger than conventional tankers.

Of the supertankers already afloat, most of the 200 ships are Japanese. Some of them overshadow even the U.S. Navy's biggest aircraft carriers, which are about 1,000 feet long, are smaller than 100,000 tons, and draw—that is, project below the water's surface—about 35 feet.

Shipping advocates like the Maritime Administration's Robert Blackwell maintain that supertankers reduce environmental hazards since pollution controls can be far more rigidly enforced on a few giant ships in a contained area than hundreds of smaller vessels in a dozen ports.

Oil companies insist supertanker crews will flush their tanks at dock facilities instead of dumping their oily wastes at sea. To insure they do just that, the Coast Guard recently proposed in a formal rule-making procedure that all tankers under construction starting next January be required to have double bottoms for safety and a space for clean ballast.

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[From the Springfield (Mass.) Union, Feb. 28, 1973]

## New England Fishing Industry Needs Healthy Dose of Life

(By Peter J. Bernstein)

BOSTON.—Plagued by the scourge of invading foreign fleets, "red tide" losses and oil-clogged nets, the New England fishing industry is almost beyond repair.

After a decade of near total neglect by government, there is talk now of federal help to stop the downward slide. Ironically, it comes at a time when petroleum interests, encouraged by key government officials in the Interior Department, are pressing for offshore drilling rights in the New England fishing banks.

In his environmental message to Congress, President Nixon proposed federal regulation for the first time of all fishing—domestic and foreign—within U.S. territorial waters extending from the states' 3-mile limit to 12 miles at sea.

### LIMITS PROPOSED

Declaring that existing state controls were "inadequate" to conserve and manage the dwindling fisheries, he proposed federal limits on domestic fishing in the high seas as well.

But to the dismay of federal fishery officials who requested $4 million to carry out the proposed regulatory program, no such funds were made available in President Nixon's earlier budget message. These officials fear that even if Congress were to appropriate the money, it's unlikely the White House Office of Management and Budget would allow it to be spent.

Such ironies are not lost on the fishermen.

"If the crisis we're in now is not corrected," warned Hugh F. O'Rourke, executive director of the Massachusetts Seafood Council, "the New England fishing industry will be dead within a few years."

### 4.9 BILLION POUNDS

Decimated by overfishing and the "red tide" ban on New England clams, the seafood catch last year plummeted to 4.9 billion pounds, down from 5.6 billion pounds a decade ago. New England fishermen account for 60 per cent of the domestic catch, but in the last 10 years, the annual haul of boats working out of Boston fell from 115 million pounds to 31 million pounds.

Certain species like yellowtail and herring are in deep trouble from overfishing. Others like haddock, which accounted for the biggest catch a decade ago, have been virtually wiped out.

The biggest culprits, in the view of New England fishermen, are the mechanized fleets from 18 foreign countries—led by Russia, Poland and Japan—which sweep through Georges Bank and other prime fishing grounds in the North Atlantic and take almost everything.

In recent years, countries have gotten together and established catch limits on overfished species like herring and haddock, but the New Englanders insist the restrictions aren't tough enough, and are enforced only casually. Likewise, lobstermen have complained bitterly about trawlers cutting their lobster pots.

### SUPPORTS 18,000 PERSONS

"It's a shame an industry that supports 18,000 people in the Boston area alone could be discounted so readily," said O'Rourke.

In his eyes, the foreign fleets have an enormous advantage over local fishermen. Their boats, nets, and gear are all subsidized. In addition, big fishing countries like Russia and Japan are using scientific methods to pinpoint the best regions for fishing, a resource unavailable to New Englanders.

To give American fishermen a better break, Sen. Edward M. Kennedy, D-Mass., introduced a package of six bills designed to revitalize the fishing industry. The measures would reimburse fishermen for damages caused by foreign vessels, provide disaster assistance in the event of storm and "red tide" losses, and establish a program of technical and research assistance for the industry. "Red tides" are proliferations of small organisms which kill fish and poison shellfish.

But some fishery officials maintain that foreign fleets are often used as a convenient scapegoat by U.S. fishermen who are frustrated by an array of seemingly unending problems.

### TROUBLE FROM WASTES

Growing trouble from industrial and tanker wastes is causing economic losses. Just recently seagoing scientists from the National Oceanic and Atmospheric Administration (NOAA) found oil in clumps "like spaghetti" as well as tar and pieces of at least a dozen different types of plastic strewn over 665,000 square miles of the Atlantic Ocean, from Cape Cod to the Caribbean.

The coastal wetlands, those fragile ecosystems where 70 per cent of the commercially valuable fish begin their life cycles, are being wiped out by encroaching development, though at a slower rate in states like New York and New Jersey where steps have been taken to protect them. No federal funds are available in the administration budgets for either fiscal 1973 or fiscal 1974 to implement the newly enacted Coastal Management Act, which authorizes planning grants for wetland preservation.

Until recently, management of the fisheries by federal rather than state regulation was considered pure heresy. That's begun to change with coordinated state-federal programs on a few luxury species like lobster and oysters.

But to this day myriad state regulations on fish catches and equipment remain in effect, without any coordination or thought given to their total impact. Even then some vital matters go unregulated altogether, according to Robert Hutton, associate director of the National Marine Fisheries Service, a branch of NOAA.

"No state on the Atlantic seaboard has a limitation on the number of commercial vessels and people who can fish," Hutton said. "All that fishermen need to do is put their money on the counter for a license."

While there are state regulations on allowable size limits for particular species, no controls exist on the number of fish that can be caught, Hutton said.

"Instead of uncontrolled open access by fishermen, we need regulations to limit the number of vessels, the kinds of fishing gear, nets and mesh sizes," he said. "That's the only way we're going to protect the stocks."

### SHOULD BE QUOTAS

"As time goes on," he said, "there ought to be quotas on all major commercial species. I'd like to see every species reproduce at least once before it's taken, such as herring."

This type of federal management, in his view, is the only sensible alternative to the present "hodgepodge" of state rules. "It's easier to reach agreement with foreigners, than states," he said.

Though the number of foreign fishing vessels keeps increasing in the North Atlantic—up to 30 per cent in 1971 over 1970—Hutton predicted the fleets would "back off" in two or three years when their catches begin to sharply decline. The resource-rich South Atlantic fisheries may then become increasingly attractive to both domestic and foreign fishing fleets, he said.

Hutton and a number of other experts believe the industry can benefit greatly from the controlled fish harvest yields of mariculture. On Cape Cod, marine biologists obtained federal funds for a pioneering effort to grow shellfish from algae nurtured with sewage effluent.

Dr. John Ryther, a biologist at the Woods Hole Oceanographic Institution, who conceived the shellfish project, said mariculture methods could stimulate productivity of the ocean and inland bays. In Spain, for instance, mariculture produced 300,000 pounds of mussels per acre, compared to 37 pounds of fish

caught in an equivalent area of the North Atlantic, he said.

With some money, energy and perseverance, officials hope to inject some new life into the New England fishing industry.

"But we can't afford the risk of further pollution," Hutton said of offshore oil production. "The fishery resource can't withstand any additional burden that's placed upon it."

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[From the Springfield (Mass.) Union, Mar. 1, 1973]

NATION'S RESEARCH PROGRAM FRAGMENTED AND WITHOUT FOCUS

(By Peter J. Bernstein)

MIAMI.—After a decade of growth in marine research, moving from random exploration to careful appraisal of potential treasures locked in the sea, America's oceanography program is back where it began: fragmented and without focus.

While the Soviet Union, Japan and several other seagoing countries are surging ahead with deep sea research from well equipped laboratory ships, similar exploratory work in the United States is losing government support.

As a result, U.S. industry in a growing number of cases is turning to other countries for answers to important questions about the nature of the ocean floor and its mineral resources.

MANY DISTURBED

Many ocean experts are deeply disturbed about the implications this may have on America's prestige as a world leader in basic and applied research of the seas.

These scientists say the most immediate impact of the Nixon administration's recent impoundment of $43 million from marine programs is being felt on the Atlantic continental shelf off the coast from Maine to Florida.

Because of the withholding of funds, the National Oceanic and Atmospheric Administration (NOAA) is no longer able to conduct environmentally-related research in a region regarded as a future site for offshore oil and gas production. All of NOAA's marine life and geophysical research on the shelf has come to a halt.

The ocean agency has felt the budget cutback in other ways. It must cut 400 people from marine programs like commercial fisheries management and deep sea research, according to associate NOAA administrator David Wallace. The largest U.S. oceanographic vessel, the 3800-ton Discoverer, as well as four fishery research ships, have been laid up. And three marine research laboratories are closing, also for lack of funds.

"For all purposes, marine research in the United States is grinding to a halt," said Sen. Ernest F. Hollings, D–S.C., chairman of the Senate subcommittee on oceanography.

Hollings, who played a key role in establishing NOAA three years ago as a branch of the Commerce Department, accused President Nixon of having "reneged" on what the South Carolina senator said was a commitment made to ocean research prior to NOAA's creation. Hollings said he has tried repeatedly to speak with Nixon about the funding situation but has been turned away by White House aides.

NO DRAMA?

Some government officials believe the root of the problem lies with the fact that oceanography has suffered from the lack of a single, dramatic event to serve as a launching pad, as the Soviet Sputnik did for the space program.

"There just does not seem to be a national will to get on with the challenge of the oceans," said Dr. Harris B. Stewart, Jr., director of the Atlantic Oceanographic and Meteorological Laboratories in Miami.

"We have no policy, no goals toward the oceans," he said. "The Russians are doing the major oceanographic work today. Their vessels are roaming the world. And, in five to 10 years, I predict," Stewart said, "we're going to be faced with something worse than the Sputnik situation. Suddenly, we're going to wake up and wonder what's happened."

Stewart, who is considered one of the ablest administrators in the marine program, said the U.S. should mount a major effort to obtain basic knowledge about the continental shelf.

"We ought to know something about the deep ocean, but at a bare minimum something about our shore," he said.

For example, a program for mapping the nation's continental shelves in the Atlantic and Pacific over the next decade ought to be national policy, he said. This project, in his view, would produce valuable information about the origin of the oceans, the type of information considered essential to an orderly search for minerals and oil.

Unlike some other marine scientists, Stewart is not opposed to exploiting the Atlantic shelf for oil and gas production. But he maintained that more environmental research on ocean currents and sediment movement, among other factors, needs to be done first to safeguard marine life.

"Perhaps a bit of oil would be beneficial on the ocean bottom, but we've got to know, and we don't know," he said.

"The area of the ocean closest to our shores is so poorly understood in all its facets," he declared, "that we're kidding ourselves if we think we are anywhere near ready to make even the most primitive use of such resources as might be on our shelves."

Instead of focusing all efforts on fuel exploration, the ocean program, in his view, should be made responsive to other things as well—the need for food, safe disposal of toxic wastes, improved weather forecasts, better charts for shipping, preserving sandy beaches, predicting the waves and tides for engineers who want to build airports and nuclear plants, uncovering minerals like sand and gravel, and for military protection of the shelf and the country itself.

A similar appeal, made by a presidential commission in 1969 shortly before President Nixon took office, was ignored.

Citing the need to retain America's preeminence in ocean exploration, the Commission on Marine Sciences, headed by Julius A. Stratton, president emeritus of the Massachusetts Institute of Technology, called for a six-fold expansion of ocean research funds to $130 million annually up until 1975 and a tenfold increase to $200 million a year through 1980.

As the commission, appointed by President Lyndon B. Johnson, had envisaged it, nearly half of the money would go toward developing such technological innovations as continental shelf laboratories, pilot nuclear plants imbedded on the ocean floor, offshore harbors, deep ocean stations and undersea laboratories.

Many years ago, Sir Walter Raleigh said, "Whoever commands the seas, commands the trade; whoever commands the trade . . . commands the riches of the world."

Similar words were spoken more recently. "The nation that first learns to live under the seas will control them. And the nation that controls the seas will control the world." The speaker was G. V. Petrovich of the Soviet Union.

## THE SUPPLY OF PETROLEUM PRODUCTS

Mr. STEVENS. Mr. President, one important aspect of the present energy crisis is our growing dependence upon other nations for the supply of petroleum products. Our neighbor to the North, Canada, already supplies about 1.22 million barrels of oil daily to the United States.

What we have not realized is that other nations are becoming aware that they too may shortly face critical energy shortages. The Canadians on February 22, reduced permitted exports to the United States by nearly 50,000 barrels daily for this reason.

Americans on the one hand are unable to obtain sufficient fuel for their homes and transportation needs. But on the other, Americans refuse to encourage domestic exploration, and fail to consider the squeeze they put on other oil-producing countries.

The problem becomes more critical when we consider the situation of the North Slope oil. Many people fail to realize that if Canadians were to own a pipeline carrying North Slope oil across Canada, that oil, though traveling from one state to another, would be subjected to the domestic pressures of Canada. Canadians might well require all oil carried at a given time through their pipeline go to Canadian consumers. They could conceivably even require a portion of our oil to be exported to them as a price for its transportation. This is not a hypothetical situation but a very real possibility.

Only last February 28 on page 1 of the Oil Daily an article appeared detailing the situation presently facing Canada and causing it to limit its exports to the United States. I request unanimous consent that this article be printed in the RECORD.

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

CANADA ANNOUNCES CUT IN OIL EXPORTS

OTTAWA.—The National Energy Board announced Tuesday oil exports to the United States would be cut back by 47,598 barrels daily in March from requests for Canadian oil.

The board announced that exports in March would be authorized at the rate of 1,235 million barrels per day. This was 41,598 b/d less than American refiners had requested.

The quota was made under the Feb. 15 policy decision to curb oil exports so that Canadian refineries would be guaranteed adequate supplies.

Energy Board officials, announcing the move in a statement submitted to the House of Commons Standing Committee on National Resources, said the quota merely held exports to about the same level as January and February when exports were estimated at about 1.22 million barrels daily.

Under the licenses to be issued for March, deliveries on Interprovincial Pipeline's system were authorized at 824,770 b/d. The line had applied to export 872,368 b/d.

Other pipeline systems serving the U.S. East of the Rockies were permitted to export the amount for which they applied.

This totaled 105,900 b/d for the Aurora Pipeline System and 37,340 b/d for other pipelines and by truck.

Exports to the U.S. west coast on Trans Mountain Pipeline also were unaffected. They were permitted to export the 266,990 b/d for which they applied.

The board said its decision was based on information provided by industry on pipeline capacities, provincial producing cabalbilities and requirements of oil for use by Canadian refiners during March.

## ARKANSAS' TOMORROW LOOKS BRIGHT

Mr. McCLELLAN. Mr. President, the phenomenal economic growth that we have made in Arkansas in recent years has greatly enhanced the well-being and quality of life of our people. Significant recognition was recently given to Arkansas' progress in an article that appeared in the Washington Post under the byline of Mr. George C. Wilson.

This article points out something that we in Arkansas already know—that life is good in our State and is getting better all the time. This is especially true with respect to our young people. Heretofore, many of them had to leave the State in order to pursue their profession or to find job opportunities. They now, however, are finding these opportunities in Arkansas and realize that our State is an ideal place in which to live, to work, and to raise their families.

During the past decade, the State's population of 20- to 24-year-olds increased by more than 43 percent—by more than 43,000 persons. Such statistics are a significant barometer to our strengthening economy and progress. Indeed, Arkansas' tomorrow looks bright, because it is building upon a solid foundation of natural resource development and clean industrial growth.

Prior to 1960, people were migrating out of the State in search of employment. During the last dozen years, however, more than 142,000 new jobs have been created for our people. Seventy-five thousand of these positions have come about as a result of new industries locating in the State. Some 754 companies—large and small—have seen the obvious advantages that Arkansas offers and have located plants in our State during the past few years. But, as Mr. Wilson points out in his article, progress and opportunity in Arkansas encompass more than industrial growth and resource development. They also embrace the quiet, simple, and unspoiled amenities—rich, untouched forests; abundant waters; and a fertile terrain on which man and wildlife can coexist harmoniously. Arkansas is endowed with an unusually clean, healthy, and invigorating environment, which, added to its material resources, means an enhanced and pleasant existence for those who choose to make our State their home.

Mr. Wilson's article has, I think, special relevance beyond any acclamation of life in the Ozarks. For much of the progress and success story now being written in Arkansas can, in large measure, be written all across our land—in rural communities which, in the recent past, have deteriorated and become depressed or deserted.

Private initiative, together with Federal assistance and cooperation among all levels of Government, has worked in Arkansas. And, it can continue to work to further improve and strengthen the economy of our State. Arkansas is proving over and over that self-help programs of rural revitalization can inspire a citizenry and stimulate their initiative and resourcefulness in moving to new levels of prosperity.

Mr. President, I am convinced that the economy of rural America can be restored and revitalized by the same processes and effort which brought progress and prosperity to Arkansas.

I commend Mr. Wilson's excellent article to my colleagues. I believe it is of public interest, and I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post, Mar. 11, 1973]

### END OF OZARKS' OUT-MIGRATION MAY SIGNAL NATIONAL TREND

(By George C. Wilson)

TIMBO, ARK.—Jimmy Driftwood, the balladeer of the Ozarks, is telling about the big decision his parents had to make one summer night when he was a boy growing up in this northwest section of Arkansas.

As he talks, cows heavy with spring calves bawl in the pasture out back. A kettle hisses on the stove inside the wood-plank kitchen of the farmhouse.

"One summer, Mr. Leander Carter came over to our place and said, 'Jimmy, I' like to hire you for the summer to do everything there is to do on the farm—plow corn, cut sprouts with the hoe, whatever. If you bring your dinner, I'll give you 50 cents a day. If I feed you. I'll give you 40 cents a day."

"That night," Jimmy continues in a voice tinged with reverence, "my Momma and Dad talked a long time about what would be the most economical thing to do. They finally decided for me to eat with him. They felt like what I would take to eat would be worth more than the difference."

So Jimmy Morris—his stage name of Driftwood came much later, after his country songs had won a national following—worked for Mr. Carter in the summer of 1923. He was happy to be the only boy around with a paying job.

#### THINGS ARE BETTER

Today, after lots more summers with few jobs, things are much better in Arkansas. So much better, in fact, that Chairman John L. McClellan (D-Ark.) of the Senate Appropriations Committee and others argue that the Arkansas experience is the way to stem the national exodus from farm to city—a migration that continues to empty out the Great Plains as people pile up in urban areas.

McClellan and—by last year's count anyway—at least 39 other senators are pushing a bill (S-10) to give more federal aid to the countryside to hold the people there, away from the cities. That concept is at the heart of the current budget battle as President Nixon moves to eliminate several programs designed to revitalize rural areas.

Beyond the political fight, and probably more important, lies the question of whether what is happening in the Ozarks is the leading edge of a new national trend—people with a choice opting for quality of life even if it means fewer material possessions.

"There was a major reversal of former population losses in a non-metropolitan area extending over northern and western Arkansas, eastern Oklahoma and southwestern Missouri," notes Calvin L. Beale, Agriculture Department specialist in population trends, in examining what happened between 1960 and 1970.

Rural areas in the lower Tennessee Valley, West Central Kentucky, Pacific Coast of Washington, western slope of the Rockies in Colorado and the northern half of Michigan's Lower Peninsula also made comebacks in the 1960s in terms of holding people in the countryside.

Reasons for this changing tide vary by area, of course, but the Arkansas experience—to examine one dramatic example—suggests that young people will indeed stay "down on the farm" if they can find a job other than farming.

Census Bureau figures for Arkansas show that:

The state's total population dropped from 1,949,387 in 1940 to 1,909,511 in 1950 to 1,786,272 in 1960 as people went looking elsewhere for work. But in 1970 the population climbed to 1,923,295—an increase of 7.7 per cent.

Also, the biggest single jump between 1960 and 1970 was in young people, as the number of people aged 20 to 24 increased from 99,852 to 143,039—a gain of 43.3 per cent. The older population increased substantially, too, as thousands retired to Arkansas—attracted by its low-cost living and pleasant environment.

On a county-by-county basis, 46 of them gained population, 28 lost and one stayed the same between 1960 and 1970. In 1960, only six of the counties gained people over the previous census and 69 lost them.

Personal income climbed sharply, even though many people in Arkansas are still in poverty.

In 1959, 14.2 per cent of the families in the state had incomes of less than $1,000 a year. This percentage was cut by two-thirds by 1969, to 4.4 per cent.

Looked at another way, the median (halfway point between the highest and lowest) income for males in Arkansas over 14 years old was $2,159 in 1959 and $4,026 in 1969. This compares to $3,837 and $5,918 for those two years for the District of Columbia.

#### THE MINI-BOOM

The biggest single reason for this miniboom in Arkansas is the industries which have moved into the state, according to the specialists. Close behind is the income from tourists and retirement people. And state leaders see further economic uplift coming from the McClellan-Kerr Arkansas River Navigation System—providing a water highway from the Mississippi to Tulsa. Tonnage on the 448-mile waterway increased 45 per cent between 1971 and 1972.

Between 1960 and today, when the population flow reversed, an additional 142,492 jobs were created in Arkansas, according to the Arkansas Industrial Development Commission. Of that total, 75,138 jobs were created by new industry which located in the state since 1960 and the rest were from expansion of existing companies in Arkansas.

The Development Commission said that 754 companies were newcomers to Arkansas, with the largest in terms of employees including American Greeting Corp., Emerson Electric, Georgia-Pacific Corp., International Paper, Levi-Strauss, Singer Co., Teletype Corp., Timex, Ward Furniture and Warwick Electronics.

Arkansas' congressional delegation: former Republican Gov. Winthrop Rockefeller; Democratic Gov. Orval Faubus; the Development Agency, and the federal assistance through the Economic Development Administration, Farmers Home Administration and Ozarks Regional Council all are credited with the state's economic advancement.

The Ozarks themselves—and land of steep hills and clear rivers—provided an economic boost as a growing number of tourists came into the state. State leaders are making a concerted effort to draw in more tourists, with the Ozarks Folk Center in Mountain View a prime example.

Rep. Mills, when Mountain View was in his district, championed the folk center which opens next month with performances by the Rackensack Society fiddlers, banjo players and country singers. The $3.39 million center was built under an Economic Development administration grant which paid for 80 per cent of the cost.

LESSON FOR ALL

There is a lesson in all this for the rest of the United States, according to Arkansas' two most powerful Democratic politicians, Chairman McClellan of Senate Appropriations Committee and Wilbur Mills of House Ways and Means Committee—leaders President Nixon must heed if he hopes to get his legislative program through Congress.

The lesson, McClellan and Mills state, is that there is a relatively unexploited middleground between the jobless countryside and overcrowded cities.

"The family farms are gone," says the 77-year-old McClellan who has studied the problem for decades. "There is not going to be any more family farms."

"But," he adds, "if we get industry to locate out in these rural areas, then we can keep the people there. The man who likes the outdoors can still do a little farming for himself. He stays. He knows he's got a regular job to depend on."

"Industry, labor and government should study what has happened in Arkansas," Mills said.

"In the long run it will be better for the country if we can get industry to diversify," Mills says. He pushed for numerous small plants for Arkansas in preference to large defense industries which lay off thousands of workers once a contract runs out. Mills contends labor leaders' fears about losing their grip over workers in Arkansas' small plants have not materialized.

Both McClellan and Mills say they agree with Mr. Nixon that federal spending must be held down but that eliminating the Economic Development Administration and Farmers Home Administration is not the way to do it. They are fighting those White House recommendations. Revenue sharing cannot work as a substitute, they argue.

"These little rural communities have to put down the water lines to attract industry in the first place," McClellan says. "They just don't have the money and they can't borrow it. They can't borrow on some promise that maybe they are going to get some revenue sharing funds from the government. The communities must have these grants and loans. It's much cheaper for the government than trying to rebuild slums where there are not enough jobs for the people who live there."

While jobs are the big factor in holding native Arkansans on the land at long last, other people are coming into the state in pursuit of quality of life—of a better environment for themselves and children.

John C. Johnson is one. At age 46, he quit a well-paying white collar job and a house in the suburbs for a 290-acre farm he bought in the hills outside of Mountain Home, Ark., for about $40,000.

NO SACRIFICE

So far, he does not look upon his new life as an economic sacrifice—not when you figure it out. "I probably made a mistake by not moving here in 1965," he says during a respite from putting in fencing for the beef cattle he has ordered.

"The cost of living has been going up so much since 1965 that there was nothing left of the paychecks I used to get anyhow. You can't earn enough to keep up—at least in the business I was in."

Johnson was senior electrical engineer for the Motorola plant in Phoenix, Ariz. He made close to $20,000 a year, on that job, worked on the communications for the Apollo spaceship and lived in the suburb of Scottsdale.

As he talks of the frustrations of engineering, his wife, Dee, pours some sassafras tea she made in her new role as country wife.

"Ninety-nine per cent of my work in the last 10 years has not been intellectually stimulating," Johnson says. "You're not making big technical breakthroughs working for the electronics industry. You can easily learn all the facts you need to know."

So now Johnson plans to buy 20 pregnant cows for $400 a head, for a total of $8,000; sell the calves next year for $300 a head, or a total of $6,000, to get most of his initial investment back; then start making a profit with the next bunch of calves from the same cows.

"Back in Scottsdale," Mrs. Johnson says, "it was a big deal when my son, Danny, could fish in the little itty-bitty pond in the park. Now he fishes in our own stream out back. This is an answer to a prayer for me."

The Johnsons chose Arkansas because the land, besides being beautiful, is cheaper than in Colorado, taxes are lower and the climate is milder than that of the Great Plains where Johnson grew up.

The conversation in the Johnson living room touches on some of the drawbacks of living in the Ozarks. One of the children needs special schooling but there is none near Mountain View; ice on the roads sometimes cuts off the family from town; stores are sometimes unable to fill even such simple needs as a length of two-by-four, and social life is sparse because "when it gets dark around here, people go to bed."

But on balance, the Johnsons say they are happy they moved to Arkansas last summer. They intend to stay. As a final word on their new life, they bring out a placard presented in farewell by Johnson's fellow employees at Motorola. It concludes: "All in all, we sure envy you."

But the Ozarks certainly are not for everybody. Testifying to this is a nurse interviewed in a glistening corridor of Boone County Hospital in Harrison, Ark.—population 7,239 according to the sign on the highway.

"If I were single, I'd never come here," says Mrs. John Hangen, 25. She says she and her husband moved here from the Erie, Pa., area "because of the unpolluted lakes and country living.

NOT FOR SINGLES

"But," she adds, "this is for young marrieds and retired people—not single gals." She and her husband are looking for farm property but have found prices rising sharply. "People want the growth to stop. They want it the way it is."

Lewis W. Spencer, administrator of the 133-bed Boone County Hospital, readily admits that single nurses are not eager to come to Harrison. "She'd find darn few single young men when she came to Harrison," he says. How she would meet them if she did come is another question. There are no bars in Harrison—part of a dry county—and almost no other gathering places for young singles.

In spite of, or because of, this lowkey life in Harrison, Spencer has little trouble in recruiting doctors for his modern hospital in the Ozarks. They come for the quality of life, he says.

"Wherever he goes a doctor knows he is going to make a good living. We can offer him a fine place to raise a family." The "fine place" includes nearby rivers and lakes; a new ski slope and ice skating rink at the Dogpatch tourist complex outside of town, and mountains for hunting.

Spencer's sales pitch works. He says there are 24 doctors in Harrison now and three more on the way. With 27 doctors to serve a county population of 19,073, this works out to one physician for every 706 people. The national average is one doctor for every 612 people.

The availability of medical care in Harrison and in the Little Rock Medical Center 140 miles to the south is, of course, comforting to people moving to the Ozarks, especially the retirees. The same is true of lower hospital costs—$32 a day for a semi-private and $42 a day for a private room in Boone County Hospital. For comparison Sibley Hospital in the District of Columbia charges $61 a day for a semi-private and $70 for a private room.

Floating down the Buffalo is indeed a delight—at least in March when the water is high. The river is clear with a sand and gravel bottom, and small-mouth bass dart away from the canoe's shadow. On our trip, a flock of wild turkeys flew out of a green glade along the swift water.

The sudden growth of the Ozarks and the changes it is bringing, like turning the Buffalo River into a national park, is not universally applauded, of course. Fred Dirst, who lives in a trailer along the river at Rush, does not mind saying so.

CHANGE LAMENTED

"You from the Park Service?" he asks a visitor, who replies in the negative.

"Good, then it's not open season on you." Dirst tells of how much he hated to give up his riverside farm, but he concedes tourists will soon be coming down the Buffalo in such numbers that the land will be too crowded for his comfort anyway. How about buying another farm somewhere else?

"I'm 72," Dirst says drily, "If you got any farming to do at that age, you should of done it already."

Time after time in interviews with new arrivals in the Ozarks, one hears complaints of muggings, pollution and the general raspiness in the cities they left. Beneath these complaints lies one that is seldom volunteered right away. Lots of people are settling in the lilywhite Ozarks of northwest Arkansas to get away from blacks and the strife they associate with them.

"I'm being very honest with you," says a retired life insurance salesman who moved from Chicago with his wife to Mountain Home. "What was left for us back in Chicago? You couldn't go into the city at night without worrying about getting robbed. All that is left back there is a bunch of boos"—short for "jigaboos," a derogatory term for blacks.

A more polite expression is heard frequently in the Ozarks. "You know, we don't have that black-white problem around here."

Native Arkansans when asked about the lack of blacks in the hills from lack of jobs rather than from prejudice. "What in the world would they find to do around here?"

In the eyes of former city dwellers and suburbanites seeking a better quality of life in the Ozarks, one big fear is that growth will mean an end to the beauty they came here to find.

"We would have moved to Washington, D.C., if we could have found some place secure to live. We didn't have that kind of money," say Donald Troyer, 30, a biology major who worked at Washington's Junior Village before moving to Mountain View.

"I like the out-of-doors and the folk setting. But the more people that come here, the more diluted it all becomes."

Political leaders assert they are well aware of such fears about the Arkansas environment.

ORDERLY GROWTH

"We're trying to keep this growth orderly within the city limits of Harrison," says Mayor Hugh Ashley. "But both the counties and small towns better go on with their plan-

ning or else there will be a lapse" in controlling the growth.

"We have no county planning yet that we can enforce," says Boone County Judge James Roy Eoff, 51, whose job is really that of county manager rather than magistrate.

"Until we get our plans for the county drawn, we can't do much. We like to see this growth but we don't like to feel these growing pains. We're probably growing faster than old timers would like to see it. But there aren't many old timers.

"As a person, I got all the standing in line I wanted when I was in the service. Personally, I would like to see this growth level off.

"But many people would like to see it keep growing like it is now. . . . The money-hungry people are going to win."

Donald R. Raney, as executive director of the Northwest Arkansas Economic Development District, is charged with worrying full time about the growth problem troubling Judge Eoff and others.

The development district helps officials in nine northwest counties of Arkansas plan their future, and Republican Rep. John Paul Hammerschmidt says its operation should be a model for meshing federal assistance with local needs. The technique is to apply for all available federal and state money for the nine counties and then work up plans with local officials for spending it.

FEARS NOT SHARED

Raney, himself a native Arkansan, does not share Eoff's fears about the future. He believes planning is far enough along to preserve the woods and waters of the Ozarks even as job-providing growth continues.

Ask Raney for a one-word reason for this new prosperity in his jurisdiction and he answers, "Water." Loans and grants financed waterlines for industry, the U.S. Army Corps of Engineers built dams in his northwest district at three places on the White River—Beaver, Bull Shoals and Norfork—providing attractive recreation spots, flood control, and drinking water.

Now, says Raney, if Arkansas would just change its state constitution to allow realistic taxation to finance such improvements as roads—and if the federal government would continue to make grants for providing and cleaning up water—the new prosperity of the Ozarks will keep spreading at a rapid rate.

## KEEPING BALANCE IN ECONOMY

Mr. SCOTT of Virginia. Mr. President, the president of the American Farm Bureau Federation, Mr. William J. Kuhfuss, has written a thought-provoking editorial about the need of all segments of our economy, including Government agencies for "keeping the perspective and balance needed for proper evaluation" in our ever-increasing, fast-moving world. The editorial appeared in the March 1973, issue of the American Farmer magazine.

It appears to be an editorial well worth reading and I ask unanimous consent that it be printed at this point in the RECORD.

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

KEEPING BALANCE

A farmer decided to take a load of finished cattle to the market. When he got to the stockyards, he saw pen after pen of cattle as good or better than his. He knew there could not possibly be enough people to eat all of that beef. He told his commission man, "If you get a bid on my cattle, sell them."

The farmer was discouraged so he decided to go home. He had to travel through the city and got caught in the congested streets flooded with people doing their Christmas shopping. He called his commission man and said, "Hold those cattle for higher prices, there can't possibly be enough beef to feed all these people."

The recent report on food prices in the single month of December and the resulting reactions appear to be somewhat similar to the logic of this story.

Many times we, as individuals or as groups, do a poor job of keeping the perspective and balance needed for proper evaluation. Some get over-enthusiastic in their concern for ecology, and laws are passed to prohibit open burning of some things that could and should be burned.

Then we get our ecology and conservation all mixed up by insisting on halitosis control in automobiles which makes for less efficient use of gasoline at a time when we have fuel shortages. It is comparable to a farmer pulling on the doubletree instead of the lines of a run-away team. Somehow we should give consideration to the number of big autos congesting the roads, carrying one person per car, if we wish to conserve fuel and avoid air pollution at the same time.

Much of the progress in the world has resulted from the control of insects, pests and weeds for more efficient and better production of food and fiber. Many are willing and ready to pass judgment based on emotion rather than the facts in the use of insecticides, pesticides, herbicides and fertilizers.

We still have some things to learn about the long time impact of many powerful substances, but it appears moderation should be the rule instead of the exception when we have the longest life span and the best food and shelter in history.

Presently we have imbalances in government. Many programs need improving and re-evaluating. Concern is prompted by runaway federal spending to the tune of the largest budget in our history. It is going higher and could wreck our total economy.

We still have some people who want to preserve enterprise and freedom. Each government department needs to take an objective look to justify its every effort. This cannot be done in equity and justice only in agriculture. If we move too fast and too far in isolated segments of our economy, we create greater imbalances. It is high time that labor, consumers and business, both here and around the world, put aside their selfish interests and help the Administration and the Secretary of Agriculture point the way toward an economic system that is market-oriented rather than submerged in government regulations.

Until this is achieved, the tools we have to attempt to politically equalize a fragmented economy should be placed in the closet and not destroyed. Governmental direction helped get us to our plight and it may be needed to help change the direction.

To get and keep a proper balance is an eternal struggle. I'm certain it is worth the effort.

## TAX REFORM

Mr. HUGHES. Mr. President, the other day I received a letter from Mr. Jay Horning of Des Moines, Iowa, with which he enclosed an ad from the Executive Reports Corp. The ad is most eloquent, and, while I am sure its intent is otherwise, it presents vivid testimony in behalf of tax reform. I ask unanimous consent that the letter and enclosures be printed in the RECORD at this point.

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

DES MOINES, IOWA, *February 26, 1973.*

Senator HAROLD HUGHES,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR HUGHES: I suppose I should have felt flattered upon learning that I am considered an "up-and-coming executive" by the Executive Reports Corp. (see enclosure).

My reaction, however, was not one that these people would appreciate. I am already incensed over the many loopholes in our tax laws, and when I learn that a company such as this can feed on these loopholes like a leech, I am doubly incensed.

You, Senator Hughes, are the only person I feel I can complain to with at least the hope of a sympathetic ear.

It is not enough that we have our priorities so badly reversed in terms of spending our tax money—now this outfit wants the ever faithful and honest middle and lower income citizens to finance everything!

Anyway, keep using your voice in that Washington wilderness. Perhaps some day it will be heard.

Sincerely,

JAY H. HORNING.

FOR THE UP-AND-COMING EXECUTIVE WHO WANTS TO ACQUIRE A FORTUNE

A Special Report to the up-and-coming executive who wants to acquire a fortune.

This Report has been prepared for the enterprising younger man who wants to accumulate some real money—who wants something more than the $25,000 a year which most people call success.

If your financial aspirations are above the ordinary and you are thinking in terms of accumulating from $100,000 to a million dollars or more, you will of course have to use special tax methods to do it.

These methods are the foundation of virtually every fortune being built in America today. They are as different from common "tax hints" as day is from night.

We have compiled an explanation of these methods, written expressly for today's dynamic new executive—the most exciting material of its kind ever published. It will come to you in ERC's right up to date Executive's Tax Desk Manual.

Here are just seven of the fortune-building methods explained in the new Manual—

1. Arrange a tax-exempt income . . .

The most powerful method of all for accumulating a large amount of money is by tapping income sources that are tax free. No taxes to pay—you keep every such cent you earn.

There are 42 good ways to do this—up-to-date methods that are the stock in trade of the ablest wealth-builders in America. The Manual explains them in detail. These alone are worth a fortune—literally.

2. Go after tax-sheltered "shoestring fortunes". . .

This is the most exciting area of all for the enterprising younger executive who wants to accumulate money—thirteen different kinds of spectacular tax-sheltered opportunities that have opened the way to some of our largest fortunes.

To try to accumulate wealth without them is the costliest mistake you can make. They are the best bets in our tax set-up today for risking just a little and ending up with a fortune. You are told how to make them pay off—not sometime in the future, but *now*.

3. Use your family to cut your tax bill in two.

Successful younger executives in the $15,000 and upward class can cut their tax bills almost in two by dividing income among the family (for example, a man with $21,000 taxable income can cut his tax bill from more than $6,500 to under $4,000 by this means.)

You are given nine tested methods for dividing income—methods that are now in

use by many alert executives everywhere, and sure to be even more widely used in the future.

4. Greatly increase your "take" from your company.

It's almost impossible to become wealthy on a salary today—no matter how big it is. Here are the five main methods get-ahead young executives are now using under the latest Tax Law rules to get for themselves tax-sheltered remuneration. These will give you an exciting new concept of how large your "real" income can be from such company "sweeteners" as . . . executive compensation, health and medical expense payments, company paid insurance, travel and entertainment reimbursements, stock option plans.

This is where today's big money lies—and all these benefits are tax-deductible to your company. Best of all, many of them come to you completely tax-free.

5. The tax bonanza in the short term trust.

Almost everybody with money is using the short term trust. It's simple to set up—and the big advantage is that the income from the trust is not taxable to you during the life of the trust.

When the trust terminates, the income-producing property that you put into it (stocks, bonds, real estate, etc.) comes back to you. Here's a way to cut down on your tax liability for a specific period of time.

6. How to cut your tax at least in half.

The next best thing after tax exempt income is to make sure that your income is capital gain. Then the tax is only half as much, and never more than 25% on the first $50,000. Not only that, but substantial new savings are opened up to those who are over the $50,000 mark.

Here are dozens of ways to do this—in real estate . . . in securities . . . in investment programs you may never have considered. Each idea has a fabulous dollar potential—and the tax savings alone are enormous.

7. Where the profits are.

Thanks to the Tax Law, there's just about no other investment any man can make that commands the profit potential of real estate. In the hands of an aggressive younger man it's dynamite. Fortunes can be built almost overnight—using tax dollars and borrowed money.

Real estate gives you a way of converting taxable income into tax-free income—of slashing the tax on other income—of holding the tax on profits to an absolute minimum.

If you have aspirations for real wealth, don't overlook the tax angles of real estate itself—no matter how little "cash" you have available. The Manual shows how huge profits can be made on a tiny investment under the tax rules now in effect!

These seven methods for accumulating personal wealth under today's tax structure are covered in detail. And there are dozens more.

Never before has there been so rich and easy-to-use a compilation of this special-purpose material. It contains the best thinking from dozens of the best tax brains in America. And their every idea can mean a lot more money in your pocket.

The fortune-building Executive's Tax Desk Manual comes to you at the low cost of only $29.95, itself a tax-deductible business expense—not payable until 15 days after the Manual is delivered to you.

If your current income is around $15,000 a year or up—if you are interested in accumulating some real money—if you find that common "tax hints" never save you more than a few hundred or so—if you want to take full advantage of the latest high-powered tax-saving discoveries—we suggest you return at once the enclosed, postpaid Priority Card.

On the next page you will find additional evidence as to why this new Manual should be standard equipment for every up-and-coming executive in America whose program calls for a substantial accumulation of wealth.

Important: The great *Executive's Tax Desk Manual* contains 300 pages of priceless information. It covers not only the seven big-money points described in this Report, but also gives you the fortune-building method for handling more than 200 matters where substantial sums are at stake.

Here's just a sample of its further top-level contents—

1. How to "play the market" for high stakes at low risk
2. How a mortgage can be used to purchase additional property without any cash outlay on the part of the executive
3. How to nail down maximum deductions for doing company work at home
4. How to turn a mileage allowance for your car into tax-free income
5. How to send your children through college on a "tax scholarship"
6. How to postpone or eliminate the tax on the sale of a personal residence
7. How to manufacture valuable deductions in your home workshop
8. How to slash gift and estate taxes, increase family security
9. How to arrange a tax-free "work-vacation"
10. How the company can give you a raise that's worth more and costs less
11. How to get two deductions for a single gift
12. How to get large chunks of tax-free cash from real estate
13. The tax-wise ways to cash in on company stock options
14. How "income averaging" tax rules shield income from extremely high taxation

Coverage on Stock and bond tax shelters, real estate, personal exemptions and deductions, home expenses, travel and entertainment, tax free income, Capital gains, insurance, estate and gift taxes, Social Security, much more.

The *Executive's Tax Desk Manual* is just about indispensable for any younger business man who wishes to accumulate a substantial amount of money in a hurry—and it will serve to point out the big-money situations in which you should seek the personal help of your own tax specialist.

To receive this storehouse of fortune-building information simply return this special Priority Card.

EXECUTIVE'S PRIORITY CARD

Executive's Reports Corporation:
Please rush me a copy of "The Executive's Tax Desk Manual" which gives me today's high-powered, income-building opportunities for up-and-coming executives.

This great compilation of fortune-building material will come to me at the tax-deductible price of only $29.95—not payable until the usual 15 days after the Manual is delivered to me.

Name ---------- Firm ----------
Address ----------
City ---------- State------ Zip------

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## THE REPORT OF THE NATIONAL WATER COMMISSION

Mr. FANNIN. Mr. President, the draft of the proposed report of the National Water Commission that was circulated for review last November has engendered a great deal of interest in the State of Arizona and, I understand, all over the country. The Commission recently completed 8 days of public conferences during which it received comments and discussed the draft with representatives of the States and other interests. The Commission staff advises that it is still reviewing the thousands of communications received through the mails.

The draft report is a massive document, containing over 1,100 pages, and it was not possible to print enough copies to supply the demand. The Commission is now revising the report for eventual submission to the President and the Congress in accordance with the terms of the National Water Commission Act.

For the enlightenment of my colleagues and others who read the CONGRESSIONAL RECORD and have not been able to obtain copies or read the entire report, I ask unanimous consent to have printed in the RECORD a speech, "Water Is Everybody's Business," which expresses the background and general philosophy which underlies the report of the National Water Commission. This was presented by Mr. Charles F. Luce, Chairman of the National Water Commission, as the keynote address for the Water Resources Conference of the American Society of Civil Engineers held here in Washington the week of January 29. Mr. Luce is a former resident of Walla Walla, Wash., and many of you will remember that he was Administrator of the Bonneville Power Administration, and then Under Secretary of the Interior during the Johnson administration.

Along with Mr. Luce's address, I ask unanimous consent to include a paper presented at the same meeting by Ted Schad, Executive Director of the National Water Commission, entitled "Findings of the National Water Commission," which provides more detail on the findings and recommendations in the Commission's proposed report. Many of you will recall that Mr. Schad was Deputy Director of the Congressional Research Service before taking his present assignment. He also served as Staff Director for the Senate Select Committee on National Water Resources in 1959 to 1961 under the Chairmanship of the late Senator Robert S. Kerr.

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

WATER IS EVERYBODY'S BUSINESS

A little over four years ago the Congress established the National Water Commission. It is a temporary Federal agency, comprised of seven citizens appointed by the President and serving at his pleasure. None of the members can have any Federal position other than membership on the Commission. The Commission's job is to review present and anticipated national water resource problems and requirements, and to identify alternative ways of meeting these requirements. The legislation which established it asked the Commission to keep in mind three things: one, the economic and social consequences of water resource development; two, its impact on regional economic growth and on institutional arrangements; and three, the esthetic values of water affecting the quality of life of the American people.

In taking on this assignment, the Commission started from the assumption that, truly, the water business is everybody's business. Even before the staffing of the Commission was completed, we went to the people in a series of open public meetings, seeking views on the approach that should be taken in

the Commission's studies. We had the advice and help of many people—experts in the disciplines of engineering, economics, ecology, political science, and the law—as we formulated a study program and discussed it in a series of seven regional conferences held during the summer and fall of 1969. Representatives of Federal, state, and local governments participated as well as those from intergovernmental units, professional societies, including your own, public interest groups, and others having an interest. We had wonderful cooperation from all. But a recurrent theme throughout the public meetings was that the participants wanted to know and have an opportunity to comment on what the Commission was going to recommend even more than they wanted to advise as to what they thought we should study.

In response to the public opinion thus expressed, the Commission scheduled its work in such a way that a draft of the report could be circulated for review prior to its completion in final form. That draft was completed last November and over 1500 copies have been distributed for review. Copies were sent to all of the people who took part in formulating the study program, and to a great many others who became interested in the work of the Commission over the years as we went along. Then, after we ran out of copies of the full report, hundreds of copies of the conclusions and recommendations were circulated. To the best of my knowledge, no other water commission has ever circulated a draft of its proposed report for public review and comment prior to completion, in this way.

Now we are in the midst of a series of public meetings to discuss the draft. When they are over, the Commission will be considering the comments and preparing for the revision and completion of the report. If we had had any doubt about water being everybody's business, it would have certainly been stripped away by now. Through page one news stories in the Sunday New York Times and coverage in dozens of other prestigious newspapers, down to editorial comments in the remotest village weeklies, the proposals in the report have been brought to be attention of the American people, and the Commission is being deluged with comments on its proposed recommendations from all segments of the public.

At the present time, therefore, we have only a draft which is subject to change, and until it is signed, sealed, and delivered to the President and the Congress, I can speak only for myself. My remarks today must not be considered as binding on the other members of the Commission.

Civil engineers have been key participants in all of the Commission's effort. Four of the eight top positions on the staff have been filled by civil engineers, all of whom are or have been members of the American Society of Civil Engineers. In addition, the Society itself has been of inestimable help through its staff and committees and technical divisions. Your Committee on National Water Policy made valuable suggestions on the study program. Even now, I am told, it is reviewing the report preparatory to making comments at our meeting here in Washington next week. We will be looking forward to receiving them. For among all the segments of our society that are involved in the "water business" the civil engineer has played a predominant role. I therefore deeply appreciate the opportunity to be with you today. It is an honor to be invited to make the keynote address at your meeting.

In coming before you today, however, to report on the work of the National Water Commission, I must cover far more than the engineering aspects of water resources conservation and development. In the balance of my remarks, I shall summarize briefly the general philosophy and approach taken in the Commission's draft report, and then give a brief rundown of the questions considered and the types of action recommended. At other sessions later on this week, several present and former members of the Commission staff will fill you in on the details.

LOOKING TO THE FUTURE

The task of recommending national water policy includes, among other things, prognostication of the future, because few human enterprises are so consistently and profoundly a part of the future as the development of water resources. Works to develop and control water, by their very nature, must be built with an eye to the future. There are parts of Roman aqueducts in use today; and irrigation works in Szechwan, China, that antedate the Roman works still are in operation. It would be fascinating to have a preview of history to see if any modern builder will equal these records.

The planner and builder of water facilities does not, of course, think of such extraordinary service lives routinely, but he must think in terms of at least one human lifetime for his works. Not a few major works take two or three decades for completion. The Commission therefore believes that the nature of the United States in the next few decades has a most important bearing on formulating water policy.

The United States from now on through the end of the century will continue to be a growing nation, although the rate of its growth cannot be determined precisely. Because the policies we adopt have an effect on the use of water, the Commission believes that "alternative futures" must be considered in designing water policy. In other words, a range of possibilities as to what the future might bring must be taken into account. Water policies must be adaptable to whatever future materializes. And we must avoid adhering to straight line projections of water use into the future that tend to become self-fulfilling.

Population is obviously one of the major determinants of future demand for water. The Commission's background studies considered a range of population in the United States in the year 2000 from 280 million to 325 million. Recent projections by the Census Bureau suggest that we should also have considered a lower rate of growth. What the people are doing and where they will choose to live are probably more important factors than the actual number. It can be expected that a larger percentage of the Americans of the year 2000 will be living in extended metropolitan areas than in 1970. Further technical progress will permit a larger proportion of these Americans to be employed in service industries than today, and fewer in agriculture and basic industries. All of these changes will be reflected in increasing demands for energy. If trends of the immediate past are assumed to continue, demand for electric power would double every ten years, resulting in a production rate by the year 2000 eight times that of 1970. This will require increasing amounts of water for cooling, unles more efficient means of dissipating waste heat from powerplants are developed, or unless new methods of generating power without waste heat are developed. Population and technological change thus will affect water demands both directly and indirectly.

*Expected water demands*

Even though the alternative futures considered by the Commission have a wide range, it is still necessary to estimate the effects of growth on water demand. There are three ways of measuring water demand: (1) by withdrawal, (2) by consumptive use, and (3) by on-site use. Water withdrawal in 2000 could reach as much as four times the amount of 1970, but this estimate is not considered to be alarming because a large percentage of withdrawals is returned to the watercourses and is available for reuse.

Consumptive use of water is unevenly distributed among economic activities and among regions of the United States. In 1970, evaporation and transpiration from irrigated agriculture accounted for about 83 percent of total consumptive use of water in the United States. The remaining 17 percent was divided among municipal water supply, rural domestic uses, industrial uses, and steam electric utilities. Water used in generation of electricity, primarily for cooling, took less than 2 percent of total consumptive use in 1970, but it is the most rapidly growing of all the consumptive uses. Consumptive use also is concentrated in the 17 Western States. More than half of all such use occurs in three major hydrologic areas: California, the Columbia Basin, and the Missouri Basin. Nearly four-fifths occurs west of the 100th meridian.

Irrigated agriculture and electricity generation are also important to future water planning because of their effects on water quality. Irrigation adds dissolved solids in return flow downstream through concentration of natural salts and chemicals from fertilizers and pesticides. Steam electric generating plans discharge waste heat into water bodies. Withdrawals for both of these purposes therefore have effects on the availability of water that extend beyond the disappearance caused by evaporation and transpiration.

The form of our settlement in the next 30 years and the direction being taken by our society strongly indicate a growth in demand for outdoor recreational uses of water. Although it is impossible to quantify such demands made upon water bodies and streams having favorable on-site characteristics for recreation and other social purposes—inspiration and pure delight, for example—will increase even faster than the demands for other, down-to-earth water uses. Such demands will be most intensive in the regions of the great metropolitan areas, like the Northeast, Midwest, and California, but they will be felt to some degree in all parts of the Nation.

*Cultural lag in institutions for water development*

The needs of the future are determined not only by economic demands and social requirements, but also by the public and private institutions through which these demands and requirements are to be met. The nature of national water policies and procedures and the institutions through which they are applied have a vital effect on demands for water. An identification of existing policies and procedures therefore is important, as an indication of one possible "future."

Most, if not all, of the water policies of the Nation have evolved from an era in American life with very different characteristics from those of today or from those that may be anticipated in the year 2000. They are policies which now show a "cultural lag," or, in more simple terms, are outdated. These ancient, once honorable, policies are becoming threadbare and now hold us back physically, socially, and regionally. For example, use of water in the United States in 1972 was downright extravagant. Our policies and institutions which govern water use were developed on the assumption that water was as free as air, or as air used to be. We didn't conceive that there would be competing demands for water which would result in practically all the water in the United States being put to some use to meet some social, economic, or environmental demand. Nothing illustrates this attitude better than the almost automatic use of United States streams as waste carriers. As another example, policies still favor the expansion of irrigated agriculture west of the 100th meridian for the purpose of creating more family farms, with the Federal Government

paying most of the costs from general tax revenues. At a time when the development of the West and the creation of family farms were opening both regional and social frontiers, it was an understandable policy. This policy continues, but the "West" for which the policy was designed has been won, and the frontier has moved elsewhere.

Perhaps the most striking illustration of cultural lag in our policies is the single-purpose nature of basic legislative authority for important water and water-related programs such as navigation, flood control, and pollution abatement. We now know that nothing exists alone in nature. The "system" nature of all development and the interrelatedness of all things concerning land and water have become well understood by the public in recent years, but some important Federal agency programs are still based on single-purpose legislation. This particular cultural lag is vividly illustrated by our navigation policies. Although the inland waterways are an essential element of the national transportation system, they are not planned, evaluated, or regulated as a part of it. Single-purpose authorization is also illustrated by the weak and feeble connections—or lack of correlation—between flood prevention policy and land planning, and the independence of irrigation development policy from agricultural price support programs. Some of these programs, which appear to work at cross-purposes, suggest the policy of never letting the left hand know what the right hand is doing.

MAJOR QUESTIONS DEALT WITH IN THE COMMISSION'S REPORT

As it sought the most effective policies for development and management of the Nation's water resources during the remainder of the century, the Commission dealt with many questions. These are discussed briefly in the following paragraphs as they indicate the basis for the Commission's recommendations. The questions that the Commission believes are important in the planning and implementation of measures to assure effective use of the Nation's water are grouped for the purpose of this discussion under four major categories: (1) equity, (2) efficiency, (3) adequacy of physical supply, and (4) adequacy of investment funds. The citizens of the Nation have a right to expect their institutions for water development and management to meet sound criteria in all four of these categories.

*Questions of equity*

Among all of the categories of questions that must be considered in water management and development, perhaps the most difficult and complex questions are those relating to equity. Equity must be sought among the 50 States, as well as among the several major regions of the country, between beneficiaries and taxpayers, among the beneficiaries of programs managed by different agencies, between residents of rural and urban areas, and between public and private interests. In addition, balance must be sought among social, environmental, and economic purposes in development.

*Equity among States and regions:* The problem of equity among states and regions is, of course, old. It is characteristic of any government that is basically a federation. It has been in the background of many Federal decisions on legislation affecting water resources. Most, if not all, Rivers and Harbors Acts have been drafted with considerations of equity among the states in mind. The basic Reclamation Act and supplementary legislation was designed and supported on the basis of equity for the 17 Western States. But the times have changed. What was equitable when the policies governing these programs were established is no longer a primary consideration. We need to look to the future to see what the problems of equity will be rather than to base our programs on past equities. As population becomes more concentrated in metropolitan areas and in other localities where immediately accessible water resources are inadequate, it appears that the importation of water from distant sources in other regions will become more and more necessary. This raises the question of equitable compensation to regions of origin. Existing legislation and institutions are inadequate either to protect the areas of origin or to promote the exchange of water where transfers will yield optimum benefits from a national point of view.

*Beneficiaries v. taxpayers:* When Federal subsidy nurtures any local water development in its initial stages, the long-standing question of equity as between beneficiaries of that development and the taxpayers who support it has never been resolved. If the subsidy lasts for many years and appears to be indefinite in duration, the problem of achieving equity is compounded. Such is the case for the Federal navigation program, where beneficiaries do not pay any part of the cost of navigation projects. Such is the case also for the beneficiaries of flood control and irrigation projects who do not pay full costs. In the same class are those projects where municipal and industrial water supply beneficiaries do not pay full cost through their user charges. Policies governing all of these Federal programs may have been valid when they were adopted, but are they still valid today?

*Equity among beneficiaries:* A similar problem of equity arises among beneficiaries of different programs. For example, there are three principal development programs for water and related lands that may increase the production of agricultural products, (1) those of the Bureau of Reclamation, (2) those of the Corps of Engineers, and (3) those of the Soil Conservation Service. The conditions under which beneficiaries receive services from the three agencies are very different. For two of them, the Corps of Engineers and the Soil Conservation Service, there are not even records of what the agricultural benefits are, or who gets them, which makes it difficult indeed to analyze where equity lies. A second example occurs in the arrangement whereby revenues from electric power projects associated with reclamation projects are used to repay the irrigation investment after the power investment has been amortized. Purchasers of electricity from many Federal projects pay part of the costs of providing irrigation benefits to somebody else who is miles away.

*Public interests v. private:* Questions of equity also appear in relations between public and private interests, particularly as between Federal water claims and private ownership of water rights. Many conflicts have arisen in the western half of the country that have not been satisfactorily adjudicated because Federal water activities have not been properly coordinated with state water rights administration. The lack of coordination arises because: (1) the United States Government has immunity from suit in certain kinds of water litigation; (2) the United States has no obligation to pay compensation for taking certain privately owned water rights; and (3) a unique relation exists between Indian and non-Indian water uses and water rights. Until a more acceptable pattern of adjudication is established, the Commission believes that serious inequities will be continued.

*Rural v. urban interests*: The troubled question of rural-urban equity in water development is already a serious consideration. It will be more so as the country continues further concentration in metropolitan areas, and as the metropolitan areas expand further geographically, a phenomenon which has accelerated within the last decade. In the face of the general rural bias of many of the Federal water resources programs established in the past, this question will continue to be raised prominently and must be considered in formulating future water development policies.

*A balance among social, environmental, and economic purposes:* Closely related to the rural-urban question one also finds the problem of achieving a balance among social, environmental, and economic purposes in development and management. No so many years ago the overwhelmingly dominant criterion for development was economic, with all evaluations resting on economic criteria. Under the pressure of public opinion, this former imbalance has changed greatly. Indeed, a water project today must take account of its effects on soils and land use, fisheries, wildlife, vegetative cover, local climate, historic sites and archeological remains, preproject land uses and the esthetic values, such as the sheer beauty of the landscape, among other relevant natural and cultural features. However, although we know how to split the atom and we know how to put men on the moon, comparatively little is known about the complex interrelationships of the natural environment and the social environment. Achieving equity therefore is more a matter of guesswork than precision. It is even possible that enthusiastic attempts to safeguard the environment may have swung the pendulum too far away from the economic facts of life in an attempt to achieve something better than the previous domination of economic considerations. The question of equity now arises mainly because of the delay and uncertainty in development brought about by the requirements of the National Environmental Policy Act of 1969. In some instances the demands of the majority are being held up by a small minority. The Commission believes that a sound balancing of values under the Act has not yet been achieved. The social needs of the great metropolitan areas, in particular, have yet to achieve full recognition, or even full understanding, in connection with water development.

*Adequacy of water supply*

Although it also has regional and local dimensions, adequacy of supply is clearly a question of national concern. In its national aspect this problem may be understood best by examining the end products or services that water is intended to provide. The two most important are (1) the use of water for food and other agricultural production in the future, and (2) its use for cooling purposes in electric energy and other industrial production.

*Agricultural demand for water*: Because of the dominant effect that agriculture could have in additional consumptive use of water, the Commission sponsored a study of future demands for land and water under the concept of alternative futures. These futures were based on several combinations of assumptions as to population, exports, technological development, water prices, land retirement programs, fertilizer restriction, and differing mixes of vegetable proteins and animal proteins in the national diet. The studies demonstrated that under any reasonable assumptions there is adequate productive capacity in the agricultural industry of the United States to meet foreseeable demands until at least the year 2000 without further conversion of land to irrigation by publicly supported water resources development. The Commission therefore questions the need for publicly supported programs established in the past for increasing agricultural production through irrigation, drainage, and flood control programs.

*Water demands for energy production and waste-carrying*: On the other hand, the Commission's studies do not permit it to reach a similar conclusion with respect to the future use of water as a coolant in electric energy production and other industrial purposes.

Although the impossibility of continuing

recent rates of increase indefinitely has received wide attention, a leveling-off of the still steeply ascending demand for national energy production is not yet in sight. At least for the immediate future, the Nation's reserves of energy resources—fossil fuels in particular—are likely to be far more critically short than its supply of water. A reduction in demands for cooling water is not likely, however, until an entirely new energy technology is developed—fuel cells, perhaps, or magnetohydrodynamics—based on something other than steam-electric generation. Management of the ability of streams and water bodies throughout the Nation to absorb and dissipate heat without damage to aquatic life must thus be anticipated as a serious problem.

If waste-carrying continues on the list of services provided by water, and the Commission believes that it must, contrary to the "no discharge" goal espoused in recent legislation, the question of adequacy as to future supply is most relevant. This question already has received intensive legislative attention and a slow reversal of the former rapid deterioration in water quality may be taking place. Nonetheless, even apart from the problem of absorbing and dissipating industrial heat, the problem of waste disposal in water is expected to remain serious for some years during the remainder of this century.

*Where adequacy problems are located:* Regional and local problems of supply adequacy will center on metropolitan and associated industrial growth. The western half of the United States may be anticipated to be the section where the majority of such problems becomes critical, although problems associated with recreational development may be considered serious for the eastern part of the country. Demands for interbasin transfers to satisfy regional supply deficiencies and to replace declining ground water supplies, are highly likely.

*Provision of capital investment funds*

Every recent Federal budget and congressional consideration of appropriations for water resources development has illustrated the continued inadequacy of available capital funds to meet the demands made upon them. A tradition has arisen, nevertheless, that enough dollars channeled into capital investment can solve almost any problem. This approach has been particularly well illustrated in the flood prevention program on which more than ten billion dollars of Federal funds have been expended up to 1972 for flood control structures. Yet, average annual flood damages in the United States are increasing, and reached their highest level in history in 1972. Development of flood plains unfortunately has been taking place more rapidly than the construction of flood control works. It is now very clear that capital investment alone will not solve the problems of flood damage prevention.

One result of the capital-intensive approach to water resource management has been a piecemeal financing of many projects. The consequent unevenness in the rate of construction has therefore increased costs. Another result is the piling up of a large backlog of authorized projects that cannot be financed and may be obsolete before they are started.

The provision of capital funds and their distribution among programs will face even more serious problems in the future. The water pollution control program alone raises unprecedented demands for capital funds. Our estimate of the cost of fully meeting the water quality standards approved under the 1965 Water Pollution Control Act is about $16 billion annually over the next 13 years for construction and additional operation and maintenance costs. An even greater amount would be required to achieve the goal set by the Water Pollution Control Act amendments enacted in 1972, if it is possible to achieve that goal. To place these amounts in perspective, they are about 50 percent greater than the total expenditures from all sources, Federal and non-Federal, for water development in the Nation in the average year. Clearly, the demands for capital investment funds for this one purpose alone will create massive problems of allocation, budgetary impact, and ultimate taxation.

QUESTIONS OF EFFICIENCY

The Commission believes that efficiency in meeting chosen objectives is worthy of consideration at any time and any place. In a world where there are serious questions of equity, and where the allocation of capital funds is a serious problem, efficient means of development and management should be especially prized, even where water supplies are abundant.

The Commission's studies raise many questions about efficiency in United States water development, suggesting that inefficiencies abound. In our view, it is *not* efficient to encourage excessive use of water for want of metering and full-cost pricing. It is *not* efficient to maintain legal barriers against the transfer of vested agricultural water rights to higher uses. It is *not* efficient to administer water use without permits, as some states do. It is *not* efficient to bring new agricultural land into production through irrigation while at the same time subsidies to reduce production on other lands are provided through price support and land retirement programs. It is *not* efficient to provide open-ended programs for flood control facilities at Federal expense while continued encroachment on flood plains is permitted, if not encouraged, by local governments. And still other examples could be given.

TYPES OF ACTION RECOMMENDED

The Commission believes that much can be done (1) to promote the cause of efficiency in water development and management, (2) to ensure adequacy of supply, (3) to promote equity, and (4) to further effective allocation of capital funds by timely action along several major lines. Toward this end, the Commission makes a number of recommendations looking toward Federal leadership: (1) in establishing a "systems" approach that stresses the interrelationships among water and many other activities; (2) in anticipating problems at the earliest possible time and providing efficient governmental institutions for their resolution; (3) in planning as much as possible for services to financially responsible users; (4) in maintaining an imaginative engineering and technical research and development program; and (5) in encouraging cooperative planning, development, and management responsibilities among all levels of government and private enterprise. Along with this redefinition of the Federal role in water resources, the Commission recommends that the states and local interests take on more of the responsibility for financing, constructing, and operating future water development.

*The system view*

The system view which underlies the Commission's recommendations would stress the interrelation of many different human activities, and should erase all evidences of restrictive single-purpose legislation, policy, and procedure. Like the poor, pollutants are always with us. Under the Commission's recommendations, water pollution control would be considered as an integral part of other aspects of water resources conservation and development. Inland navigation development would be a part of overall national transportation planning. Irrigation, drainage, and flood control of cropland for agriculture would be considered as a part of the comprehensive policy for agricultural production. Ground and surface water would be managed together. The demands made on water supply by production of energy would be considered in relation to total energy and materials policy for the Nation. All water uses would be coordinated regionally in multiple-purpose programs for planning, construction, and management.

*Early anticipation of problems*

Nearly all planning is directed toward a timely anticipation and resolution of problems. However, the exceptionally long time which elapses between the inception of a water project or program and its productive operation make effective anticipation of problems both difficult and important. One of the most significant opportunities for national improvement in this respect will come from better coordination between land use and water planning, which is recommended by the Commission. In the past, water planning has come first, with resultant overemphasis on structural measures. The Commission believes that more flexible and more responsive water plans can evolve from a policy of coordinated land use and water development, in which water development is adapted to land use policies.

Hand in hand with land use planning should be a flood damage prevention policy stressing a balanced application of flood forecasting, zoning, physical works for flow regulation and water containment, flood insurance, and preventive acquisition of flood plains when they can be used for purposes compatible with periodic flooding.

Advance site acquisition to prevent problems from arising is also recommended for other objectives. Among them would be electric-power generation, parks and recreational lands, and wetlands or other biological or ecological reservations.

Another way to prevent water problems from arising in the future is the institution of measures to control consumption. Examples suggested in the Commission's report are the metering of all significant withdrawals and the establishment of rate structures that discourage, rather than encourage, high consumption. Water use will also be affected indirectly by measures designed to control the rapidly rising curve of energy consumption.

*Services to financially responsible users*

One of the most effective ways of bringing both efficiency and equity into the national water development system is the creation of a development and management policy built upon financially responsible users. In an era when it seems certain that there will be an unprecedented demand for huge capital expenditures for water development projects, the Commission believes that continuation of expenditures for users who do not pay their appropriate share of costs is inequitable, inefficient, and wasteful of capital funds. The situation prevailing today may be illustrated by payment for pollution control. One important reason that pollution has become such a major problem lay in the national permissiveness for individuals, municipalites, and industries to dispose of inadequately treated wastes in streams and other water bodies without assuming any responibility for the ill effects and other costs imposed on others. To meet public demand for action on pollution in the Nation's waters, Federal funds have been offered in ever-increasing amounts to encourage prevention and control of pollution. Thus, an important part of the cost of pollution abatement was transferred to all taxpayers regardless of whether or not they had previously paid for treatment of their own wastes. Payment by individuals or organizations for the pollution they cause is recommended by the Commission as a practical corrective that is equitable and will produce the investment funds needed for the enormously expensive job of cleaning the Nation's streams and water bodies.

Imposition of user charges would also in-

crease efficiency and equity for other water purposes as well. The Commission recommends the institution of user charges for navigation, additional user charges for the agricultural beneficiaries of water development, the payment of full costs by municipal and industrial beneficiaries of water development, and payments by the users of recreational features of water development projects. The actions recommended would affect mainly the programs of the Federal agencies, because a large proportion of these services has come from Federal projects or grants supported by general tax funds. Many state and local, and almost all private, water developments are already paid for through user charges, and under the Commission's recommendations an even larger share of the needed work would be handled in this way.

*Emphasis on certain public purposes*

Even though fair and just user charges should be sought in a greater degree than in the past for a number of water purposes, certain environmental and social needs of the years ahead require an emphasis on public action. The Commission believes that the action should take the form of both tax-supported investment and administrative or legal revisions of water development and management institutions so as to encourage nongovernmental action to meet these needs.

The examples of environmental needs that should be financially supported by the Federal Government include the reservation of wild and scenic rivers, unique wetlands, and other areas needed for the discharge of Federal responsibilities. Included among the latter are enhancement of migratory waterfowl and anadromous fish species and the preservation of endangered wildlife species.

The Commission also recommends that certain state, legislative, and administrative actions be taken toward enhancing action on social and environmental values of water use. Examples of such actions are authorization of water rights to be acquired for all social uses, including recreation, preservation of scenic and esthetic values, water quality, fisheries, and similar purposes. Administrative withdrawal or public reservation of unappropriated water needed for minimum streamflows to maintain the above values or a natural stream environment is another recommended means. Strengthening of legislation that assures public access and public use of streams and water bodies is a third type of action recommended. Included in the legislation, for example, might be authorization of the acquisition of easements to permit such public access.

*Engineering and technical research and development*

Engineering and technical research and development has long been one of the hallmarks of American water development and management. Federally supported programs, like those of the Department of the Interior, the Corps of Engineers, or the unique and superb Tennessee Valley Authority, and the research and development of private enterprise organizations have made especially effective contributions in this respect. The Commission believes that there are still many interesting and unplumbed opportunities, particularly for both public and private action, in continuing this tradition. All purposes in water development can respond to improved technology, which has a range extending between long-range forecasting of regional and local phenomena to the discovery and develpoment of practical substitutes for waste disposal in streams.

The list of achievements from the Federal support of such developments in the past has been impressive. It includes synoptic meteorology, the desalting program, precipitation modification, techniques of construction with reinforced concrete, innovative treatment of liquid wastes, and other technical measures for dealing with water problems. There is every reason to have faith in technology as the servant of the natural environment no less than as a creator of problems for the maintenance of the environment. The Commission recommends continued provision of leadership by the Federal Government in research and development as a vital part of a forward-looking water development and management program.

*Cooperative planning, development, and management responsibilities*

There is no more truly cooperative venture in the fabric of the Nation's life than the development and management of our water resources. Every level of interest and organization has some effect on the condition of water resources, from the individual citizen to the Federal Government itself. The proper role for each of these groups and for individuals has been the subject of much thought and discussion, and some action, during the last half-century. Nonetheless, we enter the final third of the twentieth century with some very evident imbalances in the responsibilities that have been accepted or abrogated by the several levels of government. For some time the Federal Government has had a dominant role, and it has been increasing substantially within recent years. The Commission believes that Federal leadership is more important, but that the major questions of equity, adequacy of supply, efficiency, and effective allocation of capital funds will never be well answered until a proper balance is achieved among Federal, state, local and private agencies for all aspects of water development and management. Recommendations are made which will result in substantial improvement in procedure and structure among the Federal agencies, in improved structure of state agencies, and in the vesting of further responsibility in state agencies. Strengthening of metropolitan, municipal, and local organizations to handle water problems as recommended by the Commission will also contribute to a better use of national water resources.

CONCLUSION

The Commission's report is addressed to every agency, organization, group, and individual whose activities influence water development and management. It is obvious that future Federal leadership must continue to have decisive effects on the patterns of development and management. But we urge that this leadership, in the interest of equity, efficiency, and timely action, do its utmost to achieve a balanced division of responsibility among state, local goverment, the Federal Government, and private enterprise.

The rapid accumulation of Federal powers in recent years, and the powerful leverage of the Federal Treasury, have often left other governments and individuals only two choices: acquiescence to the Federal plan or a belated, head-on "confrontation." Both resulted in certain frustrations. In the end, confrontation became so plainly popular that the Congress, reversing the practice of decades, decided to encourage it through the National Environmental Policy Act. But the resulting procedure and action can neither be considered equitable nor efficient. The balancing of responsibility at several levels where decision and action can be taken effectively can do much more for the Nation over the long run than officially sanctioned confrontation. A structure that encourages cooperation and acceptance of *real* responsibility is one of the best means of preventing confrontation.

In the many recommendations proposed by the Commission, we seek a revision of the very structure of water development. We seek a structure in which obsolete policy and procedure will be eliminated, costs will be fairly distributed, management decisions made as close to operations as possible, cooperation will replace confrontation, and every project will be a "best buy." We believe that our recommendations, if implemented, can greatly facilitate wise investment, regional development, more healthful cities, social *and* economic use of water, and a cleaner, more beautiful, more enjoyable countryside.

In the thirty minutes allotted to me for this morning's presentation, it is obviously impractical to give more than a very brief summary of what is in an 1100-page report. Many of you no doubt heard Mr. Luce's talk on Monday in which he outlined the work of the National Water Commission and the tentative recommendations. He pointed out, and I must reiterate the point, that the report is a draft that was circulated for review last November. The review is continuing, with further public meetings and conferences scheduled to be held in New Orleans and here in Washington next week. After the meetings are concluded, and consideration is given to the comments received, the Commission will be revising the report before it is submitted to the President and the Congress next summer. For this reason, my remarks today, based as they are on the draft report which is still under review, may not necessarily reflect what will be in the Commission's final report.

For those of you who did not hear Mr. Luce's presentation on the Commission's general philosophy, I shall cover briefly some general thrust of the Commission's tentative conclusions and recommendations before going on to the specifics of what is in the report.

First, the Commission believes it is necessary to plan for future water use in terms of alternative futures rather than to project past trends indefinitely into the future as a basis for action. This requires that future water planning take into consideration the widest practicable range of realistic alternatives, and greater flexibility must be provided in the institutions which control planning for use of water resources.

Second, the Commission has recognized what some observers have called a "cultural lag" in the Nation's water institutions. In other words, our institutions have not kept pace with the problems. The Commission believes that some of the Nation's water policies and programs that were needed when they were established 25, 50, 75, or more years ago, and that have served us well in the past, are now outmoded and not only are inadequate for meeting problems of the future, but actually hinder progress. As a result, the Commission recommends some rather basic changes in water policy. Possibly of greatest significance, at least from the viewpoint of the reaction we are receiving on the draft report, are the proposed recommendations that would, if adopted, require beneficiaries of water resources development rather than the general taxpayer to pay the costs of providing the benefits. These recommendations are proposed because the Commission believes that ever-increasing demands on the Nation's water resources will make it essential in the future to consider water as a resource that must be managed prudently, in accordance with economic guidelines similar to those that apply to the use of other resources. In other words, future water use must be considered in terms of "demand," in an economic sense, rather than "requirements," in a physical sense.

The reception accorded these recommendations of the Commission's draft report reminds me of a situation which developed in the small rural community in Maryland where I grew up. On one of the neighboring farms there was an abandoned quarry which had flooded to a depth of almost 100 feet at the conclusion of its commercial operation.

Quite naturally, the quarry and its pool of clear, cool water became a mecca for people of all ages in the surrounding area. On Sunday afternoons, hundreds of men, women, and children used the quarry as their private swimming pool. Cars were parked on both sides of the lane leading down to the quarry and overflowed into the surrounding pastureland. The overflow of trespassers spread to the neighbors' fields. Fences were knocked down, crops were trampled, and livestock was turned loose.

In an effort to control the situation, the owners of the quarry decided to close it off from public access. Barricades were put up and signs were posted, but to no avail. People continued to come from far and near to make use of the quarry.

Finally, the owners of the quarry decided to make the use of the quarry available to the public on a fee basis. They established bathhouses and hired attendants and lifeguards to supervise activities on Saturdays and Sundays when the demand was greatest. The reaction was the same as if they had put up a private toll gate on a public road. They were vilified by people who had been using the facility at no charge. They were accused of taking away the birthright of the local children who had enjoyed free use of the quarry for so many years. Eventually, the situation worked itself out, and for years the quarry was used as a commercial swimming facility. But not before vandals several times pushed over the markshift bathhouses and otherwise desecrated the property in an irrational response to their being forced to pay for something which they had been accustomed to receive free. But it was not really free. The costs were being paid by someone else.

To summarize very briefly some other general aspects of the Commission's findings and report, before going on to the specific recommendations, I would like to mention next the Commission's belief that water must be considered as part of a system in planning for the future. Water is a part of the entire economic and environmental system in which we find ourselves, and we can no longer undertake water resources planning as an end in itself. Water planning must be undertaken as an adjunct to land planning. And, in particular, water *quality* planning must be carried hand in hand with planning to provide the *quantity* of water we need in the places we need it at the time we need it.

Although the Commission believes that water is too valuable a resource to be made available to meet economic needs such as production of food and fibre, or for water transportation at less than cost, it recognizes that there are social purposes which justify expenditures for water resources at the expense of the general public. Many of these purposes, such as preservation of wild rivers for scenic and recreational purposes, provision of access to water bodies for recreation, and maintaining minimum flow in streams for wildlife conservation do not involve construction, but there are other costs. The Commission believes that it is necessary for Federal, State, and local governments to bear these costs where it is desired to place emphasis on certain public purposes for social welfare. Under such circumstances these services should be provided at public expense.

The Commission also gives considerable attention to the need for improvements in engineering and technical research and development and in the cooperative planning, development, and management of water resources.

Let me now go on to some of the more specific findings of the National Water Commission, which express these points in more detail.

The Commission's findings and tentative conclusions and recommendations are expressed in its proposed report which was released to the public last November 10. As mentioned earlier, the report is a massive document which some columnists have compared to the Bell System telephone directory for the City of Washington.

It is very difficult to summarize a telephone book. And the same is true for the Commission's report, which covers all aspects of water resources conservation, development, and utilization. There are 208 listed recommendations and some of them contain several parts. The conclusions and recommendations, taken verbatim from the text of the report, take up 84 pages.

The Commission's general findings and conclusions can be summarized as follows:

1. Water is a mobile, renewable resource, which can be used and reused for a great many purposes, but which must always be considered as a part of a complex hydrographic system which functions within the context of the total environment.

2. The United States is blessed with a supply of water that, with proper management, is more than ample to meet the fundamental needs of its people and to permit it to achieve the important national goals it sets for itself.

3. Water is an essential ingredient for economic development and population growth. However, it is but one of many such essential ingredients and, in most parts of the United States at the present time, a relatively unimportant one. Availability of adequate water supplies alone can no longer induce significant economic development or population redistribution unless a number of other more important economic conditions are present.

4. Except for nominal amounts for drinking, fire fighting in municipalities, and a few other essential social and environmental purposes, there are no water "requirements," but there are "demands" for water and water related services that are subject to the economic laws of supply and demand and affected by a whole host of governmental policy decisions, some in fields far removed from what is generally considered to be water policy.

5. It is undesirable to attempt to forecast precise levels of future water use. How much water will be used, where, and for what purposes will depend on the policies that are adopted. A range of unpredictable economic, social, and demographic development patterns, or "alternative futures" is possible based on different sets of assumptions with respect to life styles, population size and distribution, per capita energy consumption, rate of national income growth, etc. The range of possible alternative futures brackets the possibilities from one extreme to another but it is impossible to forecast which alternative future will materialize. Although the full range of possibilities should be considered in planning, development, and management of water resources, the Nation cannot afford to construct works to control water on the basis of a "crisis scenario" such as the stimultaneous occurrence of a major war, a major drought, a surge in domestic population, and a surge in civilian GNP.

6. Future development of water resources should be undertaken only when an economic demand exists for the products and services to be produced and where the social, economic, and environmental benefits of development clearly outweigh the social, economic, and environmental costs involved.

7. The planning for the development and protection of rivers, estuaries, and adjacent coastal waters should be carefully coordinated. Ground and surface waters should be controlled and managed as interrelated resources. Capacity of water bodies to assimilate organic wastes and waste heat should be recognized as a resource and prudently managed to provide valuable economic services while preventing adverse impacts on aquatic ecosystems.

8. Water should be considered to be polluted when its quality is such as to impair reasonable present and anticipated future uses. The objective of pollution control should be to protect water bodies from pollution which would impair such uses as designated by responsible public authorities for the specific water bodies over which they have jurisdiction. These uses should include recreation, preservation and propagation of fish and wildlife, and protection of scenic and esthetic values.

9. A no discharge goal or policy for water pollution is unrealistic because it does not consider impacts on other resources, such as air, land, minerals, energy, and capital. Attainment of such a goal would require the expenditure of hundreds of billions of dollars, half of which would be to remove the last one percent of the waste material, which would show up only in laboratory tests.

10. The costs of pollution abatement should be borne by those who cause the pollution, except that the costs of abating natural pollution, through measures such as diking off discharges from salt springs should be borne by those who reap the benefits.

11. Attempts to prevent flood damages through structural measures alone have not been successful, and total annual damages are rising. Development in flood plains and coastal hazard areas should be permitted only when the social benefits clearly outweigh the social costs. Flood damages should be controlled through better flood plain management, flood proofing of structures, and education of flood plain users to the hazards involved in occupying flood plains.

12. The most important water control works on the major river systems of the United States have already been built, and the need for major Federal dam construction agencies is decreasing. The Federal role should be concentrated more on planning, licensing, and regulation of development, to be undertaken by State and local governments and private enterprise.

13. The development, management, and structural protection of water resources should be the responsibility of the level of government nearest to the problem that is capable of adequately and effectively representing all interests involved. For example, because data collection, and basic research activities have widespread benefits, and the beneficiaries cannot be identified, the Federal Government should assume a predominant role in leadership and financing. The Federal Government should continue to exercise leadership in provision of water transportation facilities, however, because they affect interstate commerce, but the costs of improvements should be recovered from the beneficiaries thereof. The States, because of their role in control of water rights and related land use regulation, should assume an increasing role in the control and preservation of water resources. Small local flood protection or drainage projects should be developed by the small groups of beneficiaries involved.

14. Legal and institutional impediments to the transfer of water rights should be relaxed to permit the employment of water resources in their highest and best use. Wherever possible, transfers of water rights should be permitted through negotiation by private parties subject to state regulation to protect environmental values and the rights of others.

15. Land use is a fundamental determinant of water use. Land use regulation and water management must be closely coordinated in order to realize full values from the use of our water resources. The location of industrial sites, waste discharges, irrigation and drainage developments is basic to the values to be derived from water uses within a particular hydrographic system.

16. Effective and representative public participation in the planning and development of water resources and control of water-related activities should begin at the earliest

practicable stages of planning, development, protection, and management activities.

17. Rigorous analysis of water resource development projects and water pollution control programs should be undertaken to provide decisionmakers with information on the economic, environmental, and social consequences of proposed projects and programs. The decisionmaker must balance all factors and information available to him and should not abdicate his role by relying on technicians for balanced social judgments.

18. Direct beneficiaries of water development projects should ordinarily be obliged to pay all project costs. Systems of pricing and user charges that recover the full costs of water services directly from their users will conserve water supplies, discourage premature investments in water projects, reduce financial burdens now borne by nonusers, and make more efficient and equitable use of scarce water and financial resources.

19. Subsidies to users of water and water-related services should be provided only to advance some general social purposes. Such subsidies should be straightforward and visible so that the public and their elected representatives can be fully aware of their existence and extent.

20. As changing conditions alter the demands upon water resources (as for example reductions in emphasis on land reclamation and increasing emphasis on water-based recreation), the roles of existing water resources development and management agencies should be modified as necessary to contribute toward satisfaction of emerging demands. It would be desirable for the Federal water agencies to be flexible, with broad enough authority to shift the focus of their efforts toward objectives of greater social importance as the importance of more traditional objectives begins to decrease. Changing the development and management authorities of existing water agencies, such as the Corps and the Bureau, is preferable to creating new water resource management agencies as the Nation's needs change.

21. Much of the controversy over environmental impact of water resources development and licensing of water-related activities stems from insufficient knowledge about the prospective damages which might result from such projects and activities. Too little is known. Environmental interests are reluctant to endorse projects when there is doubt about the environmental impact. An obvious way to reduce doubts and permit all interests to proceed with greater assurance and certainty is to gain additional knowledge. This can best be done through carefully designed and adequately funded research on the long-range impact of projects and water-related activities upon environmental values.

22. Decisions on water resources development and on licensing of water-related activities should not be delayed unnecessarily by protracted litigation based on details of procedures. Decisions which do not receive unanimous approval by all interests are not necessarily wrong, and it is impossible to achieve unanimity or consensus on all proposals. Decisions must nonetheless be made. Points of difference should be isolated as early in the planning process as possible and sufficient background should be developed as a part of the planning to permit decisionmakers to take all viewpoints into consideration before decisions are made, rather than on appeal.

SALIENT RECOMMENDATIONS

The 208 recommendations obviously are not all of equal importance. There are many possible ways to categorize them. The Commission's summary, which will be issued with the final report, will set forth the Commission's priorities. In the absence of the completion of the Commission's summary, I would summarize the more significant recommendations as follows:

1. *Pollution Abatement.* The Commission recommended that the no-discharge policy goal or policy of the 1972 amendments to the Water Pollution Control Act should be abandoned in favor of enforcement of water quality standards established under the Water Quality Act of 1965. This would provide protection for all reasonable present and prospective uses of water bodies. Attainment of this more realistic goal should be scheduled for 1982, after which the Federal grant program for construction of municipal sewage treatment works should be terminated since the backlog resulting from generations of neglect will have been eliminated. The Commission believes that the knowledge that the Federal grant program is to be terminated at that time would serve as a most powerful incentive for municipalities to clean up their effluents. Thereafter, full responsibility should rest with municipalities, with regulation and enforcement by State officials, and the Federal Government becoming involved only where the States are unwilling or unable to enforce compliance with standards, and where interstate or international waters are involved.

Industry should bear the costs of clearing up its pollution to meet water quality standards, passing the costs along to its customers. Where industrial wastes are discharged into municipal sewers, the full costs of treatment should be assessed against industry, as provided by the 1972 amendments.

2. *Cost-sharing and repayment.* The Commission proposes major changes in the cost-sharing philosophy underlying Federal water development. The most important thrust of the Commission's recommendations in this category is that the beneficiaries of Federal water programs should pay the full cost of such programs, including interest on deferred obligations at the market rate for Government bonds. Under the Commission's recommendations, this policy would be extended to the inland waterways and the reclamation, flood control, and drainage programs of the Corps of Engineers, Bureau of Reclamation, and Department of Agriculture. Flood losses should be reduced primarily by better flood plain management. Where structural measures for flood control are undertaken, the costs should be reimbursed by the beneficiaries to the extent they can be identified. Users of inland waterways improved by the Federal Government should pay the full costs of operation and maintenance through user charges based on a combination of fuel taxes and lockage charges or possibly ton-mileage charges. Cost of any new improvements should likewise be reimbursed in full, with interest, unless some overriding consideration such as national defense or other social purpose justifies Federal assumption of a portion of the costs. Acreage limitations on any new Federal reclamation projects should be eliminated after the Federal subsidy is taken away. Water users on existing Federal reclamation projects should be permitted to repay their outstanding obligations in cash or with interest at prevailing market rates on the outstanding balance in order to relieve themselves of the acreage limitations. Municipal and industrial water use should be the responsibility of non-Federal interests and no Federal subsidy should be provided except to achieve some clearly defined social purpose. Except for interstate carriers, drinking water quality standards should be enforced by the States. Recreation facilities should be provided at Federal reservoirs, with costs recovered by charges for the use of facilities to the extent possible. To the extent costs cannot be covered by user charges the facilities should be provided at public expense.

3. *Flood damage reduction.* Flood plains should be managed in such a way as to minimize exposure to flood damages, through an efficient combination of structural measures (where paid for by the beneficiaries), flood-proofing, and nonstructural measures.

4. *Accommodation of environmental values.* The Commission recommends a number of procedural measures to improve the accommodation or balancing of important environmental or developmental values associated both with Federal water resources projects and non-Federal projects requiring licenses or permits to utilize water. Basically, the Commission's recommendations would call for resolution of differences at an earlier stage in the procedures than at present. This requires longer-range planning and integration of the several agency and judicial reviews which are now conducted separately.

5. *More efficient utilization of water.* The Commission proposes adoption of a large number of recommendations which would improve the use of existing water supplies. These cover ground water management, pricing for the use of water, improving water rights procedures, giving increased recognition to nonmarket values such as recreation and fish and wildlife conservation, increasing the efficiency of irrigation and municipal water use, and steps to increase the reuse of wastewaters. Almost a third of the Commission's specific recommendations are contained in this section of its report and the points covered are too numerous to be included in a brief summary of the recommendations.

6. *Interbasin transfers.* Because of the legislative history underlying the National Water Commission Act, the Commission gave special attention to questions involving interbasin transfers of water. Since interbasin transfers of water between basins lying in the same State are quite common and raise no particular problems, the Commission gives primary attention to interbasin transfers where the basin of origin lies outside the State where the water is to be used. The Commission recommends repeal of the existing laws which prohibit study of interbasin transfers by Federal agencies, and suggests three economic criteria which should be considered before any interbasin transfer is recommended as follows: First, a proposed project should be the least-cost way of securing a given supply of water; second, the net benefits generated by the transfer in the receiving area should exceed those that that same water would have generated in the area of origin, plus the full cost of the transfer, and third, the net productivity of the project should be compared to that of alternative investment opportunities. Direct identifiable beneficiaries should ordinarly be obligated to pay the full reimbursable costs of interbasin transfers, including monetary compensation to areas of origin for net losses incurred as a result of the transfer.

7. *Technological innovation.* Technological innovation should be encouraged by the creation of an Office of Water Technology incorporating and patterned after the Office of Saline Water in the Department of the Interior. The new agency should have responsibility for the desalting, precipitation augmentation, geothermal water recovery, and other water research and development activities of the Federal Government.

8. *Decisionmaking.* The Commission recommends Presidential adoption of the principles and standards for evaluation of water resources development along the lines proposed by the Water Resources Council as an aid to better decisionmaking. Better cooperative arrangements for planning should be instituted among the Federal, State, and local agencies involved. Public participation in planning should be encouraged.

9. *Discount rate for planning.* The Commission recommends retention of a discount rate based on the cost of long-term money to the Government, on the grounds that money for public purposes is available at those rates.

10. *Improving organization of the Federal Agencies.* In addition to the establishment of the previously mentioned Office of Water

Technology, the Commission recommends strengthening of the Water Resources Council by giving it an independent, full-time chairman and moving it into the Executive Office of the President somewhat as a parallel to the Council on Environmental Quality. Funds for river basin planning should be appropriated directly to the Water Resources Council and the grants to the States should be increased and extended. An independent board of review to examine federally funded water development proposals, river basin plans, and grant programs should be established in the Executive Office of the President. Basic data functions of the National Oceanic and Atmospheric Administration should be incorporated into the U.S. Geological Survey. Engineering work of the Corps of Engineers, Bureau of Reclamation, and Soil Conservation Service should be restricted to those water projects which cannot be handled as efficiently by States, interstate regional commissions, municipalities, or local special purpose districts.

11. *River basin planning and management.* The Commission favors Federal-interstate compacts for water resources planning and management in multistate regions, somewhat along the lines of the Delaware River Basin Commission and the Susquehanna s uld be especially oriented toward the specific problems of the basin. A special effort should be made to work out such an organization for the Great Lakes Basin looking toward eventual cooperation with Canada. Intrastate river basin authorities and federally chartered regional corporations should be used where appropriate.

12. *Metropolitan area problems.* The Commission recognizes that each metropolitan area has its own problems, so that there are no universal solutions. A number of suggestions are made to improve water resources management in such areas.

13. *Federal-State jurisdiction.* The Commission recommends enactment of a proposed national water rights procedures act which would, to the extent practicable, conform Federal water uses to State procedures, permit the United States to be joined as a party in water rights adjudication proceedings, clarify operations under the reservation doctrine, compensate water users who have inadvertently used water subject to prior Indian water rights, eliminate the no compensation rule under the navigation servitude, improve eminent domain procedures for the acquisition of water rights, and restrict the sovereign immunity of the United States with regard to water rights.

14. *Cost-sharing.* To implement its philosophy with regard to cost-sharing, the Commission recommends enactment of comprehensive legislation to encompass all aspects of cost-sharing policy in line with the previously stated philosophy.

15. *Financing water programs.* Since the Commission recommendations would place a much heavier burden on State and local governments, the Commission recommends that unrealistic legal barriers to efficient debt acquisition and management should be removed. If Federal tax exemption on the interest on bonds sold by State and local governmental entities is repealed, alternative provisions should be enacted to assist these governments with their bond financing burden.

16. *Basic data and research.* In order to increase the availability of basic data, the Commission recommends that the Water Resources Council should establish a water resources data referral center. Better environmental data should be collected, and as discussed earlier, the data collection activities of NOAA and USGS should be merged. With respect to research, the Water Resources Council should attempt to guide water resources research programs into areas needed to provide techniques for better water management, and as indicated earlier, the various research programs on water technology should be incorporated into an agency patterned after the Office of Saline Water in the Department of the Interior.

## SOCIAL SERVICES REGULATIONS AND DAY CARE

Mr. HUGHES. Mr. President, on February 16, 1973, the administration issued its new regulations for social services. The regulations are lengthy and complicated, but it is now becoming clear that their impact may well be disastrous and that, contrary to the administration's loudly proclaimed intent of getting people off welfare, the effect will only be to add to present welfare rolls.

Today I wish to comment on only one aspect of the regulations—day care for the children of working mothers.

In late January, Mr. President, less than a month before the issuance of the social services regulations, the economic report of the President was transmitted to the Congress. In recognition of one of the great changes taking place in our economy, the report devotes a special chapter to "The Economic Role of Women" and acknowledges:

> The most difficult home responsibility to find a good substitute for is child care. . . .

The report's statistics bear this out; for example, by pointing to the fact that the unemployment rate for married women with children under 3 is 11.7 percent compared to a rate of 4.5 percent for married women with no children under 18.

Citing the particular difficulties facing the 6 million female-headed families, the economic report says:

> The median income of female-headed families was $5,116 in 1971, less than half the income of male-headed families ($10,930). When women who head families were full-time, year-round workers, the family's median income was $7,916; but only 32 percent of women heading families were able to be full-time, year-round workers. And the woman who heads a family and works has additional expenses of child care and other home care expenses.

In this same chapter, in its discussion of child care, the administration reiterates:

> Provision for child care is a cost to working mothers and a major obstacle to the employment of many other mothers who would work outside the home if they could find satisfactory arrangements for taking care of their children.

Arguments are presented pro and con on governmental involvement with the problem of child care. However, we get a glimpse of the February 16 regulations by the use of 8- and 9-year-old statistics on the kind of child care used by working mothers. Since these figures indicate that only 6.4 percent of working mothers depended on school or group care centers in 1965—only 1 year after the establishment of OEO and several years prior to the enactment of the social services provisions of the Social Security Act—it becomes clear that the attempt here is to show that working mothers do not want or do not prefer day care centers for their children and that there is thus justification for what they have promulgated under the social services regulations.

I suggest, Mr. President, that the day care picture is somewhat different in 1973 than it was in 1965 when, I reiterate, OEO was in its infancy and social services were not in existence. Hundreds of day care centers have since been established, largely through the availability of Federal financial help. The message I have received from Iowa's working mothers is clear. They prefer day center care for their children. They know the service will be reliable. They know that their children will receive good food, that medical emergencies will be met, that their children will be in learning situations, that their children will have the companionship of other children their own age.

But if the February 16 regulations go into effect, they will not only halt the growth of day care centers—they may well doom existing ones. The combination of the ban on the use of voluntary funds for matching purposes and the restrictions on purchase of services are of serious concern, but the new eligibility standards are devastating. By using the public assistance payment as the guideline and by defining eligible families as those whose income is no more than one-third above such payment, the doors of day care centers may well be effectively closed to all but WIN trainees and mothers who are working at subpoverty levels. The near-poor, single-parent family may well be forced to go on welfare; the struggling young couple may well find its income cut by one-third or one-half because the mother may have to give up her job; others will return to seeking the help of neighbors or resort to the notorious "latchkey."

Instead of destroying day care centers, Mr. President, we should be fostering their growth. It is a simple fact that millions upon millions of mothers must work and want the best care available for their children at a cost they can afford. We should not build barriers to the aspirations of hard-working families—we should eliminate them.

In conclusion, Mr. President, my mail on this one aspect of the social services regulations has been extremely heavy, and I ask unanimous consent that a sampling of that mail be printed in the RECORD at the conclusion of my remarks.

In addition, I intend to send copies of all my correspondence to Mr. Philip Rutledge, the Acting Administrator of the Social and Rehabilitation Service so as to make sure that these protests are officially registered. Undoubtedly many people have written to me because of uncertainty about the proper person in the administration to be contacted, and I think it is important that these letters be part of the "comment" upon which final decision with regard to the regulations is based.

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

CEDAR RAPIDS, IOWA,
February 26, 1973.

Senator HAROLD HUGHES,
*New Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR HUGHES: Attached is a copy of a letter I sent to Mr. Philip J. Rutledge, Acting Administrator of Social and Rehabilitation Services of HEW.

I did not rewrite and rephrase a separate letter to you because I feel I have already said it as best I could in the letter to Mr. Rutledge.

I am terribly concerned about this impending legislation. It is so emotion packed I find it difficult to narrow the problem down to impersonal facts in outline form. I just hope I have expressed myself clearly enough so as to be understood.

Yours truly,
Mrs. ELEANOR COX, MSW,
*Adult Service Supervisor,*
*Linn County Dept. Social Services.*

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CEDAR RAPIDS, IOWA,
*February 26, 1973.*

Mr. PHILIP J. RUTLEDGE,
*Acting Administrator, Social and Rehabilitation Service, Washington, D.C.*

DEAR MR. RUTLEDGE: I am writing you in reference to the proposed new rules regarding Service programs for families and children and for aged, blind, or disabled as outlined in the Federal Register dated Friday, February 16, 1973.

I respectfully submit to you that you have absolutely no idea what these cutbacks will do to the near poor who are struggling to stay off the welfare roles.

What you have presented is a program of services to people presently on categorical programs and a punishment for those who have managed to avoid becoming welfare recipients. In so doing you are defeating your own and President Nixon's stated purpose and are instead inviting an unbelievable influx of people to shed the work ethic you profess to believe in and go on the welfare roles in order to receive services.

With the implementation of revenue sharing, funds have already returned to cities and states, however, you are asking them to bear full responsibility for programs which previously were jointly funded with considerably more money than was returned to the local level. No way can adequate quality service be offered with a mere pittance of what they previously cost. Whatever services are picked up by the cities and states will be spread so thin as to leave an impact that is barely perceptible in any area where they are used.

Tell me, if your income was marginally above poverty level because you worked hard and long to keep it that way, what would you do if you suddenly needed, for example, day care or homemaker service or counseling? The new rules you propose to make into law would not allow you to receive these needed services because you would qualify neither as a past, current or potential welfare recipient. You certainly wouldn't be able to pay for these services yourself. What choices are left to you?

Would you allow your family to do without the services they sorely need or would you stay home from your job and take care of them. How then do you pay rent, buy groceries, care for ailing spouse and/or children? How many jobs are kept open for an unskilled employee trapped in this kind of situation, particularly in today's job market? Have you investigated average employee benefits available to unskilled workers?

If you care for your loved ones you have only one recourse: you quit your job and go on welfare. If you are an elderly and/or disabled adult you leave your home and enter an institution and go on welfare.

Please, with an open mind, I implore you to think about these things and rewrite your rules taking these things into consideration. You are really sabotaging your own program with those proposed rules. As a social worker and a nurse, I am deeply concerned about people—all people. As a taxpayer, I have no desire to have my taxes increased because of an unnecessary increase of people on the welfare roles.

I am aware via the printed word of Mr. Ehrlichman and President Nixon's feelings regarding social workers. I can only reply by inviting any or all of you out to Linn County to spend some time in our agency to see for yourself what we do here. I think it would surprise you.

Yours truly,
Mrs ELEANOR COX, MSW,
*Adult Services Supervisor, Linn Co.,*
*Dept. Social Services.*

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DES MOINES, IOWA,
*February 27, 1973.*

Hon. HAROLD E. HUGHES,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HUGHES: I am appealing to you to help me and many other working mothers. I refer to the President's announcement to discontinue the current HEW Program. If his decision remains, thousands of mothers like myself will be left without competent care for their children while they work. I am divorced and the mother of three boys, therefore it is essential for me to maintain full time employment. My youngest child is enrolled in Wesley Day Care Center in Des Moines. Without financial aid such as the HEW Program, Day Care Centers such as this one could not operate. It is impossible for working mothers to carry the financial burden of the full cost of child care. Many mothers will have to give up their jobs, and many of us who cannot will have to find inadequate sitters for our children. Even an unsatisfactory sitter is hard to locate. I appeal to you to consider our plight and the many other consequences that this decision could bring. I ask you to do whatever may be possible as a United States Senator to see to it that this program is not discontinued.

Yours very truly,
Mrs. KAREN CARMICHAEL.

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FEBRUARY 28, 1973.

DEAR SIR: Presently my child is enrolled at Wesley Center City Day Care, Des Moines, Iowa. After much investigation in the fall of 1972, I chose Wesley Center since it offered me the opportunity of reduced cost for child care. Since I am a single parent with the sole responsibility of supporting myself and child. I had to resort to cutting my expenses in any way I could in order to meet my budget. Since I am of a middle income I have found that I am not eligible for other aids such as food stamps and ADC, however my gross income of $420 does not allow me much to exist on.

Prior to enrolling my child at Wesley Center I was paying a private sitter more money for not as many opportunities. I can not see any possible way I could manage to afford any more money than what I presently am paying. I feel also that my child is receiving very good care at Wesley Center which were not available at the private sitters I've had before. These things include good meals, trained instructors, and educational experiences, rather than mere custodial care.

If the new HEW regulations are not cancelled, I may be forced to quit my place of employment and turn to welfare. With the new income guidelines I could definitely not make use of Wesley Center.

REBECCA HAMPTON.

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DES MOINES, IOWA,
*February 28, 1973.*

DEAR SIR: I feel that cutting of child care fund is unbecoming our government to think that the government of the United States of America would think so little of the children in their own country that they would deny them the right to proper care because their parents or parent must work to see that they have food in their mouth and clothes on their backs.

When the heartsick mothers leave the homes to make a living for their children, they want their children to be taken care of, and not have to worry. We get this at our day care center. I myself can not afford $25 a week for a woman to watch my child. This is not counting the worry I'd have and the concern for his meals. If the Tiny Tots is closed I will have to quit my job! Then I will have to go on welfare!

I do hope that you will consider that my son is a person and entitled to the same thing in life that your child has (if any).

Please help us keep our Day Care Centers as they stand now for our childrens sake.

SUSAN N. RAMOS.

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DES MOINES, IOWA,
*February 28, 1973.*

DEAR SIR: I am the director of Wesley Center City Day Care in Des Moines, Iowa and vice-chairman of the Day Care Council. I am writing concerning the proposed H.E.W. regulations of February 16.

We are presently serving 54 children of which 33 are from single parent families. Private match money under Title IV–A is our chief means of funding. Under the proposed eligibility requirements 29 children presently receiving assistance would not qualify. Parents not qualifying would then have to meet this full cost of the child care or withdraw their children. With fewer children in the center our cost will have to go up. Therefore even the parents who now do pay the full cost will probably have to withdraw their children. Our center will either be severely crippled or have to close completely.

I have discussed this with the parents to find out their reactions. Most of them have to work to support their families and they absolutely could not afford the full cost of child care ($5.11 per day.) They would be forced to find a babysitter but this is difficult and they are often undependable and ill qualified. Also many parents could not afford the cost of a babysitter. The parents prefer the day care service because we provide trained staff members, health and social services, parent education, learning experiences and dependable high quality child care.

Many parents would be forced to receive public assistance for these reasons. Day Care helps parents help themselves by allowing them to train for and fulfill productive roles thus reducing welfare rolls.

I think you would have to agree that young children are one of our nation's most valuable resources. Their attitudes and personalities are formed by age five or six. How can we disregard this most important responsibility of caring for children with developmental child care (not custodial care) aimed at fulfilling their needs and strengthening families? We need high quality child care in the United States. The proposed H.E.W. regulations and restrictive eligibility guidelines will certainly destroy it. Please ask for the elimination of these proposed regulations. I ask for your help so that as director I don't have to turn away these 54 children April 1.

Urgently,
MS. JANA JONGEWAARD,
*Director, Wesley Center City Day Care.*

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DES MOINES, IOWA,
*February 23, 1973.*

President NIXON,
*White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: I as a working mother whose son attends Wesley Center Day Care in

Des Moines, Iowa, cannot understand why you plan to veto the Health, Education and Welfare Program, therefore discontinuing its services to various worthy causes, such as our Day Care, as of April 1, 1973. I cannot tell you how important it is to our family for my husband and I to be able to go to work knowing that our son is being properly cared for, fed well and is being taught various things to enable him to be more prepared and aware of things when he goes to kindergarten. This is not only important to us as well as our son, but we could not afford to pay a babysitter what they would want for these services. It is hard enough now days to even make "ends meet" without having to worry about government funds being discontinued from helping to support the Day Care Center which takes care of our children.

My son is an only child and for him to be with other children his own age means a lot in itself. The children now days are so far advanced that they really need a start such as the Day Cares provide for them to cope with life outside of their own homes.

Please do not take this assistance that the Health, Education and Welfare Program provides away from us!

Very truly yours,

Mr. and Mrs. JOHN LARATTA.

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ANKENY, IOWA,
*February 27, 1973.*

Hon. HAROLD E. HUGHES,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HUGHES: This letter is in regard to the severe cutbacks and total curtailment of programs within Health, Education, and Welfare. I would specifically like to speak to the cut in day care provisions.

I am not on welfare, I do not use food stamps, and I did pay income tax of over $1,300.00 last year. I am a working mother, and the prime support for a family of 3. I am currently paying a cost of $5.00 per day for the care of my 4 year old daughter, and receive no direct compensation for any part of this charge. However, with less funding available to the Wesley Methodist Day Care Center, they must let some staff go and fewer children will be able to qualify for matching funds and attend the center. I am told that this will raise my per diem cost to over $7.00 a day, which places a severe financial burden on our family income. I will probably have to abandon this quality day care and seek a cheaper form of care which will ignore my childs development needs and provide only a custodial function.

Please do what you can to prevent this cut as well as the proposed cut in other Social Services areas. My hardship is financial—others will lose much more.

Respectfully yours,

Mrs. LINDA ADY.

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DES MOINES, IOWA,
*February 22, 1973.*

Hon. HAROLD E. HUGHES,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HUGHES: I am writing to protest President Nixon's planned discontinuance of many current HEW programs as of April 1st. It is inconceivable to me that the President is using his power to encroach upon the powers of the legislative branch, and that Congress is seemingly willing to let this violation of our constitutional "separation of powers" principle take place. I feel that Congress is partly responsible for allowing the opportunity for a single man to exercise this frightening misuse of power.

I am equally appalled by the whole system of priorities in our country today. Programs designed to help the desperately poor, the families of working men and women whose meager incomes are supposedly adequate according to federal guidelines—these are being passed over in favor of much costlier military and defense spending. HEW is constantly criticized for wastefulness and inefficiency, but how can the waste in HEW's budget begin to compare with the incredible waste of the larger Defense Department? At least HEW is trying to devise ways to help people, not destroy them.

I am upset by many of the cuts Mr. Nixon has decreed recently, but I am especially shocked at his intention to cut funds available to day care programs—one of the most effective forms of assistance in that it enables people to "help themselves" which Mr. Nixon verbally favors. I believe that most people possess the tragic notion that welfare recipients live a life of leisure at the taxpayer's expense. Knowing how these people really live and knowing the attitudes of those who have no contact with their problems brings me to tears. Even if our country chooses to ignore the needs of adults who are caught in a situation they feel helpless to change by themselves, how can we ignore the needs of children? How can we expect to build a better life for them and a better world for us if we do not put quality care for our children high on our list of national priorities?

I implore you to do everything in your power to stop Mr. Nixon from single-handedly deciding our nation's priorities. Especially try to stop him from widening the class division in our country by ignoring the needs of the poor, the near-poor, and the minority groups for the sake of increased military expenditures and favors to big business.

In love for mankind,

Mrs. T. K. SMITH.

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FEBRUARY 27, 1973.

DEAR SENATOR HUGHES: Our two girls are enrolled at Wesley Center City Day Care here in Des Moines, Iowa. Our day care is one that is now receiving Federal funds that the President wants to take away. I'm writing this as a very concerned parent who hopes you can help us and all the other parents whose children attend day care centers.

I don't feel that my children would receive the excellent care they are receiving if we had to go back to a private sitter. The staff is trained in child care and believe me they are good with children! Our children have really developed, "come alive," since attending the day care. They can relate to both children and adults now, which they, especially our youngest, just couldn't do with a private sitter who provided nothing more than someone to be there to see that they didn't hurt themselves. They have learning experiences now; they have other children to play with; they get good, well-balanced meals; all of which they did not get with a private sitter!

We are a middle-income family, but we wouldn't be if I had to quit work. And without the peace of mind that I have with my children at the day care, I might have to quit working. It would be impossible to find the kind of care they are receiving now. If I have to quit work, my family would still be able to "survive" because I am lucky enough to have a working husband. But we wouldn't be able to pay our house payments and all the other bills we have. We couldn't qualify for welfare so we would lose our home most likely, or maybe our refrigerator, or maybe something else.

So please, help us and the others like us—all the people who are being affected by this unreasonable proposal by our President. It doesn't even make sense!

Stop the HEW cutback!

Mrs. LONNIE L. GREENFIELD.

HARDIN COUNTY,
DEPARTMENT OF SOCIAL SERVICES,
*Eldora, Iowa, Feb. 12, 1973.*

Hon. HAROLD E. HUGHES,
*U.S. Senate,*
*Washington, D.C.*

DEAR SIR: As Day Care, Headstart, and other early childhood education programs are coming under fire of the present administration, I would like to bring to your attention the positive results and urge your continued support of these programs.

In spite of the pros and cons about mothers working, it is a fact that more and more mothers are joining the work force of our country. Single parents are working to support their families, mothers from low and middle income class homes are working to supplement the family income and more welfare mothers are working due to emphasis on work requirements. The question then is not whether mothers should work but whether children will receive quality babysitting.

Day Care Centers are designed to care for children in a warm and supportive atmosphere where they learn to interact with other children. They are exposed to elementary educational concepts such as numbers, letters, etc., and are given opportunity for creative self-expression in activities such as art and music. In Hardin County there are two Day Care Centers, one in Eldora and one in Iowa Falls. Both provide superior child care.

Since attending day care in our County, one child has had a nine point IQ increase. This is an appreciable increase especially in view of the fact that the child was originally labeled as severely retarded and is now up to the functional level of mildly retarded.

Day Care and other types of early childhood education can and do make a difference for children. The change may be in IQ, in socialization, in receiving nutritious meals and in giving the culturally disadvantaged child a background for school. The children are the future. They should receive every opportunity.

Day Care, Headstart, or pre-school will help all children but most of all, it may be the differnce that will break the cycle of poverty for some children. This is bcoming more of a reality due to the highly successful program of Follow-Through which is a follow-up program in the school systems after Head Start. Our prisons, training schools, ad welfare rolls are filled with people who did not have a chance when they entered kindergarten. Let's make the chance possible.

Funding for Day Care continues to be a problem since quality care is expensive and even working families cannot afford to pay the full price. In addition, Hardin County, does not have Headstart. The Day Care has been used as an alternative for several of the disadvantaged children. Yet, there is still not enough funding to cover all the children who do need a "headstart". Therefore, I urge you to vote for more, not less, funding for Day Care, Headstart, and other early childhood education programs.

To further know the facts, you are urged to visit Day Care Centers and Headstart classes.

Sincerely,

SHARON WILLANS, SW II.

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IOWA CHILDREN'S AND FAMILY SERVICES,
*Des Moines, Iowa, March 1, 1973.*

Hon. HAROLD E. HUGHES,
*U.S. Senate,*
*Washington, D.C.*

MY DEAR SENATOR HUGHES: I am writing to let you know how much I appreciate your support of "people programs" rather than gross expenditures for the military.

Traveling over Iowa in relation to Head Start training and working with inner-city child care programs in Des Moines, I am becoming increasingly agitated and furious about the callous indifference to the effect holding back money to programs and threatening their demise has upon people at the lowest level of our economic society. Repeatedly we initiate programs in their behalf and expect that they will be delivered with one hundred percent effectiveness with absolutely no "rip-off" by the individuals involved in the delivering of the services although such behavior is commonly accepted from those in the highest level of our society.

I know very well, since I have been a part of the system all my working life, that much reform is necessary within the welfare system. I can also buy the concept of revenue sharing, although I am dubious that all state governments will be objective enough to include in the benefits of this revenue sharing all segments of their population on an equal basis. However, I am adamantly against using poor people who have to struggle against such odds as a political football.

Child care services of a comprehensive nature have given tremendous encouragement to families who are trying desperately to improve their situation. These families have learned to participate in the governmental process through taking an active role in managing their child care programs. It is sad to see how easily the old sense of helplessness and hopelessness can come to the surface when they read about restriction of service to ninety percent of those on welfare. The person who is trying to get off welfare and doing so at the marginal level where his employment does not provide enough to make life any easier, relies on the services of a comprehensive child care facility to keep going and to ease the transition. In the few years Federal money has been available to assist in the development of community-based programs, we have seen many established. Now it looks as though the same thing is going to happen as has happened in the past—just at the time they have pulled themselves up to a level of half-way adequate operation, they get threatened with extinction.

I know you are doing all that you can to confront the administration with its selected priorities and support you in this effort.

Sincerely,

MRS. ELIZABETH S. TURNER,
*Consultant, Community Development.*

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BOSS HOTELS CO.,
*Des Moines, Iowa, March 1, 1973.*

Hon. HAROLD E. HUGHES,
*U.S. Senator,*
*Washington, D.C.*

DEAR SENATOR HUGHES: Since my semiretirement approximately five years ago I have become very interested in Social Welfare work here in Des Moines, especially the Day Care Centers.

Recently we have been working with a center which is under the direction of a Sister Lillian Chance and is located in the Chapel of the old Dowling High School. This is a very fine fireproof building. However, we need to spend some $30,000 on improvements such as: a kitchen, rest rooms, and heating and other structural items.

We have our committees all set to raise this $30,000 from the various Catholic Churches in the city of Des Moines, which we know will be no problem. The real problem now comes from HEW in that the Federal Funding of this program for children whose parents cannot afford to pay is to be discontinued by April 1st.

Of the 60 to 70 children that Sister is taking care of in this center, 90 percent are from single parent families. The mother is working to stay off relief, and of course the Day Care Center is taking care of the child or children while the mother is working or attempting to learn a trade which will permit her to stay off the relief program.

I am aware of the State Revenue Sharing Program from the Federal Government which, I understand, for the State of Iowa will amount to some 76 million dollars.

Perhaps our State Legislature will use a portion of this money to keep the Day Care service in effect. However, I am sure that no funds from the State will be available for any Social Welfare Program which was Federally financed by April 1st.

At a large gathering of concerned Des Moines citizens, held last night at the Plymouth Congregational Church, the enclosed resolution was passed after much thought and discussion. I am appealing to you to read this Resolution and then act likewise by keeping Federal Funds available until such time as the State of Iowa provides sufficient funding for this program; or the Federal Government decides to continue to provide funds for this very important aspect of our Social Service here in Des Moines.

Very truly yours,

HERBERT H. DREY,
*Insurance Manager.*

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A RESOLUTION

Four years ago President Nixon called for a shift from welfare to workfare, with ablebodied persons in jobs and day care centers for children of working mothers or mothers training for jobs.

Existing day care agencies expanded their programs, and new centers were established to meet the increasing needs, supported in part by various federal funds. A recent survey showed Polk County had 5,000 children needing day care, but existing facilities accommodate only about 1,900.

The federal department of Health, Education and Welfare has now ruled that as of April 1 eligibility restrictions on Title 4–A day care funds will be sharply tightened, drastically reducing the number of children who can be served. Many centers in Polk County will have to dismiss a substantial portion of their children and teachers; some centers may have to close.

Federal officials have suggested that revenue sharing funds be used to offset loss of Title 4–A money. But it seems impossible for any of this money to be available for day care by April 1 or soon thereafter.

Therefore, we citizens of Polk County, assembled at Plymouth Congregational Church in Des Moines this 28th day of February, 1973, hereby ask the Department of Health, Education and Welfare to suspend implementation of the new Title 4–A day care guidelines until other sources of money can be found.

We call upon the Des Moines City Council, the Polk County Board of Supervisors, the Polk Couny Board of Social Welfare, and the Iowa State Legislature, to make similar requests of HEW.

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## THE DISTRICT OF COLUMBIA PENAL COMPLEX AT LORTON, VA.

Mr. SCOTT of Virginia. Mr. President, the General Assembly of Virginia has passed a joint resolution memorializing the Congress to undertake corrective action at the District of Columbia's penal complex at Lorton, Va. The action suggested by the General Assembly is that the prison complex be transferred to the U.S. Bureau of Prisons which is the purpose of S. 375, a measure I introduced. Copies of this memorial have been sent to the chairman and ranking member of our District of Columbia Committee and a request has been made that after obtaining the desired agency reports, hearings be held so that the suggested transfer can be given full attention by the Congress.

You may remember that a similar provision was included in the House version of the District of Columbia omnibus crime bill but was deleted in a conference with the Senate.

The situation at Lorton has gotten so bad that the Virginia Attorney General has filed suit suggesting that it be declared a public nuisance.

Mr. President, corrective action by the Congress is long overdue and I hope we can move soon in accordance with the wishes of the people of Virginia to have this prison complex transferred to Federal jurisdiction. I ask unanimous consent that a copy of the House joint resolution of the General Assembly of Virginia memorializing the Congress to take corrective action be included in the RECORD at this point for the information of my colleagues.

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

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.

## FRED A. HENRY LETTER

Mr. McCLELLAN. Mr. President, I recently received a communication from one of my constituents, Mr. Fred A. Henry, of Pine Bluff, which I would like to share with the Members of this body. It is, I believe, an eloquent expression of the views on a number of public issues which now concern a large majority of the American people.

I find Mr. Henry's condemnation of irresponsible and unrestricted Federal spending particularly pertinent at this time of fiscal crisis. As he so correctly observes, the Federal Government cannot continue to spend more money than it takes in.

I believe it is imperative that we exert every effort to restore sound fiscal policies to the operations of our Government. A balanced budget should be—and must be—our primary and ultimate objective.

I ask unanimous consent that Mr. Henry's letter be printed in the RECORD.

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

PINE BLUFF, ARK., *March 2, 1973.*

Hon. JOHN L. MCCLELLAN,
*Senate Building,*
*Washington, D.C.*

DEAR SIR: I'm not very good at expressing myself in any form but I am satisfied that you are a master at understanding what anyone is trying to tell you.

As a faithful voter and a true American I want you to know my thoughts on the following issues.

1. Amnesty—Anyone that flees this country to avoid the draft is not needed by us. Do not accept them back in the country. They are the type that might work with the enemy if (God forbid) this country is invaded by a foreign power.

2. Aid to North Vietnam—No—That's a job for Russia, China, etc.

3. Aid to South Vietnam, Laos, & Cambodia—Yes.

4. Government Spending—I'm always speechless when I think of the brains, knowledge, & skill that is found in the U.S. Congress. It is the greatest gathering of brains the world has ever seen, but it seems they can't handle one of their most important jobs.

I would have been bankrupt already if I had handled my personal finances the way the Congress has handled the American peoples money. The Congress should have a budget and be sure that they do not appropriate or spend more money than they receive. If more money is needed—increase taxes.

5. Welfare—Do not give anything to anyone that is mentally and physically able to help himself. I realize that others will need help from time to time. Whatever we (The American People) furnish be sure to let them work for it. This will save the self respect of the Good American and discourage the undesirable person.

6. Law and Order—When I was a boy my father got my co-operation much quicker by carrying me to the woodshed than by trying to figure out what "he" had done wrong that made me a mean little boy. This idea will work nationwide now.

7. Pollution—Let's clean up our air, lakes, and streams but don't throw our money away. Police our laws and make sure that we are getting our money's worth.

8. Inflation—This is just a way to reduce the standard of living of the elderly that has retired on a fixed income.

9. "The loud mouthed fringe"—It seems that the only thing they want to talk about is their "rights". Someone needs to demand that they live up to their responsibilities. These go hand in hand in my book.

10. National Security—Our country is too big a ripe plum for us to be anything but a first class military power.

Thank you so very much for letting me express my opinions.

Sincerely yours,

FRED A. HENRY.

## THE GEOTHERMAL WELL IN ARIZONA

Mr. FANNIN. Mr. President, last January 23 I informed the Senate of a privately funded project in Arizona to develop the State's first geothermal well. At that time I said I would keep my colleagues informed regarding the developments.

I am most happy to report that the drilling has struck superheated water. There still are many questions to be answered before the project can be declared a success, but the news to date certainly appears encouraging.

The well is being drilled near Chandler, Ariz., by Geothermal Kinetics Systems with financing from the Salt River project, Arizona Public Service, and Tucson Gas & Electric Co.

In less than 2 months they have created a geyser which shoots out a column of steam every 7 minutes.

Mr. President, an article describing the progress appeared in last Saturday's Arizona Republic. I request unanimous consent that it be printed in the RECORD at this point for the benefit of my colleagues.

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

CHANDLER WELL SPURTS STEAM

(By Robert L. Thomas)

CHANDLER.—Arizona's first geothermal well has struck superheated water near Williams Air Force Base, causing a geyser of steam to erupt at seven-minute intervals.

Temperatures of the underground water body are not yet known, Mike O'Donnell, Geothermal Kinetics Systems vice president, said yesterday.

Surface temperatures, however, are well above the 212 degrees Fahrenheit at which water boils and the water from the well "is flashing into steam," O'Donnell said.

Surprisingly O'Donnell said, the water is sweet. Most geothermal wells, because of their depths, encounter hot, salty water.

"It's sweet; it's drinking water," he said. "I just finished a big glass of it."

Geothermal Kinetics Systems, aided financially by the Salt River Project, Arizona Public Service and Tucson Gas and Electric Co., is drilling in a former cotton field owned by Power Ranches, Inc.

The company and the utilities are hoping to demonstrate that a field of geothermal steam lies below the surface and that this steam can be harnessed to power steam-driven electrical generators.

Such a steam plant is virtually pollution free and the underground steam, propelling itself from the ground without pumping, is a long-lasting, cheap source of power.

If the water remains sweet, it will give the drillers valuable side benefits because it can be used either for drinking or for irrigating crops after turning electric turbines.

In other geothermal wells in California and Mexico the salty, often highly mineralized water must be disposed of in various ways. They include storing it in evaporation basins, turning the water into steam over and over again until the minerals and salts remain, or allowing it to drain into the sea.

According to O'Donnell, the drillers plan to continue drilling to test the size and extent of the hot water body.

He declined to say how deep the well is, other than that it is below 4,500 feet.

"We're just getting into it (the steam field) and we're going deeper," he said. "We have ordered an additional 3,000 feet of pipe."

The steam is jetting from the well at near the speed of sound, and the roar is muffled by a giant silencer. From the silencer the steam is directed through a pipe and into a drainage basin.

At intervals of seven minutes, the steam shoots out into a column 100 feet long, O'Donnell said.

"It's really something, like Old Faithful," he said. He referred to a natural steam geyser in Yellowstone National Park which erupts on a regular schedule.

O'Donnell said the drillers have a hole 9⅝ inches in diameter at the base of the well and are probing a bed of hot volcanic rock.

In an interview last month, Ward Austin, geologist at the drilling site, said highly sensitive seismic devices have detected 5 to 10 tiny earthquakes—too small to be felt by man—every day during tests prior to the drilling.

This, he said, was an indication that a subterranean intrusion of molten volcanic rock far beneath the ground was present. This hot rock, in turn, heats the underground water to far above the boiling point.

The steam cannot escape to the surface because of overhead layers of impermeable clays that contain it much the same way a pressure cooker does.

But the great pressure has caused some expansion of the surface over the years that has resulted in the formation of some large cracks in the ground near the San Tan Mountains a couple of miles south of the drilling site, Austin said.

## ELECTORAL REGISTRATION BY MAIL

Mr. McGEE. Mr. President, during our examination of voter registration by mail in the Senate Post Office and Civil Service Committee, we have found that many people are concerned with the practicality of a registration-by-mail system. For this reason, it occurred to me that my colleagues might be interested in the statement of Mr. Willard A. Morris, the administrator of Maryland's board of elections, regarding his experience with registration by mail.

Mr. Morris told a committee of the Maryland State Senate:

We in Maryland should not be alarmed by registration by mail—we already have it—and it does work. We register, by mail, members of the Armed Forces, the Merchant Marines, the Red Cross, the USO, and other organizations serving the Armed Forces outside of the United States, civilian employees of the United States serving outside the United States, all of these including their spouses and dependents. In addition, for years we have registered the ill and disabled by mail. Since the 1970 Voting Rights Act amendments, we have had mail registration for any citizen of Maryland who was away from home during the last month of registration during an election.

Mr. Morris included in his remarks a comment about the question of fraudulent registration under a registration-by-mail system. He said:

In all of these mail registrations, there is no face-to-face oath taking. The citizen's own signature under penalty of perjury is the attestation.

Mr. Morris clarifies the question of where the responsibility of voter registration lies—with the Government or with the people. He says:

Contrary to the opinion of many, the Constitution guarantees to the citizens the right to vote and the courts have consistently said voting is a right and not a privilege.

Before Mr. Morris was Administrator for the State Board of Elections, he had extensive experience as a local election official and can speak with considerable authority and expertise in this area. The concluding paragraph of his statement points out the monetary and other benefits local registration officials will gain by a registration-by-mail program. He said:

The State Board supports the concept of registration by mail. The prospect of federal funding will make it possible for local boards that are neither staffed nor funded for extensive registration to provide a registration opportunity to attract the largest number of voters. In so doing, the local board will no longer be the obstacle to registration. The blame will be squarely on the perspective voter.

The statement I have quoted from was made for the purpose of encouraging the Maryland State Senate to adopt a statewide registration-by-mail system. Mr. Morris' voter registration jurisdiction stretches from the lonely rural routes of the Eastern Shore, through the streets of Baltimore, to the suburban neighborhoods of Metropolitan Washington. Experience with these diverse areas has led him to believe that the prudent course for his State is a registration-by-mail system.

Mr. Morris' foresight is to be commended and the citizens of his State will indeed be the benefactors of his wisdom.

## THE U.S. BICENTENNIAL

Mr. TOWER. Mr. President, in 1976 the United States of America celebrates its bicentennial. There have been organizational problems and some lack of unity in the American Revolutionary Bicentennial Commission's efforts in the past but I now sense an impetus, a fresh outlook, and an increased motivation across the Nation to get down to work and make our 200th birthday celebration meaningful to every citizen.

I support and commend the goals of the ARBC that emphasize local celebration of the event, celebration on the grass root level which gives every locality, no matter its size, an opportunity to participate in the bicentennial. Granted, it is important that we attract foreign visitors to the celebration and that our more historic locations and large urban areas participate fully in the celebration. But I also appreciate hearing of the parks, musuems, and public school programs that are being planned on the State and community level.

In my own State of Texas, 28 cities are working on major projects. The ARBC of Texas has proposed such projects as a series of illustrated, educational pamphlets stressing the historical ties of Texas with the Revolution; a series of publications, traveling exhibits, audiovisual aids and a speakers bureau to reaquaint the Texas citizenry with its cultural and ethnic diversity. In Texas, we have an excellent opportunity to educate our citizens as to the contributions of each group to the development of our State. Each community in Texas has been asked to plan and execute a permanent improvement as a gift to the Nation on its 200th anniversary.

Individual bicentennial programs involving the environment, the arts, and the schools and universities of Texas are being developed and industry and businesses are also being encouraged to participate.

This is just a brief overview of what Texas is planning to do to celebrate our Nation's bicentennial. We hope that the other States and the Nation as a whole is as enthusiastic as we are about this celebration and will work with us toward the goal of 1976.

## TAXPAYERS SUPPORT FREE DINNERS AT FORT LEE

Mr. PROXMIRE. Mr. President, the Army's "charm school" for training military servants at Fort Lee, Va., is operating a gourmet food service for civilian guests at taxpayer expense.

Several times a year when a class is about to graduate from Fort Lee, the school puts on an extravagant formal buffet at the officers' open mess or the noncommissioned officers open mess. These events are given in honor of "Founders Day," the Boy Scouts of America, the Virginia State College or any other excuse the school determines. Often there are hundreds of guests. For example, on March 2, there were 275 guests for Founders Day. March 5 brought 290 guests for the Boy Scouts. On March 7, the NCO Club and guests included 275 people. Until very recently these events were provided to guests and military personnel free, or rather at taxpayer expense. Now, in response to my investigations, a nominal charge is being levied, but one that does not include reimbursement for service as well as food.

Buffets such as this go on on an average of at least once a week.

ARMY BUDGET PROVIDES FOR CULINARY ART SHOWS

In addition to free food for guests, the Army sends its cooks across the country at taxpayer expense to demonstrate their cooking skills. In the last 6 months, Fort Lee cooks have been sent to gourmet cooking shows in Richmond, Va., for 4 days, Detroit, Mich., for 7 days, and Washington, D.C.—Epicurean Club—for 5 days. This is paid for out of training funds and requires a refrigerated van, two drivers, and certain exotic equipment. The Army representatives make beef wellington—a crown roast stuffed with wild rice dressing, pink champagne cake supported by champagne glasses, and as their specialty, lobster charioteer, which is a team of six lobster horses pulling a chariot carved from a watermelon. All at taxpayer expense, of course.

FOOD CONSULTANTS—$100 A DAY

Along with the regular chefs, Fort Lee has hired some retired military "consultants" at $100 a day to assist in food preparation and instruction.

The Fort Lee situation cannot be tolerated. What is this if not a "pocket of fat?" In no way does the Fort Lee servant program contribute to national security. Granted it does provide a plush life for our generals and admirals. But it does not make us better prepared to face our adversaries. In fact, it encourages a fat and lazy officer corps.

I have introduced a bill, S. 850, that would prohibit the use of enlisted men as personal servants. Aides for military purposes would be allowed but no more car washing and swimming pool cleaning. No more errands for family members and bartending for private parties. The program at Fort Lee would be terminated. I urge the Senate to act on this bill.

## STATEMENT OF SENATOR HATFIELD BEFORE THE SENATE JUDICIARY COMMITTEE ON CONSTITUTIONAL RIGHTS

Mr. HATFIELD. Mr. President, yesterday, I testified before the Senate Judiciary Subcommittee on Constitutional Rights on behalf of my legislation to protect newsmen from forced disclosure of their confidential sources and information. I ask unanimous consent that my statement before the subcommittee be printed at this point in the RECORD.

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

STATEMENT OF SENATOR MARK O. HATFIELD

Mr. Chairman, I am here this morning to testify on behalf of legislation which should never have become necessary. For nearly two hundred years, the First Amendment has guaranteed the people access to a free flow of information by preserving and protecting the press' function of gathering and disseminating news and opinion. But now that function is threatened by judicial interference and legislation is required.

At the time of its writing the First Amendment must have seemed foolish to some, even as it does to some today, for newspapers in the early days of our Republic were frequently little more than scandalous, polemical broadsides. Even Thomas Jefferson was once prompted to write, "nothing can now be believed which is seen in a newspaper." But the Founding Fathers had the wisdom to discern that the quality of the publication was not the government's business, but the people's, and in order for the people to be the judge of the press' integrity, it had to be protected from government control.

Simply put, the First Amendment means that the people, not the government, are the arbiters of truth, and this has to be so for democracy to survive. As Justice Learned Hand said, "the First Amendment presupposes that right conclusions are more likely to be gathered out of a multitude of tongues than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all."

Apparently we have lost sight of that vision, and the crux of our free society is threatened. For since the Supreme Court's decision in the case of *Branzburg* v. *Hayes*,

the courts have seen fit to issue subpoenas and harsh contempt of court rulings that threaten the people's right to know by interfering with the press' news-gathering and reporting activities.

I do not believe that I need to dwell at length on the implications of the Court's ruling. We would not be here today if this were a matter of little consequence. But I would like to refer to one episode before moving on to a discussion of my bill.

In 1966, Miss Annettee Buchanan, editor of an Oregon student newspaper, was called upon to divulge the identities of unnamed persons referred to in a story about marijuana use among students. She refused to disclose this information, pleading a protection against such disclosure under the First Amendment. But the Oregon Supreme Court found that the First Amendment did not afford such protection, and ordered Miss Buchanan to comply with the order. She did not, and was fined for contempt of court.

I have mentioned the case of Miss Buchanan to illustrate that judicial interference with the press did not originate with the case of Earl Caldwell, nor is it confined to well-known reporters working for prestigious papers. It is important to remember that what is at stake here is not just the rights of a few large newspapers or wire services, but also the rights of the small dailies and weeklies throughout the country. Indeed, the protection of these rights may be more important to small newspapers and broadcast stations, for they lack the legal and financial resources to combat a flurry of subpoenas. If they are forced out of business because of high court costs, our supply of information will be limited further.

Free from interference, the press is able to provide us with information on what is happening in all levels of government. Without that information we would have only the unchallenged assertions of public officials themselves, making it virtually impossible for us to make informed judgements placing blame where it belongs, giving credit where it is due.

Our right to know does not merely extend to the relationship between the press and the government, however. The press reports on the entire society—its truth and its sham, its beauty and its ugliness. Without such knowledge about all aspects of society, the people cannot respond in a rational and principled way. Newsmen's efforts to penetrate the hostility and suspicion of dissident groups will be impeded if these groups feel that anything newsmen learn will be subject to forced disclosure. Any disruption of the already tenuous channels of communication between alienated segments of our society is a loss we can ill afford.

I have therefore introduced Senate Bill 451, to protect newsmen from forced disclosure of their confidential sources and information, except when a newsman is the defendant in a libel action. I have made no attempt to define who is a newsman, for I do not wish to limit this protection to those who qualify under some professional standard, or those whom newsmen themselves define as newsmen. Nor should this privilege extend only to professionals, but to amateurs as well. Student reporters, like Annette Buchanan, are not professionals, but the information they supply can be as vital to our society as that of professional reporters.

I would also like to point out that this privilege extends to those "independently engaged in gathering information for publication or broadcast," so that free-lance journalists and authors will also be protected.

I have qualified an absolute privilege by prohibiting a newsman from claiming the privilege when he is the defendant in a libel action. Thus a newsman, if sued for libel, may not attribute allegedly defamatory information to a "reliable source" and then use that source in his defense without identifying him.

Sixth Amendment rights are involved in the granting of any testimonial privilege, and particularly so in this instance. We should not allow the press to escape accountability to the public for the publication of defamatory information.

It has been argued that this qualification will expose newsmen to court action from irate public officials whose record has been criticized by the press, and in that court action the newsmen's confidential sources will be disclosed. I do not believe that will happen, if my understanding of the Eighth Circuit Court of Appeals ruling in the case of *Cervantes v. Time, Inc.* is correct. In that decision, the court ruled that since the plaintiff was a public official, there had to be a concrete showing based on evidence apart from that supplied by the reporter, which indicated that the reporter had acted with malice or in reckless disregard of the truth.

Beyond this one exception to an absolute privilege, I feel further qualifications will erode the basic intent of the bill and subject the press to continued judicial interference. To rescind the privilege on the grounds of "overriding national interest," for example, makes the integrity of the privilege fluctuate along with the vagaries of partisan politics. I doubt very much that it was in the "overriding national interest" to send Earl Caldwell to jail for withholding information on the activities of the Black Panthers.

Perhaps this would not be a problem if the government, despite announced intentions to the contrary, had not lapsed into classification of great volumes of documents. The people, not just the government, have a stake in determining what constitutes the national interest. They must have information on what their government is doing for them, to them, or in their name before they can make rational judgments as voters. This was a principal reason for my support of Senator Ervin's bill to extend the time period for Congressional consideration of the proposed New Rules of Evidence. Rule 509 would protect both "secrets of state" and so-called "official information" from disclosure in judicial proceedings, and give government officials the sole power to decide what the people should know.

Even now, precious little information about government operations escapes the labyrinth of the federal bureaucracy or the Congress. Frequently, the only information we have is obtained through "leaks" by confidential sources. While we press for declassification of government documents and open Congressional committee hearings, we must protect these sources. The cases of Ernest Fitzgerald and Gordon Rule indicate what will happen if confidential sources are forced to reveal themselves as the sources of information embarassing to the government.

Nor do I believe that the privilege should be divested if the information sought is unobtainable from other sources. We should not compel the press to do what law enforcement agencies cannot or will not do for themselves. To do so would make the press an investigative arm of the government, which would, in Justice Potter Stewart's words, "harm rather than help the administration of justice."

Finally, you will note that my bill does not extend to the states. I urge the states to enact newsmen's privilege legislation, and I am pleased that the Oregon Legislature is considering a bill very similar to my own. But I do not believe that the Congress has the authority to impose what is essentially a rule of evidence on the state courts. This was another of my objections to the proposed New Rules of Evidence, and why I supported the move to prolong consideration by the Congress.

There is a sense in which I regret our being here today. Perhaps this issue would have been better resolved in the courts on a case-by-case basis, as it has been in the past. But these hearings on this issue may serve as a beginning for the examination of broad issues concerning First Amendment freedoms. Shield legislation for newsmen should serve as a catalyst for our consideration of the over-classification of documents, claims of executive privilege, Congressional procedures, accessibility to the media, monopolization of the media, control of both commercial and public broadcasting, grand jury procedures, and court "gag orders," to mention but a few.

As A. M. Rosenthal recently wrote, "we have come to the point, sorrowfully, where we really do not *expect* our Governments to tell the whole truth or even a goodly part of it." A number of citizens would level the same charge at the press. If this situation is to be favorably resolved so that the people will be able to trust those that inform them, we must first act to protect the press from the government, and then move to set our own house in order so that the people's confidence in their government can be restored.

## INTERVIEW WITH FREED PRISONER OF WAR

Mr. GRAVEL. Mr. President, I am gratified to join my colleagues in the Senate and all Americans in welcoming our prisoners home. They are coming home from a tragic war to resume their lives, but it is doubtful that the memory of that conflict in Indochina will end there.

The American public's attention to the prisoners has recently been shifted from their various political roles to their now impending personal ordeals. It is inevitable that this shift of emphasis will result in much confusion and misunderstanding. It is, therefore, important that Americans understand fully how the prisoners were treated and what kind of relationship the Vietnamese and captured Americans maintained.

An interview with a released prisoner was recently brought to my attention which deserves to be noted, because of its detailed description of one man's experience as a prisoner in Hanoi. It challenges the stereotype many Americans have of prisoners being tortured and suffering and, in doing so, further helps all of us to understand the Vietnam war more objectively and accurately.

Mr. President, I ask unanimous consent that Steve Jaffe's interview with Lt. Norris A. Charles be printed in the RECORD.

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

FREED POW TELLS OF HIS LIFE AFTER CAPTURE IN NORTH VIETNAM

(By Lt. Norris A. Charles, as told to Steve Jaffe)

You think about getting shot down, but you really don't believe it's going to be you, so you just put it out of your mind. You think about what you have to do—your mission and then getting back to the ship. You don't think about what's there, what you are hitting and so forth—it's not your job. It's just your job to fly the mission and come back.

I got shot down on Dec. 30, 1971, just after sunrise. The sun was coming above the horizon when we launched, and it must have been about 7:30 a.m. when we got hit.

We were dodging SAMs (surface-to-air mis-

siles). They shot five or six SAMs when they hit us. It wasn't a direct hit. I guess it was about 90 yards away.

After we took the hit, we were running along and our right engine caught fire, so we shut it down. Then we lost everything—electrical, hydraulics—and then we couldn't fly. We went through some negative G's and right after that my pilot said, "Eject."

I waited to come out of the negative G's, and then I ejected at about 14,000 feet. I went out and must have tumbled in the seat about seven times. It seemed like an eternity. I said to myself, "I guess this is it."

You think a thousand things in a split second. Fortunately, I separated from the seat and my parachute came out. I looked up and there it was. It had a little tear in it. Using the compass on my wrist, I tried to guide my parachute to the east, which would have been near water, but to no avail.

When I was about a 100 feet off the ground, there were people coming toward me. They were about 20 feet away from me when I hit the ground. These Vietnamese civilians—peasants from the village—were rushing toward me. A couple of them had guns, some had rakes, some had hoes and so forth.

After hitting the ground, I tried to run. Then I thought, "Well, no sense in this." I had my parachute and everything on. So I turned back around and gave them the peace sign. As they ran up to me, they were laughing. I could see no animosity in their faces.

I think their apparent happiness was a combination of jubilance and pride of conquest. They take pride in shooting you down, but they're not hostile, really, even though we bomb their houses every day.

The people all started taking off my gear. There were about 20 men, women and children. They wanted me to take off my boots, but I heard someone say, "Nay, nay." So I said, "Nay, nay," and they let me keep the boots on.

They marched me over to one of the villager's huts. A bunch of villagers stood around and told me to take off my flight suit, indicating that they would give me more clothes to put on. This was all in sign language. I had on red drawers, and the girls started giggling and laughing. I told an old man I wanted them to leave the room, so the women were sent out. They gave me some dry clothes and some cigarettes. I was their prize purse, and they were going to take care of me.

We had just boomed out of the sky, so there weren't any military around. My plane had fallen on a villager's hut. The owner was a woman, and she looked so hurt. All she wanted to do was to touch me and say something like, "Why, why did you do this to my house?" She didn't have any hostility, just a question that would go unanswered.

I told them I had to go to the bathroom by gesturing and saying, "make water"—they spoke a little English. One of them showed me where the outhouse was.

I HAD BEEN TRAINED TO EXPECT THE WORST

Through all this I felt no fear because I had been trained to expect the worst—to be hit and beat up. None of this happened to me.

Some North Vietnamese soldiers came to pick me up. As they put me in their jeep, I could see my flight suit hanging on the line outside the hut to dry.

We arrived at a bomb shelter outside a school, and they took me inside. The people of the village came in and looked. Some of them would feel my Afro, and the kids would come in and give me cigarets, even light them for me.

The guard who was watching me may have thought I was afraid. He was about 20 years old. We couldn't talk, we couldn't communicate, but there was a kind of feeling between the two of us. He patted me on the knee as if to say, "Don't worry, everything is going to be all right. I'll take care of you."

After about two hours there, I was put back in the jeep blindfolded, and my hands were tied, not tightly, though. The whole village was watching and taking pictures of their prize.

Someone else was put in the jeep beside me. It was my pilot, Dave Hoffman. We didn't say much, but we touched each other.

When we arrived at the next shelter, about 20 miles away, they separated Dave and myself and gave me some dry food that looked like cereal. I bit on it and they put it in my boot to save; you learn quickly to keep everything. They also brought me some rice and greens and hot water, which I later discovered was boiled so we wouldn't catch anything.

My pilot was in another room near me. I heard them come into his room. He had broken his arm on ejection and they were trying to set it. (A doctor had come in and asked me if I was hurt in any way.) They gave Dave some shots to kill the pain.

About 8 o'clock that night they led us one at a time to a house. The whole village was there—the kids, the women, the men, the village chief and the interrogator. They were all standing around very quietly. The interrogator asked me my name, my rank and serial number, which I gave. But when he asked what ship I was from, I would scream bloody-murder as if my stomach was killing me.

Evidently they had been through this before because, in broken English, the interrogator said, "We understand, we know. You're in shock, and so we will interrogate you in the morning, maybe." Then he said, "Is there anything that you need?"

That really blew my mind—him asking me if there's anything I need. I told him yes; I was cold and would need something to put on for the night.

After that they took me back to the shelter, where there was a blanket waiting for me. They had put straw on the board I was to sleep on. The straw could have been either for my comfort or so they could hear me if I made any noise.

We slept until about 5 a.m. when they came for us. As we were put back into the jeep, one guy who had an old pair of French metal handcuffs looked at me and then back at the handcuffs. He looked at me again and then I guess he thought, "Oh, forget it."

Then we began a difficult drive to a Hanoi prison camp—eight Vietnamese, Dave and myself. Dave was kind of delirious from the pain-killers, and he lay across my lap most of the way.

THEY GAVE US WATER AND WHOLE LOAF OF BREAD

They gave us water and a whole loaf of bread to eat on the way. Neither of us felt like eating. Our trip up must have taken eight hours, and we arrived in Hanoi around 3 on New Year's Eve afternoon. We had been blindfolded during the trip, again. They took each of us to separate rooms.

They pulled my blindfold off, and I saw the room for the first time. We were in an old French camp. My room was about 15x15 feet, with two desks and a wooden plank bed; it had a window which was boarded up. This fairly big room was one of several in the building.

As I look back, the quarters were beautiful compared to the way most Vietnamese live, but certainly not beautiful compared to the way most Americans live. This was where I would spend 36 days in solitary confinement.

I was immediately issued my rations, which amounted to an eight-ounce cup, toothpaste, toothbrush, two short pairs of pants, two long pairs of pants, two short shirts, one long shirt, one sweatshirt, two blankets, a big teapot for water, another pot and a mosquito net.

I soon discovered one of the most important things in the life of a POW. You get six big meals a year on holidays. They let us celebrate our New Year's, their Tet, our Easter, our 4th of July, their National Day and another I've forgotten—probably Christmas, which I wasn't there for. It was something I used to think about: that they would prepare these big meals for us to celebrate our New Year's and our Independence Day.

That night they brought in boiled eggs, a nice salad, duck and a whole bunch of other stuff. I couldn't believe it. It was like something in the movies, but hardly what I expected in an enemy prison camp.

The guards got up about 6 in the morning. At 7 you heard them come to your door, and you jumped up. Some of the guards came in and wanted you to stand at attention, but others didn't care. They brought you breakfast, which consisted of fresh sweet milk, half a loaf of bread and your ration of cigarets—everyone got six a day whether you smoked or not.

After breakfast they let you go back to bed if you wanted to. I would usually sleep until the second meal and stay up after that.

That was solitary. The time you stayed there depended upon how many new prisoners there were and if they needed the room.

That first morning, the doctor came around, gave me a blood-pressure test, and filled out a medical record. They document everything.

The second meal would come about 10 a.m. In the winter we had potato or cabbage soup, really thick. In the soup might be carrots or noodles, and you also get a side dish—soybean or fish cake, a half-can of fish, Vietnamese pork or Russian pork, or maybe some kind of vegetables mixed with meat, like squash with liver, or any number of things. They gave you a variety, and made sure you didn't get the same thing meal after meal. In fact, not one time while I was there did they serve the same thing twice in a day.

About 3 p.m. you received your third meal of the day, plus anything they might have gotten from the market. Otherwise, you're left alone in solitary, so you had to figure out what to do. I made playing cards by tearing up the coarse brown toilet paper.

I played solitaire in solitary confinement. I must have played 60 games a day.

At one point a guy came in and asked me if I wanted to go somewhere to meet some journalists, and I said, "Yes." This was shortly after my capture. They marched me off to a press conference in front of a bunch of people, and I just stood there with my head down. They wanted to know what I'd seen.

When they started snapping pictures, I thought they were trying to put something over on me, and so I gave them "the finger." They knew what it was—the Vietnamese knew all that stuff. They know more American idioms than we do.

When I got back to my room, I just knew they were going to beat the devil out of me. But a guy came in and said, "You tried to make fun of us, huh?" And I said, "I don't know what you're talking about." They didn't do anything to me.

I don't know exactly why I did it. I just felt the thing was phony, I guess, and I didn't want to be there. I had thought it would be a small meeting with some journalists and without all those cameras.

My guard and I used to talk all the time. He would walk in and want to talk. The guards are just as interested in the American people as we might be in them under different circumstances. We talked mostly about our families, our kids. They weren't interrogating, just talking to pass the time. They were average people doing their job. They talked about the seasons of the year—how cold it is or hot it is, just chit-chat.

We had "outside time" in that first camp every other day. We were let out for 20 minutes on Mondays, Wednesdays and Fri-

days. We would exercise, do our washing and come back.

I had an exercise program of my own. I would get up and do 30 push-ups, 15 situps, 40 jumping jacks, 20 kneebends and then run in place 200 times.

The Vietnamese have a program for prisoners that puts you through two stages. First solitary, then you are moved. After 36 days, Dave, my pilot, and I were moved to another camp and placed in the same room. That was great. We must have talked half the night.

It was here that they issued us playing cards and even a chess set to keep our minds busy. It's all part of the program.

When we first arrived, it was kind of cold, and I asked the guard if they had a heater. He just looked at me as if I was crazy. Then he told me, "No, we don't have heaters."

At this second camp, we were given more outside time: Now we were allowed out every day, 30 minutes in the morning after chow and 30 minutes in the afternoon.

Our room was big. It had four beds, but only two of us were living there. The floor was concrete, as was the whole building. The beds were wooden planks raised up off the ground with a little bamboo mat. It's pretty thin, but that's how Vietnamese people sleep.

WE USED TO MAKE JOKES WITH THE GUARDS

We weren't supposed to communicate with the guys in the room next door. Once there are enough men in one group, they put all the POWs in a building and eventually let you associate with the others in it.

We used to make jokes with the guards. They never gave their names, but we made up names for them, like "Smiley" and "Champ." There was one guard we thought was crazy, but he was a good guy and watched over us well. In fact, he even shaved one prisoner who had a broken arm and couldn't shave himself. He was always telling us we "should be thankful to Uncle Ho" for teaching them to take good care of POWs. So we called him "Thank you Uncle Ho."

There were more reading materials in this camp than the first. I had a lot of literature about the war by American authors. I read "The Sick Society," by Michael Tanza, which is about more than the war. I read "United States in Vietnam," by George M. Kahin and John W. Lewis. I read more there than I read in college, including "The Enemy" and "Vietnam, Vietnam," both by Felix Greene, and "Bitter Heritage," by Arthur M. Schlesinger, Jr. There were quite a number of articles by Tom Hayden. I read the Pentagon Papers.

There was a lot of fiction, too, mostly Russian and Vietnamese novels. One was "And Quiet Flows the Don," a beautiful book. We also had some clippings from U.S. News and World Report, Newsweek and some newspapers. We even recommended before we left that they give prisoners advertisements to read so they would see what changes were happening back home.

No cigarets went to waste here, as they had in solitary. The guys who didn't smoke would just throw them in a pot, so all the smokers like me ended up with about eight cigarets a day, which was great.

On the morning of April 16 six of us were together in our room. A bridge game was going on when the first bombing raid hit. Earlier that morning, someone had said a funny thing: "It's going to be a long day." Well, all the days were long, but that one we'll never forget.

We heard sirens and couldn't figure out what they were. All of a sudden the bombs started. It's a shocking experience that everyone needs to go through to know what it's really like. This was the first one I had been through, and it was terrifying.

When you're locked in a room and can't see outside and you hear bombing and shooting with airplanes all around, it's bad.

We stopped playing bridge when one of the guards came by and closed the shutters. "OK, now be quiet and get under the bed," he said. So we all got under the beds. We wondered what the hell was going to happen to us. But nothing happened.

It was about 10 a.m. Immediately after the bombing, the guards came in and opened the shutters.

At 2 p.m. planes came back and there was another raid. Again, when it was over, they opened the shutters and then served us chow. It really amazed us how they could be so calm. It was good chow that day—a little late, but we always got fed no matter what. Three meals a day, except on Sunday, when we got two.

The guard let a group of us stay together that Monday. We talked a lot, mostly about the war. We discussed it in detail. We figured out what was supposed to happen and what wasn't. A great many of us had faith and hope in the American people. We felt sure the war would end soon.

The old guys, who had been there for many years, called that feeling "new-guy optimism." It's hard to know why, but every time a new guy gets shot down, he comes in and says the war is going to be over in six months—but the war drags on.

They tried to keep us separated from the older guys as much as possible; we would only see them outside, from a distance. Our doors were locked with a wooden bar when we were in our rooms, but there was really no point in trying to escape. It would have been easy, but when you got over the wall everybody could tell who you were as you walked through the streets.

"Champ," as we called him, was our guard. He taught us how to play Vietnamese billiards, and he always won. He also led all of us in Ping-Pong. He and I got on very well, especially since his daughter and mine had the same birthdays.

I was interrogated about two times while I was in that camp, but it was not rough—more like an interview. If they asked you something you thought was treasonable to answer, you would just say so, and they would make you stand there.

I'd heard different stories about how it might have been in the old days, but in the time I was there there was nothing done to me. I certainly experienced no torture.

The guards watching over us were very human and very humane. They didn't just work eight hours, knock off and go home. Our guards were away from their families also. They some times spent as much as two years separated from their families, partly because of the distance.

It's not like in America, where you can jump in a car and travel 200 miles; to go 200 miles they would have had to walk. They lived at the camp like the prisoners.

We talked to them a lot. The guards were called "turnkeys." Most of them spoke English, and we were always trying to learn Vietnamese from them. There was no animosity between prisoner and guard.

One very hot day in the summer our turnkey went into town, as they did about once every two weeks. When he came back he brought some limes and made us limeade. It seemed like one of the greatest things in the world, and showed us the humanity of these particular Vietnamese.

Right after I got shot down, I remember a guy being brought in with a badly broken arm. The Vietnamese had put it in a splint. One night they operated on this guy. He was in the room next to mine. Later some of the guys in his room hollered out for his guards because he was in pain. The guard didn't walk down there, he actually ran to his room and then ran to get the medic. And the medic stayed up with him—sat by him all night with the other guys in the room.

They didn't have to do those things. In each camp they had what we called the "little doctor." He looked over your medical needs. If you had a headache, you just called your turnkey and the "little doctor" brought you aspirin. The "big doctor" came by once a week to attend the men who had been injured.

We had space available to start a little garden. It was about 15 x 15 feet. We used to grow a lot of things there—among them, peppers, mint, watercress. During our meals we would go out and get peppers for our food. We even grew pineapples and litchi nuts. I tried to grow watermelons, but the chickens got to them.

About June, the Vietnamese had brought about eight chickens into camp. They were put behind our building, so we started taking care of them. One of the prisoners was put in charge of feeding them, and we called him the "chicken man."

On National Day, we had one of our six big meals of the year. The next day the "chicken man" was running all over camp looking for the chickens to feed them. When he asked the guard what had happened to them, the guard doubled over with laughter. "You ate them," he told the ex-"chicken man."

Once we got a chance to go downtown to see the history museum—part of a program that allowed everyone to leave camp. The heavy bombing ended all that.

Packages from home were very important. I remember the first package I received. Just knowing it came from my wife made me happy. It included underwear, bouillon cubes, candy and other little stuff, and weighed about six pounds. (I was amazed that they would let us receive mail while we were bombing them.)

Visitors, like delegates from the Committee of Liaison, often carried mail to and from POWs. I was a prisoner four months before I was allowed to write a letter. After that I was allowed to write once a month, and they went to a lot of trouble trying to get them out.

WHAT I MISSED MOST WAS AMERICA ITSELF

I think what I missed most about America was America itself. My wife, my daughter, my dog, my house—the little things and the big things that America has to offer. People don't realize what's here. People don't take advantage of it, or even think about it. What a great nation this could be if it could put our force and potential to work positively. America could make a better world, not only a better America.

"Champ" was the guard who came to get me when I was to be told of my release. On the night of Sept. 4, at about 9 o'clock, he came by and asked me to put on my clothes.

I was moved to another building. Later I was able to go back and talk to my roommates. They told me some personal information to relay to their loved ones and asked me to do everything within my power to bring them home. I made this commitment—I lived with these guys and I know how they really want to come home.

They moved Mark Gartley and Ed Elias into my new room and we started talking about our release. We concluded we would leave camp the next day. What we couldn't figure out, and I still don't think anyone can, was how they chose us. Maybe they pulled our names out of a hat.

We had some mixed emotions about what was coming off. We weren't going to condemn the United States, if that was what they wanted. But it was nothing like that. All they said was, "You're going to be released to your families."

We were asked to write something to the DRV (Democratic Republic of Vietnam), thanking them for our release but we wrote exactly what we wanted to say. I said something like, "Thank you for releasing me to my family," and I made a vow to help bring my fellow POWs home.

The next day, at 2 p.m., they moved us out from the camp to a hotel. We stayed down

there for two weeks, sunning ourselves and shooting the bull. We went on a few trips to collective farms and to observe some of the bomb damage.

We weren't forced to do anything; it was something to do instead of sitting around the hotel. Our release wasn't contingent on anything. The purpose of letting us go was just to show the American people that if the war is ended, the North Vietnamese will release all the POWs. Before I left Hanoi, one of the officials told me, "We don't care if you are our friend or not, just don't be our enemy."

As we walked the streets of Hanoi after our release, there was no hatred, no animosity toward us from the people. They were happy for us because we were going back to our families. To them, it wasn't so much that we were going back to America as that we were going back to our loved ones and our children. They had loved ones whom they cherished, and they knew we did, too.

The kids on the street came up to me and said, "Now you go back to America, now." And they shook my hand.

FIRST EXTENSIVE INTERVIEW

This is the first extensive interview granted by Navy Lt. (j.g.) Norris A Charles since his release from North Vietnam nearly two months ago. The third such release of American POWs, it occurred on the day that North Vietnam celebrated the 27th anniversary of its independence. Also freed were Navy Lt. Markham Gartley and Air Force Maj. Edward K. Elias.

Taking a circuitous route home through Asia and Europe, the escort party included relatives as well as members of the Committee of Liaison of Families of U.S. Servicemen in North Vietnam.

A native of Tampa, Fla., Charles earned his B.A. degree in business administration at Morehouse College, in Georgia, and his M.A. at Atlanta University. He was employed in St. Petersburg as a cost accountant for General Electric when his draft notice came.

"I had no qualms," he says today, "about whether or not I should go." With Olga, his wife of only seven months, he moved to San Diego, where he was trained and commissioned as a Navy radar intercept operator.

Mrs. Charles recalls her joy, eight months after his capture, at the news of his imminent release: "I ran outside to my neighbors but they weren't home, so I just screamed in the air, "Norris is coming home." Now they occupy a modest house in San Diego along with their 3-year-old daughter Kirsten.

Lt. Charles, 27 is currently on convalescent leave and has one more year of Navy service. Much of his time is spent thinking about "my fellow POWs," as he still calls them. It was to bring even greater attention to their predicament that he granted this exclusive interview to Steve Jaffe, a Los Angeles-based writer-photographer.

"I can't really feel free, I can't really feel content," the former POW explains, "until those guys I left behind are also home."

## NUTRITION EDUCATION

Mr. SCHWEIKER. Mr. President, this morning's Washington Post contains an editorial entitled, "The Need for Nutritional Education." This editorial refers to hearings which are being held by the Senate Select Committee on Nutrition and Human Needs on the subject of nutrition education and nutrition advertising.

The editorial points to the disturbing testimony of Dr. Abraham E. Nizel, professor of Oral Health Services at Tufts University, in which he described the almost overwhelming fight dentists face in restoring decayed teeth.

The editorial asks whether consumers truly wish to be educated nutritionally. I think that the answer is a resounding "yes." If consumers knew more about nutrition, they would be inclined to be more selective in their buying habits. The point the Nutrition Committee is trying to make in our hearings is that advertising has a tremendous effect on consumers' buying habits, and the better consumers are educated about nutrition, the better their buying and eating habits will become.

I suggest part of the answer is to provide our doctors and dentists with a sound grounding in applied nutrition at the medical and dental school level. Testimony before the Nutrition Committee has indicated time and time again that doctors and dentists know surprisingly little about the basic relationship between nutrition and health. As the result, people who would otherwise go to their doctors and dentists for advice about nutrition, turn to quacks and food faddists for help.

This is why I introduced the Nutritional Medical Education Act of 1973, S. 324, would provide $10 million a year for each of the next 5 years for grants to medical and dental schools to establish programs of nutrition education. When compared to the tremendous cost of malnutrition and improper nutrition in our society—estimated at $30 billion a year—it seems that providing better nutrition education for our doctors and dentists would be an extremely worthwhile expenditure. Their knowledge will inevitably be passed on to their patients and consumers, resulting in more faith in doctors and dentists, and better nutrition education for our citizens in general.

Mr. President, I ask unanimous consent that the Washington Post editorial of March 14, 1973, be printed in the RECORD.

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

THE NEED FOR NUTRITIONAL EDUCATION

Valuable hearings have been held by the Senate Select Committee on Nutrition and Human Needs on the subject of nutritional education. In well-fed America, nutrition is not seen as a pressing national concern, surrounded as we are by the greatest abundance of food the world has ever seen; what some families and restaurants throw away as leftovers would serve as worthy meals for millions in the Third World.

Yet instead of healthy bodies resulting from our overflowing tables, the result is often far different. Just to take one example of nutritional regression, Dr. Abraham E. Nizel, professor of Oral Health Services at Tufts University, called rotting teeth "the most prevalent nutritional problem in the United States today." This disease, he said, "develops so rapidly that if all the 100,000 dentists in the United States restored decayed teeth day and night, 365 days a year, as many new cavities would have formed at the end of the year as were just restored during the previous year."

The Senate hearings have made clear—not that doubts existed—that sugar abuse is a grave health menace. Per capita consumption is about two pounds a week, and between 1963 and 1967 sweet-thinking food companies increased sugar use from 8 billion pounds to 12 billion pounds. Dentists and anyone with common sense can see the obvious relationship between sugar consumption and rotting teeth, not to mention other diseases. Testimony at the hearings suggested that some remedies are known, all of them involving nutritional education. First, the advertising of sugar should contain the bitter facts as well, about its effects on health and on teeth and that it is not a unique source of energy. Second, medical and dental schools should be teaching nutritional education so that at least the professionals will be armed against fake foods, myths and misinformation. For example, diet books proliferate but what does the general public know of their soundness? As for nutritional education in the high schools and colleges, too often this is left to "health teachers" who are probably well-meaning but have little special training.

There is still the question of whether consumers truly wish to be educated nutritionally. Sweets, junk food, snacks, and fast foods and other low nutrition items are not force-fed to people but presumably are chosen freely. The food manufacturers—excluding those who deliberately deceive the public on content—put on the shelves only what the public will buy. Thus, it is futile only to criticize the food-makers without wondering about the public apathy that allows vast amounts of worthless food to be bought and eaten.

That may be the ultimate value of nutritional education. Once the schools pass along the information and nutritional advertising becomes a reality, part of the problem may be solved because consumers will demand more from their food than mere convenience and sweetness. For now, this is one of the immediate goals of the committee's hearings.

## PROTECTION OF THE NEWS MEDIA

Mr. MONDALE. Mr. President, over the course of the past 3 weeks, the Senate Subcommittee on Constitutional Rights has heard wide ranging testimony on the problem of providing newsmen with effective protection from revealing confidential sources and information.

This issue so vital to press freedom across the country has attracted a great deal of attention from the media everywhere. Many have analyzed the features of the various bills now pending before the Senate. Two recent editorials from Minnesota give what I believe are somewhat differing yet very valid views of the need for such legislation. They clearly indicate support for tough yet clearly defined qualified shield legislation, which I believe to be the most effective way to provide real protection for media personnel, while protecting the public interest as well.

Mr. President, I ask unanimous consent that these editorials from the Duluth News-Tribune and the Rochester Post-Bulletin be printed in the RECORD.

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

[From the Duluth (Minn.) News-Tribune, Feb. 22, 1973]

QUALIFIED PRESS FREEDOM

Two U.S. senators have proposed different approaches to protecting newsmen from being required to reveal confidential sources. One proposal could be called "absolute," the other, "qualified." The "qualified" proposal would appear to be in the best interests of both the public and the media.

The proposal for absolute protection comes from Sen. Alan Cranston, D-Calif. who validly argues, "The press in America must

be able to protect its sources so as to continue to expose corruption and lawlessness in high places, in and out of government."

But then he takes the extreme position that "There should be no exceptions, no loopholes in any press confidentiality bill passed by Congress."

The qualified proposal comes from Minnesota Sen. Walter Mondale, who is not at odds with Cranston on the premise that a free government needs a free press. But Mondale would qualify the protection given newsmen. The Mondale bill would give a court the right to order a newsman to testify in any state or federal proceeding only after it had been shown that all of the following conditions existed:

1) There is probable cause to believe that a newsman possesses information relevant to a specified, probable violation of law.

2) That the federal or state proceeding has clear jurisdiction over that probable violation.

3) That the information can't be obtained by alternative means.

4) That there is an imminent danger of foreign aggression, espionage, or threat to human life which cannot be prevented without forcing a newsman's disclosure.

Mondale's "qualified" proposal, obviously is highly qualified. It would leave only a small flexibility in a law designed to protect newsmen from being forced to reveal confidential sources or face jail terms or fines. But it is a flexibility that would seem necessary if any kind of newsman's protection is to be realistic.

Allowances should be made, in other words, to guard against either the most unusual newsman on the most unusual circumstances. A total protection of the media from being required to reveal confidential sources would clearly open up the possibility of fabricating sources. Most in the profession wouldn't give such an idea a second thought. But there could be that one who would, which could result in so great a public backlash as to truly jeopardize the freedom of the press.

Absolute privileges ended with the death of Henry VIII. They simply don't fit in a democratic world where power is shared and balanced. The Mondale proposal would give the protection necessary to keep the press free, with the qualifications to keep it responsible.

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[From the Rochester (Minn.) Post-Bulletin, Feb. 21, 1973]

SHIELD LEGISLATION ESSENTIAL TO INSURE FREE FLOW OF NEWS

A U.S. Senate subcommittee Tuesday began hearings on some of the more than two dozen bills which have been introduced in the current session of Congress with the aim of protecting newsmen from having to divulge their confidential sources of information.

These proposed "shield laws" have cropped up in response to the U.S. Supreme Court's ruling last June that nothing in the Constitution prevented newsmen from being compelled to testify before grand juries and to the rash of jailings and contempt citations against newsmen who have refused to honor subpoenas in the months since that decision.

The current flood of proposed legislation in Congress as well as most state legislatures, including Minnesota's, comes against the background of a rather remarkable degree of public understanding of the problem and support for efforts to do something about it. A recent Gallup Poll showed that 57 per cent of the American people believed that newsmen should not be forced in court to divulge their sources of information, while only 34 per cent disagreed. One point frequently brought up by the majority in the poll was "that decisions to jail newspaper reporters could eventually deplete the confidential sources on which newsmen rely to fulfill their responsibility to the public." This puts the emphasis where it belongs, and it is the point Justice Potter Stewart stressed in his minority opinion last June, in which he criticized the Supreme Court majority for inviting "state and federal authorities to undermine the historic independence of the press by attempting to annex the journalistic profession as an investigative arm of government."

Some persons may properly question why newsmen should be treated differently from other citizens and be given an immunity from having to appear in court if, in the pursuit of their work, they obtain information which may help solve a crime. Others may feel that requiring a newsman to produce documentation for material that is published provides the public with a safeguard against biased accounts or charges stemming from unreliable sources.

Such views are understandable, but they miss the point that some of the most critically valuable news appearing in the media is obtained from persons who are willing to divulge the truth about such subjects as crime, governmental corruption and waste, the drug traffic and activities of extremist groups only if they can be sure that a journalist in whom they confide will not reveal their identity and jeopardize their jobs and possibly their physical well-being. Most government officials are honest, hard-working public servants, but people in positions of authority naturally have a stake in creating the most favorable impression they can in the eyes of the public. The control access to much information about the public's business, and they can choose to withhold it, distort it or leak it to serve their personal interests if they wish. The combination of aggressive newsmen working with honest public servants and private citizens who are willing to blow the whistle on shady practices if their identity is kept confidential provides one of the best safeguards to a decent government and society that citizens in a democracy have. And that is why, despite occasional mistakes and abuses, this confidential relationship between newsmen and their sources must be protected, in order to ensure a continued free flow of information.

In the current debate over "shield" legislation, two of the most controversial questions are whether a federal law should preempt those at the state level or apply only to federal courts and grand juries; and whether a law should give newsmen "absolute" immunity from forced testimony under any conditions, or "qualified" immunity, in which a judge could find a compelling need for a reporter's testimony.

Sen. Walter Mondale of Minnesota, who has introduced one of the bills pending in the Senate, makes a good case, we think, for a uniform federal law regulating proceedings before all federal and state agencies. It falls just short of providing the absolute immunity proposed by Sen. Alan Cranston Tuesday but would impose a heavy burden on any court of government agency before it would interfere with that protection. The bill would require a prior showing that the reporter's information is relevant to a specific crime; that the agency has a clear jurisdiction over the law violation; that the information is not available elsewhere; and that there is "an imminent danger of foreign aggression, espionage, or threat to human life, which cannot be prevented without disclosure." Mondale's bill would also protect the reporter's rights against disclosure until all avenues of appeal have been exhausted.

The Minnesota senator's interest in this problem is not new, and his latest proposal tightens the protection for newsmen to a point where only their obligations as citizens in the most serious circumstances could override it. It is the type of tough, loophole-free measure we would like to see Congress pass. And if, for constitutional reasons, federal legislation should be limited in its scope to federal courts and grand juries, Mondale's bill offers guidelines for the type of stringent legislation Minnesota should enact as soon as possible.

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## MEDIA RESPONSE TO POPULATION COMMISSION REPORT

Mr. PACKWOOD. Mr. President, in 1970, Congress established the Commission on Population Growth and the American Future and directed it to make a 2-year study of the probable course and consequences of population growth and distribution in the United States to the year 2000. I had the honor to serve on the Commission, which was appointed by President Nixon and presented its report to him and to the Congress last spring.

It was the Commission's view, based on its research, that this Nation has nothing to gain from further population growth, although additional growth is already inevitable, due to our age structure. In fact, we found that many of the Nation's problems could be more easily resolved if our growth slowed and eventually stopped. It is possible that this could happen if people are simply allowed to exercise their individual wishes with regard to reproduction.

It is not unusual that a document of such scope, a document which took exception to one of our most cherished notions—endless growth—should have stirred a great deal of comment by the public and the media. As an example, I want to share with the Senate a sample of the response of the Nation's newspapers to the report. Some editorials are critical. The overwhelming majority are favorable. They come from every section of the country, and I believe reflect a general acceptance of the Commission's findings and recommendations.

Too often we, in Congress, tend to shy away from issues that we feel are controversial. The problems of population growth and freedom of choice in reproduction are two issues that have been so labeled. I think the following editorials are an indication that the public has moved ahead of us in these areas.

Mr. President, I ask unanimous consent that the editorials be printed in the RECORD.

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

[From the Sault Ste. Marie (Mich.) News, Mar. 16, 1972]

In our country it has always been an article of faith that we must constantly grow—expand, increase, develop, burgeon, fulfill our great destiny as a people. Ever since the long westering began two centuries ago, the concept of growth has been a basic tenet of American nationhood . . . This attitude has pervaded all that we Americans do . . .

Now the time has come to take stock of ourselves. More specifically, the time has come to reassess the wisdom of this concept of unchecked growth. While it has in many—though decidedly not all—respects served us well since the nation's early days, we now must ask whether it remains the best guideline for the future . . .

The Rockefeller Commission soberly tells

us, on the basis of the first thoroughgoing official study of this subject, that we must start adjusting to different circumstances after generations of uninhibited growth.

If we do not at once accept and act on this advice, at very least the report should be the spring board for intensive discussion. Nothing less than the future welfare of the American people and nation is at stake.

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[From the Dallas Times Herald, Mar. 21, 1972]

"If an American family were contemplating the purchase of a $20,000 home, its adult members would weigh the decision carefully. If they were thinking of a $60,000 expenditure, they likely would think three times as hard.

Yet most families, make a decision of similar economic implications without much thinking at all. They bring into the world a child (sometimes planned, sometimes not) which will cost them $20,000 by the time he gets through college.

If the mother's potential income is taken into account, you can add up to another $40,000 to the "cost" of rearing a child. This sum is the amount the mother might have earned had she taken a job and not had to spend her time at home.

These statistics are part of the report issued . . . by the Commission on Population Growth and the American Future . . . recommendations are not aimed at achieving any particular level of population, but are designed to increase understanding of human reproduction and its implications for the family.

The commission also hopes that its report will help improve the quality of the setting in which children are raised and help individuals avoid unwanted childbearing.

The commission emphasizes individual freedom. It seeks no governmental controls on the population level, but it does urge that every family have sufficient education about family planning to be able to make a responsible choice.

Emphasis on individual freedom and on stronger, healthier and happier families is thus doubly welcome."

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[From the Sacramento (Calif.) Union, Mar. 21, 1972]

The Rockefeller commission has satisfied itself there is no validity in the idea that a nation's population must keep growing if there is to be sufficient demand for goods that its own people are capable of producing.

Some economists will dispute this, and it is only one of the points of serious controversy raised by the population report.

The over-riding controversy, however, will surely be whether, amid the tumult of conflicting opinions on the meaning of population trends and the social and moral questions which population control raises, it is appropriate for the government to try to adopt and implement a "population policy."

If the government is to have a "policy" toward its population, suffice it to be one aimed at making our vast country hospitable to families of whatever size Americans as individuals want and can support.

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[From the Salt Lake Tribune, Mar. 30, 1972]

. . . The commission . . . (also) deals with (the) equally important problem of population distribution. . . . Its findings should prove generally acceptable.

The secret of more rational distribution of population, the commission says, is to channel continuing migration out of rural areas away from larger cities and into economically healthy smaller cities. Such alternate "growth centers" are part of a two-pronged strategy for easing problems at both ends of the migration road—the depleted, small, rural towns and the increasingly congested metropolitan centers . . .

To slow and eventually end mushrooming metropolitan spread, the commission would promote alternate growth centers in towns of from 25,000 to 350,000 population.

This would be accomplished by encouraging growing job opportunities and the capacity thus to absorb new arrivals from the dying farm, coal and railroad towns in the outlands . . .

Authorities on local government have long recognized the many benefits to be derived from metropolitan government. Now the Commission on Population Growth and the American Future deems such consolidation essential to a well-ordered national future as well.

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[From the Chicago Tribune, Mar. 26, 1972]

A great many people making no claim to moral leadership or personal "goodness" will find a curious insensitivity, at least, in commission recommendations for wholesale access to contraception by teen-agers . . . About this whole business there is an odor of callous efficiency in 'human engineering' that may provoke all manner of cheers from ultra-reformers but will surely never inspire a poem, a song . . .

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[From the Appleton (Wis.) Post-Crescent]

The President opposes making contraceptives of any kind available to unmarried young people because it is "demeaning to family life." . . . It is all very well to proclaim righteously that no one should have sexual intercourse outside of marriage. . . . The fact is that a great many people have such intimate relations when they do not happen to be married and there is an ever-increasing percentage among teenagers. Making contraceptives readily available along with prevent unwanted births. Perhaps people ought to suffer for their sins but making an innocent child suffer for the same sins is not only an old testament perversion; it is cruelly inhuman. . . .

The President is not even right in his family life attitude. Preventing an unhappy, unwholesome, unwanted family will not demean anything. In fact, emphasizing the importance of the responsibility of having and caring for children, whatever one's own physical failing may be, should do exactly the opposite.

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[From the Rochester (N.Y.) Democrat and Chronicle, Mar. 20, 1972]

People are wonderful. But too many people can constitute a terrible drain on the nation's resources.

Leisure and affluence, too, have a lot to do with the (problem), but the growing concentrations of population ought to be a primary focus of concern.

One dramatic manifestation of that concern was the report the other day of the presidential Commission on Population Growth. Said the commission; "No substantial benefits would result from continued growth of the nation's population."

Said columnist Carl Rowan of the commission: "It is a courageous group, wading in where angels—and a lot of politicians—fear to tread."

Among other things, the commission recommended that abortion laws be liberalized along the lines of the New York state statute. It gave strong backing to a program of comprehensive child care. It urged that sex education be made available to everyone.

The commission also described as 'a myth" the idea that the U.S. population increase is caused mainly by minorities and the poor. It said that the birth rate is higher in these groups, but it noted that 70 percent of the population increase is contributed by whites.

As columnist Rowan has pointed out, there's no guarantee at all that the recommendations of the population commission will be carried out.

But they're more likely to be heeded if citizens will speak up in support.

It's not enough any longer to give silent consent. Approval has to be thundered out.

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[From the Washington Evening Star, Mar. 29, 1972]

One of the very real but most highly sensitive components of the population growth issue is the flow of immigrants into this country. In the . . . concluding part of its generally admirable final report, the President's Commission on Population Growth and The American Future addressed the immigration problem and left a number of questions unanswered . . .

On the question of legal immigration and its demographic consequences, the Commission's soft-pedaling no doubt reflects a split—open door vs. no growth. . . . Its final report noted the "inconsistency" of planning for population stability while admitting large numbers of immigrants each year. It recommended against raising immigrant levels. But the majority of the Commission also voted against any move to tilt immigration downward to a smaller annual total.

All that does is put off answering a very difficult question. This country, as the Commission suggested, needs to know more about its immigrant population, and its government agencies should keep abreast of immigration's demographic impact. But beyond that, if Americans are to become serious about limiting the growth of their numbers, the need will arise to fashion some kind of immigration formula dovetailing with overall population trends and policy."

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[From the St. Louis Post-Dispuatch, Mar 17 1972]

By now there can scarcely by a single American who does not have some awareness of the ecosystem, the interrelationship of all living things and the earth itself in which not even a sparrow can fall without its consequence being felt in a hundred ways. There is another "ecosystem," however, which may not be as well perceived and it is the manner in which human systems react not only with nature but with and upon each other. The unifying thread to this other ecosystem is population growth . . ."

To be sure, the United States is now in a period of a declining birth rate, the so-called "baby bust" but there is no guarantee that this trend will last forever. Moreover, even at current birth rates, the country is increasing its population yearly by about 2,500,000 (more than the population of the city of Philadelphia) . . . In any case, the commission quite correctly observed that "Slower population growth can contribute to the nation's ability to solve its problems . . . by providing opportunities to devoting resources to the quality of life rather than its quantity, and by buying time"—that is, slowing the pace at which problems accumulate."

. . . the commission . . . makes it explicit that America's population problem cannot be solved unless parents have every opportunity and freedom to avoid unwanted childbearing. This means, in addition to birth control programs and liberalized abortion laws, an easing of the historical legal, social and institutional incentives for having too many children. Such a policy may be controversial but its adoption is essential if the pressures of population are not to prevent the nation from being able to confront the rest of its problems."

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[From the St. Cloud (Minn.) Times, Mar. 21, 1972]

A belief has long persisted as fact that America's population problem is largely the contribution of the poor, the black and other minorities—that if they would stop having babies, the population problem would go away.

It's true blacks and Puerto Ricans and others are not chiefly concerned about population—their worry is often where the next meal comes from or whether they have a job.

But admitting the fertility rate of minorities is higher than the rest of the population, the commission made it clear these are not mainly responsible for this country's excessive growth.

The report showed that 70 per cent of the growth is contributed by the white, non-Spanish speaking majority. If blacks and Spanish-speaking parents had had no babies during the 1960 decade, the U.S. population would be only 4 percent smaller than it is.

It also concluded that apart from race or color, the percentages of unplanned and unwanted births is highest among the least educated . . . The study did meet some touchy situations forthrightly. And laying it out in certain terms where the excess population comes from may expand the national awareness to the point where it may deal with the starting point and in time achieve what is apparently necessary.

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[From the Memphis (Tenn.) Commercial Appeal, Apr. 2 1972]

Whatever the value of the commission's proposals, the basic approach is sound: Measures should be adopted so the demands on governmental services will be less than they would be under uncontrolled growth, and so the nation can focus more attention on economic and social improvements.

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[From the New York Times, Mar. 25, 1972]

The Supreme Court has given a timely boost to recent controversial but constructive proposals of the President's Commission on Population Growth . . .

The Population Commission has argued in defense of its recommendations that individuals should be free to make their own decisions regarding parenthood. Justice William J. Brennan, the only Roman Catholic on the Court and author of its opinion, gave strong constitutional sanction to this argument when he wrote: If the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted instrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child."

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[From the Porterville (Calif.) Record, Mar. 21, 1972]

The Commission . . . has wisely not cut its cloth to fit the notion that the threat to too many people in the United States no longer need give us much concern. This notion is based on recent figures showing a marked decline in the U.S. birth rate. We must not allow this possibly short-term development to delude us into thinking, as there appears some inclination to do, that the problem is vanishing.

The commission adopts the premise that a problem does indeed exist. It recommends that we become the first nation to formulate a comprehensive policy with regard to population.

While advising that "neither crisis nor complacency are in order," the commission has clearly opted for putting on the brakes.

This would be strong medicine, running counter to long tradition in the United States. Instead of striving for growth on all fronts and priding ourselves on forever becoming bigger and "better," we would have to shoot for optimum goals in population use of resources . . .

As the Rockefeller commission declares, "The time has come to challenge the tradition that population growth is desirable: what was unintended may turn out to be unwanted, in the society as in the family."

[From the Fort Scott (Kans.) Tribune Monitor, Mar. 29, 1972]

They (the commission) would tell people where to live, where they must move, and presumably even what occupation they should pursue . . . They are allied with those who have been hinting that most of the nation's small farming operations should be forced out of existence because they think larger farms are more economical.

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[From the Denver Post, April 2, 1972]

The presidential commission, however, is properly disturbed by the pattern (of distribution) that has ensued—which is primarily the simple expedient of small town migration to the city because that's where jobs (or welfare) are most easily found.

With large cities now growing out of hand, with attendant problems of pollution, crowding and social unrest, the commissioners are understandably concerned with reversing that trend. The curse of rural smallness becomes, at the other end, a curse of bigness.

So the panel envisions growth centers of 25,000 to 350,000—communities which then could anticipate growth up to 50,000 to 500,000 population. Not only the commissioners, but many planners, believe that 500,000 is the ultimate size in which a community can cope with its own destiny.

In allowing many small towns to wither more rapidly, the commission would emphasize government-sponsored programs informing people about job opportunities elsewhere, coordination and assistance in moving and post-relocation service for the migrant in his new home . . .

The population panels' willingness to speak frankly is admirable. Much small town mentality in the United States seems to parallel the stereotypical southern view: more inclined to indulge in nostalgia than to contribute energy toward change. If the commission wakens a few small towns—by telling them they simply are no longer needed—that may in itself be good for the national soul.

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[From the Hackensack, (N.Y.) Record, Mar. 22, 1972]

Traditional attitudes toward sex in the United States are commonly hypocritical, brutal, and unworkable, and the great service of the President's Commission . . . is that it has said so with candor beyond admiration.

Our pretense has been that sex is a delicate subject to be discussed by cultivated people only in special circumstances. We can see the results in the present spread of venereal disease, the increasing incidence of illegitimate birth, the rigorous laws concerning divorce and abortion, and the plight of unwanted children and their parents. Improvements are occurring but slowly and against vigorous opposition.

The President's Commission faces the whole subject honestly, even when the going is difficult . . .

As the commission pointed out, the issue is not merely a matter of population control. Sex information, contraceptive devices, and abortion should be deemed matters of individual right. They are rights in fact now for educated, affluent persons. They should be for everyone.

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[From the Los Angeles Times, Mar. 14, 1972]

A federal commission that has been studying population problems for the last two years has concluded that the country would be a lot better off if the birth rate could be slowed down and eventually stabilized so that each family would have an average of only two children. That's the "replacement" rate, when birth and death rates are equal, when in effect growth would stop . . .

How is the nation to move toward a ceiling on population growth? The commission says it is a matter of choice It seems to us that what this means most of all is understanding the options, as a nation and as individuals. For while the government has no business dictating family size, it is the government's business to encourage intelligent population goals and decisions. This means making available to those who want it information on family planning and ways to avoid unwanted children . . .

It's hard to think of many problems in contemporary society unrelated to the explosive population growth the country has experienced in this century—environmental pollution, urban congestion, the soaring cost of government services; the connection is clear. What the population commisson s saying simply is that things are going to get a lot worse unless we exercise intelligent foresight, not so much for our own sakes, though we will be affected, but most of all for posterity.

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[From the Gloversville (N.Y. Leader-Herald, Mar. 23, 1972]

The actual conclusion made by the Commission . . . was, "children must be phased out."

It won't be long, if the population controllers have their way, until a truly "Silent Spring" of no children's laughter will be heard in our land. Is this what we want? Are euthanasia (mercy killings), the next step in population reduction?"

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[From the Washington Post, Mar. 28, 1972]

For our part, we believe that the goal sought by the commission majority, to "enable individuals to avoid unwanted childbearing," comports alike with the ideal of individual liberty and with the greatest good of the greatest number of human community . . .

The commission report reflects so much conscientious and searching concern for essential human values as to merit the most thoughtful attention alike by those disposed to agree with it and those disposed to disagree. It would be an ideal community indeed where children were born only to parents who wanted them and were prepared to give them care and love.

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[From the Dayton (Ohio) Journal-Herald, Mar. 20, 1972]

There will be predictable outrage at the commission's recommendations on abortions, and at its recommendations that contraceptive information and services be provided freely to teenagers. But . . . we hope that the Congress and the states undertake to incorporate some of the commission's recommendations into law.

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[From the Twin Falls (Idaho) Times News, Mar. 19, 1972]

The report of the Commission will rattle the timbers of American family life . . . but members are knowledgeable men and they have reported the findings as they found them and as they believe they will progress in the future.

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[From the Wilmington (Del.) Evening Journal, Mar. 22, 1972]

Time and again in its report the commission emphasizes the problem of unwanted pregnancies and their social and emotional cost on the unwanted child, the parent and, in the end, all of society .

Though the commission talks in terms of two children per family, its main thrust is

not to tell people how many children they may or should have, but to provide for Americans the opportunity to bring only wanted children into this world . . .

While the commission stresses that its goal is less regimentation of reproductive behavior and enabling individuals to control their own fertility . . .

Critics have already termed the recommendations as leading to a 'valley of death.' This is unfair criticism for a report that seeks ways to increase options for every American to shape life more meaningfully for himself and for herself and for the offspring they may bear.

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[From the Newport News Times-Herald, Mar. 28, 1972]

The report has considerable merit and should be given attention. Our existing immigration laws are only a few years old but already are showing major cracks . . . The handling of illegal aliens has been a joke.

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[From the Kansas City (Mo.) Star]

The Commission did not recommend unrestricted abortion. It said that state laws ought to be in line with the New York law that permits an abortion if a licensed physician agrees. The commission did not recommend unrestricted distribution of contraceptives to the young. It did, however, have the sense to recognize that abortion should not be considered a substitute for birth control and that it is far more costly and something more of a trauma for the potential mother than attending to contraception in the first place . . .

The White House . . . said that passing out contraceptives to minors "would do nothing to preserve and strengthen close family relationships". Of course it hardly contributes to family harmony if the resident teen-ager unknowingly spreads syphylis in all directions or if a 15-year-old daughter discovers herself pregnant with an abortion or juvenile marriage as the alternatives. Sometimes it seems that the particular writers of the President's morality plays really do believe that all Americans live in vine-covered cottages and lead a pastoral life herding sheep when they are not thinking of ways to do good. It is a lovely, quaint picture, but it doesn't have much to do with the reality of life for most Americans.

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[From the Chicago Sun Times, Mar. 18, 1972]

The report . . . has charted a hard but sane course on the highly emotional issues of abortion, birth control and sex education. The findings warrant serious study by both the President and the Congress.

On abortion, the commission takes the position endorsed by us: that abortion should be a matter between a woman and her doctor. The commission report adds that abortion should not be a primary tool of population control, but a means of allowing women to make moral choices based upon their own personal values.

The commission encourages sex education in the public schools, and we concur. Sex education helps to build mature attitudes that lead the young toward responsible and useful lives. The commission argues also that venereal disease rate and the number of teen-age pregnancies can be better confronted with contraceptive services than with rhetoric.

None of the positions taken by the commission is universally popular. Neither is any one of them far-fetched of big-brotherish. They are positions adopted in response to very real social problems, and the fact the commission went as far as it did in its recommendations is evidence that it is time for mature action to be taken.

[From the St. Paul Pioneer Press, Mar. 30, 1972]

The reports are a worthwhile effort to stimulate public interest in one of the most important aspects of America's prospects for maintaining quality of life and environment in the years to come.

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[From the Philadelphia Inquirer, Mar. 26, 1972]

. . . it wasn't very long ago that any discussion of governmental action in the sensitive and emotional area of limiting population was politically taboo. The 1969 message in which Mr. Nixon proposed creating this commission was, in fact, the first time any American President had ever sent Congress a special message on the subject . . .

If (growth) was ever the way to measure progress, the commission has concluded, it no longer is. On the contrary, it believes that continued population will aggravate most of our social problems, and it urges that our society now "shift its focus from quantity to quality."

Furthermore, it makes the crucial point that as a nation we do have a choice and that we can "come to deliberate and informed decisions about population problems—their burdens, their costs, their remedies"—without infringing on personal freedom.

Surely, then, this is one commission report that cannot be filed and forgotten.

## HONORING ST. PATRICK'S DAY

Mr. WILLIAMS. Mr. President, every March 17 is a time of great joy and celebration for the Irish and non-Irish alike. But it is a day that is especially significant to all Irishmen as it offers a reminder of the great religious accomplishments of the renowned Irish priest, St. Patrick.

According to historians, St. Patrick was born approximately A.D. 380 and lived his childhood in great hardship. However, even the extreme tragedy of being kidnaped and sold as a slave did not deter Patrick's love of Ireland and his deep concern for his fellow man.

Fortunate to escape from his captives and return to his homeland, Patrick began, in his very early years of manhood, to prove his religious devotion by dedicating his life to helping those physically ill and spiritually weak.

As a man who truly preached and practiced justice and love for all, St. Patrick was honored with the position of bishop in A.D. 432. No other Irishman had ever been awarded this title.

Today, approximately 15 centuries after the death of St. Patrick, his contributions to Christianity are well remembered.

The founding of over 300 churches within his lifetime demonstrated the deep personal conviction St. Patrick offered to the people of his land.

Mr. President, as we honor the enormous achievements of St. Patrick, let us continue to acknowledge the unending contributions of the Irish to the American way of life.

## THE 25TH ANNIVERSARY OF THE STATE OF ISRAEL

Mr. DOMENICI. Mr. President, I have been asked by two of my colleagues to join the American Committee for Israel's 25th anniversary celebration. It gives me great pleasure to accept the invitation.

There are several reasons why I believe American support of Israel's anniversary is important. Our country is founded upon the ideals of freedom and democracy, and it seems most important that we support others who also put a high value on human freedom and human betterment. I welcome this opportunity to express my support of the continuing dedication to the ideals of democracy and freedom which are common to Israel and to the United States. Therefore, to underscore our own dedication to freedom, I believe we should support this Asian country that also espouses these principles.

I also believe our participation in this celebration is important because of the close ties between our two countries. Israel has repeatedly demonstrated its friendliness toward this Nation, and by tradition we, as a country and as individuals, have responded favorably to such expressions.

This committee will serve to call attention to Israel's notable advances in the peaceful arts, the sciences and human welfare and will endeavor to simulate suitable programs of celebration in major communities throughout the United States.

I thank Senator JAVITS and Senator RIBICOFF for this invitation.

## PROFILE OF MARK O. HATFIELD

Mr. BROOKE. Mr. President, my attention has recently been called to the sensitive and thoughtful evaluation of the senior Senator from Oregon (Mr. HATFIELD) published by the Ralph Nader Congress Project. The Nader report is a most useful political analysis of this many faceted man.

Senator HATFIELD and I began our careers in the Senate together, and as both a colleague and a personal friend, I have come to respect and admire his work. He is a man who has long been challenged by the unrest of a changing world and whose motivation for action is based on a strong moral and ethical philosophy unique in politics today.

Ralph Nader's study of Senator HATFIELD gives insight into the nature and motivation of MARK HATFIELD. As a means to achieving a greater understanding and insight into a colleague and friend, I ask unanimous consent that this discerning Ralph Nader Congress Project report on MARK HATFIELD be printed in the RECORD.

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

MARK O. HATFIELD—REPUBLICAN SENATOR FROM OREGON

(By Michael Cornfield)

He had seen action at Iwo Jima and at Okinawa, and when the war in the Pacific finally ended, his ship was directed to transport the Chinese troops of Chiang-Kai-Shek back to China to fight against Mao's legions.

On October 26, 1945, he wrote an ordinary letter back home:

ANCHORED DASON POINT,
*Haiphong, Indochina.*

DEAR FOLKS: Here we are in Indochina adding another spot on the globe to my world travels. We anchored about 1,000 in the muddy water off Dason Point. Very shortly our ship was surrounded with native boats begging for food and clothes. It was sickening to see the absolute poverty and the rags these people are in. We thought the Philippines were in a bad way, but they are wealthy compared to these exploited people . . .

Again, on the beach, we were sickened by the sight of the poverty of the natives. It is just like Wilkie said in his *One World*—you see the mansion on top of the hill with the many shacks surrounding it. I tell you, it is a crime the way we occidentals have enslaved these people in our mad desire for money. . . . I can certainly see why these people don't want us to return and continue to spit upon them. There is so much constructive work that could be done here in the Orient and sometimes I get the urge to come out here and do something.

All my love,

MARK.[1]

Mark Odom Hatfield's poignant words have turned to prophecy in the twenty-seven years since his trip to Indochina at the end of World War II. He went back numerous times as governor of Oregon, and the *Washington Star* calls him "the Senate's most prominent dove."[2] He has fought longer and harder than any other member of Wilkie Republican party against the war in Vietnam, from his first hesitant words at the 1964 Republican Convention to the numerous "end the war" amendments he has offered on the Senate floor in his six years as a member of that body. Yet Hatfield's has never asked acclamation for being "right from the start" on Vietnam. "I have never sought political popularity," he claims. "I have only sought political respect."[3] Hatfield has many enemies, and often stands in a small minority, but he has won respect by being consistently faithful to the values he has held since childhood.

"THE OLDER WOMEN ALL WENT TO MOTHER HIM AND THE YOUNG ONES WANT TO MARRY HIM"

At the age of ten Mark Hatfield was distributing campaign literature for Herbert Hoover. He was born in Dallas, Oregon, a small town along the Columbia River, on July 12, 1922. His parents, C. D. and Dovie, were a railroad construction blacksmith and a school teacher. Hatfield's Baptist upbringing has stayed with him throughout his career, as has his high regard and love for education. It was education that he chose for his first profession.

After graduation from Salem High School in 1940, young Hatfield stayed on in the state capital to enter Willamette University, an independent coeducational school with less than 5,000 students. He entered the navy in 1943, earning the rank of lieutenant while serving in the Pacific. After the war he went to Stanford University for his master's degree. Stanford, President Herbert Hoover's alma mater, has a Hoover library, and Mark Hatfield used this facility to write his master's thesis on the labor policies of the president he so admired. While at Stanford, the Oregonian became a Republican, and he credits influences of that environment as one of the reasons for his choice.

His first job as an educator upon graduation from Stanford in 1948 was political. He became Marion County chairman for the National Citizens Committee for the Hoover Report. This report proposed sweeping reorganization of the federal executive. The job was to inform the public and gain support for passage of the reforms in Congress. That same year Hatfield became a political science instructor at Willamette, a post he held for nine years.

In 1951 the professor became the representative from Marion County (the Salem area) in the Oregon State Legislature. His move from teaching politics to simultaneous teaching and practising politics was a crucial one. Hatfield likes to describe it spatially:

"The capitol grounds are separated from the campus only by the broad thoroughfare of State Street. The move from academic life into politics was no more physically taxing than stepping across the street, and for a while, I was able to have the best of both worlds. Perhaps this fortunate geographic accident is one reason why no alienation between the academic world and the political life exists for me. Each had something to learn from the other."[5]

Hatfield thinks that the academic and political worlds both have to learn the lesson that government is "not quite so simple," the phrase he used as the title of his first book, published in 1968. Too often, "the layman and the political newcomer misjudge the degree of difficulty in legislative problems and . . . are inclined to overlook the hidden complexities and settle for the simple solutions." In particular, the academic tends to look at politics" in terms of theories, structures, dogma, doctrine, propositions," and oftentimes a real problem won't fit a theory or concept. On his side, the politician with considerable power too often finds it simple to use the vast available resources of expert opinion and classified information without listening to the "inexpert but sometimes wiser public." There is little doubt as to what prominent politicians and what particular issue Hatfield refers to.

But Lyndon Johnson was only a Senator from Texas and Vietnam just a French province back in the early fifties when Hatfield was state representative. In 1952 he got his first taste of national politics, and his first dosage of his avowed enemy, close friend, and current opponent, Wayne Morse. Morse was a prominent Republican senator, and Hatfield was a thirty-year-old professor who taught government courses at eight and nine o'clock, a.m. so that he could make the opening gavel across the street at ten, when the legislature normally convened. By this time, Hatfield had become an assistant professor and dean of students at Willamette.

1952 was, of course, a presidential election year and the Willamette professor was an early and ardent supporter of General Dwight Eisenhower. Backing the right man gave Hatfield publicity in his state, and he was selected to the Oregon delegation to the Republican National Convention, along with Morse and eight other Oregonians. The selection of the Oregon representative to the platform committee was Hatfield's first skirmish with the fiery Morse. Morse, in an early frustration of the kind that eventually led to his switch to the Democratic party, lost that platform seat. Hatfield described his victory, "The vote was 13 for Hatfield, 5 for Morse. Or as I more accurately interpreted the result, 5 votes for Morse, 1 vote for Hatfield (I voted for myself), and 12 votes against Morse."[6]

Morse vented his anger at Hatfield as well as the Republican party. As columnist Robert Sherrill reports, Morse's departure elevated Hatfield to the position of number one Republican in the state.[7] In 1955, when Morse switched parties, Hatfield was elected state senator. He quit his post at Willamette two years later to wage a successful campaign for the office of Secretary of State. He was the only Republican elected to statewide office that year. In 1958, he declared himself a candidate for governor.

Hatfield, Sherrill, and Oregon newsman A. Robert Smith all place considerable weight upon the importance of the state's voting patterns as an explanation for Hatfield's success. They all point toward the unpredictable nature, the independence, the pioneer spirit of the Oregon voter. "The party organization isn't that strong in Oregon," says Smith. "Usually people rally around a Morse or a Hatfield and the candidate forms his own organization."[8] This is personality politics.

Hatfield, again in spatial terms, describes the Oregonian as a direct descendant of the pioneer of a century ago who followed the Oregon trial. "In a country of such variety and sweep of landscape, of such natural wonders, and some natural obstacles, self-reliance is a prized quality. It is bred deeply into Oregonians."[9] The experience of the ancestors, claims Hatfield, "has bred a spirit of independence that in modern times finds expression in political terms." Oregon has produced individualists like Morse, Hatfield, ex-Senator Maureen Neuberger, and Congresswoman Edith Green. It is the only state that has ever sent a Kennedy down to defeat in a presidential primary; in 1968, Minnesota Senator Eugene McCarthy beat Robert F. Kennedy in the state Democratic primary.

Oregon politics are generally quite clean, according to Smith. Sherill offers proof by citing an occurrence of the 1958 race for governor. Morse, although not in the race, wanted to see the man who had embarrassed him six years before defeated. He discovered that, many years before, Hatfield had been driving a car that hit and killed a young child. The candidate had not been convicted on any charge but paid the child's family $5,000. Morse revived the incident by accusing Hatfield of having lied to the jury. This tactic backfired tremendously. Everybody sympathized with the young secretary of state, and even the child's parents came to his defense. Hatfield was elected to the governor's chair by a substantial margin; at 38 he was the youngest governor in the state's history.

1958 was also the year that Hatfield got married. His wife, Antoinette Kuzmanich, was an educator and counselor for women at Willamette. As governor, the handsome, vigorous Hatfield and his vivacious wife began a tradition of parties and political socializing which often brought them the attention of national magazines like the *Saturday Evening Post* and *Life*. The parties were noted for the conspicuous absence of wild women, liquor, and even wine. The Hatfields served fruit punch and had intimate gatherings that allowed Antoinette to display her extraordinary culinary skills. Hatfield became known as a pious, all-American political figure who said grace before every meal and mowed his own lawn. Oregon doesn't provide its governors with a mansion. Antoinette Hatfield has equalled her husband, in book-writing, with *ReMARKabel Recipes*, and *More ReMARKabel Recipes*. The Hatfields have four children: Elizabeth, 12; Mark O., Jr., 11; Theresa, 7; and Charles Vincent, 6.

OF MOWING LAWNS AND FEELING TREES

As governor of Oregon, Hatfield proved his "not quite so simple" theory by trying to change too much too fast. "Philosophically, optimistically, I cling to the idea that people should be mature and intelligent enough to be given the whole truth." In 1959 Hatfield and two former governors (one a Democrat, the other a Republican) made an attempt to reorganize the Oregon government. Their inspiration was the Hoover reforms of earlier years. Hatfield analyzed his failure:

"Each agency head or commission member readily conceded before the committee of inquiry that we ought to have reorganization—but his agency should be exempt. The Hoover Commission had had this same experience of the federal level. "Reorganize everyone else but leave my agency alone." We want the rounds and every agency held to its own line and we got no reorganization. Looking back, I think we asked for too big a

Footnotes at end of article.

change all at once. For deep inside, and perhaps not so deep, people feel insecure with change . . . we did not have time to lay the groundwork of public understanding or secure the slow build-up of public interest and sympathy that would have helped carry the day before the legislature. That is what the Hoover Commission had done." [10]

Reorganization was not the primary concern of the Hatfield administration. Economic growth came first. Oregon has one major industry—timber. There are 12,595,000 acres of national forest in Oregon, more than in any other state.[11] These forest areas encompass almost half of the state's land, primarily in the coastal mountain range and the inland Cascade range. Seventy percent of the nation's plywood comes from Oregon, according to the *New York Times Encyclopedic Almanac*. The other primary industries of Oregon are agriculture (in the Willamette Valley and the rolling hills of the Columbia Plateau), fishing from the mammoth Columbia, famous for its salmon, and tourism. All of these industries are highly seasonal in nature. Hatfield reminded us that Oregon did not share in the industrial growth of border states, Washington and California, especially in defense. Many Oregonians think of the absence of defense and aerospace contracts as a blessing now that massive unemployment is hitting those industries. But ten years ago these industries were the promise of the future, and the governor did his best to bring industry of any kind to the state.[12]

Smith believes that Mark Hatfield was not an outstanding governor; he criticized him for "playing it too safe." But Hatfield was reelected in 1962 by a good margin, and he bolstered his national status in 1960 by nominating Richard Nixon for the presidency at the Republican convention.

In 1964 Mark Hatfield was selected to deliver the keynote address at the convention. In a year when Barry Goldwater was proclaiming that "extremism in the pursuit of liberty is no vice," Hatfield was allied with New York Governor Nelson A. Rockefeller in the pursuit of moderation. In his convention speech he asked, "Why, why do they fear telling the American people what our foreign policy is? Even when American boys are dying in a war without a name." [13]

As the war escalated, the Oregon Governor lost the name "moderate." In 1965 at the National Governor's Conference in Minneapolis, Governor Carl Sanders of Georgia proposed a resolution backing President Johnson's actions in Vietnam. Hatfield describes the vote: "the voice vote was taken and there was a chorus of 'ayes'. Then in a purely formal, perfunctory fashion the chairman called, 'and those opposed?' bringing down his gavel swiftly to punctuate his question and foreclose a response. I shouted my 'no' very audibly." [14] The next year, at a similar conference in Los Angeles, Hatfield was warned by his senior colleagues that another "no" vote would be political suicide, especially since the roll would be called. The resolution introduced by Governor Grant Sawyer, read:

"Be it resolved that this conference affirm to the President, the American public, the service men and women of military forces of the United States and our allies, its resolute support of our global commitments, including our support of the military defense of South Vietnam against aggression."

Hatfield questioned the term "global commitments," and the vote was 49–1 in favor of the resolution. His lone vote today stands as a "profile in courage," a position redeemed with the changing of public sentiment over time. However, at the time of the vote, Hatfield looked like a political fool. Hatfield, who had looked like a shoe-in in January, was now the man who "could lose the election on this one issue." [15]

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### HAWKS AND DOVES

One of the reasons Hatfield was considered a shoe-in at the beginning of the 1966 Senate campaign was that no one knew who his opponent would be. Incumbent Neuberger, a "hawk," didn't want to run, nor did Congresswoman Green. Al Ullman, now the third ranking member of the House Ways and Means Committee, did not want to run either.[16] The honor fell to Congressman Robert Duncan, a popular, vigorous campaigner who preached, "If we don't fight them in the elephant grass of Southeast Asia, we'll be fighting them in the rye grass of the Columbia River Basin!" [17] Duncan, who later tried for Morse's seat in 1968 and lost in the primary, recalls his 1966 attempt:

"We attempted to appeal to all via personal appearances and door to door campaigning. . . . I visited every county, and I was endorsed by *Life* magazine, Senator Henry Jackson (D-Wash.), Vice President Hubert Humphrey, and writer Betty Friedan . . . the latter two came to Oregon and campaigned for me." [18]

Duncan requested a debate and maintains that the governor turned him down. Hatfield's biggest strength, said the ex-congressman, was his religious appeal, his intelligence and speaking abilities, and his popularity as governor. Duncan says he could have won if not for a lack of money; he estimated his campaign debt at $30,000.

Hatfield was asked to recap the election in a humorous vein at a party in Washington in 1967. He responded with a poem that is politically astute if not properly metered or rhymed:

"Things I'd like to forget
Are things I most clearly recall
And though I'm alive
Some doubted I'd survive
Dove hunting in Oregon last fall

In Oregon things are not simple
For a while indecision tore me
And to add to the fun
Like a shot from a gun
Wayne Morse announced he was for me!

The campaign grew hotter as summer did wane
And the gap closed to a smidgeon
But to our deep dread
The Hawk was ahead
And it looked like the Dove was a pigeon

Then President Bird
Went back on his word
"No visit" and that made us gladder
And what has been done?
A Senate Seat won—because of a malfunctioning gall bladder!" [19]

### PRESENCE IN OREGON, PRESENCE IN WASHINGTON

So Hatfield went off to Washington, leaving an office in Salem behind him. Located at 475 Cottage Street, NE, (phone (503) 0585–1793), its primary purpose is to perform personal casework and maintain a close working relationship with the local offices of federal agencies. The office draws 100–150 letters, 75–125 telephone calls, and 30 visits per week, and mails out about 100 letters relating to the casework. Most frequent subjects are veterans administration benefit check and social security check mixups, along with selective service and military assignment problems. Copies of all correspondence are sent on to Washington.

The presence in Salem is as more than a passive conduit, however. Hearings have been held (on the box car shortage, Russian fishing, the Day's Creek Dam Project, and the dredging of Yaquina Bay) and research done for studies by the D.C. office (on the impact of trade with Japan on the state economy).

Meanwhile, on the East Coast, the new senator learned quickly that the upper house was not the most efficient institution in the country. Hatfield can talk about the seniority system with the knowledge of experience. He has made it a campaign promise that he would serve as governor until his term expired. He was consequently the last senator sworn in in 1967 and became the 100th highest member. For several months he had virtually a one-room office that later became Robert Kennedy's mail room. His first term has seen him travel through eight different committees.

Hatfield has been on the Interior Committee since 1967, his first choice because of the forest and resources interests in the state of Oregon. He sat on the Agriculture and Aeronautics and Space Sciences Committees. Hatfield recently left his seat on the Commerce Committee because of a vacancy on the powerful Appropriations Committee, but also help adjust the purse-strings as a member of the Interior Subcommittee of the Appropriations Committee. Hatfield is satisfied with his present assignments, and if he wins reelection will retain the Appropriations and Interior seats. The senator is contemplating giving up his positions on the Select Committees on Small Business and Educational Opportunity because "Small Business now does virtually nothing and Educational Opportunity's work is almost through." The senator told us that the additional two committees provide the added burden of conference meetings.

Hatfield's major activity as a senator has been in three areas: interior and agricultural work, basically for Oregon; personal interests such as the reorganization of Congress, and Vietnam legislation—end the war amendment, the all-volunteer army, and military spending.

### THE FOREST AND THE TREES

In Mark Hatfield's view, current forest and conservation policies either can't see the forest for the trees or the trees for the forest. Sometimes the bureaucratic ways of the government ignore even the simplest human need. Hatfield tells of the recent camping trip of some Oregon students who went into a wilderness area in the central part of the state. One of the party was killed in an accident, and the group requested a helicopter to retrieve the body. But the law governing national forests specifies that no helicopter can be brought into a wilderness area unless a living person is in danger. Since the youth had been killed, the helicopter service could not be provided and the camping party had to carry the body out of the forest. Another rule Hatfield described prohibits any sort of structure in a wilderness area. Thus, an area recently designated as wilderness was forced to remove all of its outhouses.

Hatfield's recent American Forestry Act deals with the more general problem of the Forest Service. The stated purpose of the bill is to authorize the Secretaries of the Interior and of Agriculture to institute programs designed to reforest and restore the quality of public and private forest land; to enhance and expand recreational opportunity of such lands; to provide financial incentives to improve management of state and private forest lands; to establish a federal forest land; to establish a federal forest lands management fund; to facilitate public participation in federal resource management and to enhance the quality of the environment and the resources of the public lands.[20] Hatfield explains the need and purpose of the bill from a historical perspective, a perspective he enjoys taking. "Much of this problem stems from the fact that as a nation, we have persisted in a frontier attitude toward forest conservation long after the frontier was passed," he states. He calls for "Conservation's Second Wave" which would relate the natural resources of our forests "to the realities of human welfare, now and in the future." [21]

The basic thrust of the bill is to decentralize national controls to the local governments across the nation. The responsibility returns to the people, according to Hatfield;

the traditions of forestry all point toward this concept.[22]

The American Forestry Bill would help fund state-prepared programs for forest development. A forest land management fund would be set up in the U.S. Treasury, available to the Forest Service and the Bureau of Land Management. The President would appoint the members of an American Forestry Policy Board to advise the Agriculture and Interior Secretaries. Funding for the act would come from a two-year appropriation of $50 million for fiscal year 1972 and $100 million for fiscal year 1973.[23]

Hatfield has pointed out that his first draft of S 350 was circulated among conservationists, industrialists, scientists, government groups, state foresters, and the general public, all of whom contributed to its formulation. He called the response overwhelming. Three field hearings were held in the summer of 1971 in Atlanta, Portland, and Syracuse. The last hearing, in Washington, D.C., was held on March 10, 1972. Here spokesmen from the Agriculture and Interior Departments and the Office of Management and Budget expressed displeasure with the bills. John McGuire of the Forest Service illustrates the problems.

"A major concept involved in S 350 is the establishment of a special fund for the purpose of earmarking national forest revenues, to plow them back, upon appropriation, to national forest programs. Under S 350, the fund would be used for a full range of programs, including research. However, the funds would be allotted with a priority for timber cultural measures.

"The Department of Agriculture has complete authority for the full range of possible management activities on the national forests. The bill would not be necessary if Congress determined that it would be necessary to increase funding for national forest programs. Thus, the normal appropriations process can serve such an objective." [24]

Another complaint was that the bill's system of granting money would conflict with President Nixon's revenue sharing programs. Hatfield asked McGuire later in the hearings if the Forest Service would support the bill if the revenue sharing proposals did not pass the Congress. McGuire replied affirmatively, adding only that the Forest Service would ask the Administration for a little more flexibility.

Recently, the Administration impounded congressional funds appropriated for the Forest Services, cut back over 1,000 Forest Service jobs, and ordered a reduction of $11 million from the 1973 budget request. Hatfield and eleven other senators wrote a letter to the President asking for the restoration of both the funds and the personnel.[25]

Other Interior bills introduced by Hatfield in 1971 included four he co-introduced with Oregon's junior Senator Robert Packwood, designed to study water resources and maintain river projects along the Rogue and Willamette Rivers. He also introduced a bill in the Agriculture Committee that would increase funding for rural water and sewer systems, and successfully guided through the Senate a bill establishing 80,000 acres in Oregon as wilderness area.[26] It is interesting to note that Oregon has less wilderness area, 1.2 percent, than any other western state.

The Hatfield philosophy on this type of bill embraces the classic conflict of state and federal government. Hatfield recognizes the need for federal help, which has brought dams along the Columbia River and the setting aside of extensive land holding in the forest areas. He sees the proper role of the federal government as partner, not boss; stimulation, not control. And he warns that the "partnership must constantly be watched; because the federal government will rush to fill any vacuum created by the failure of local government or the laziness of private interest." [27]

DEFINITION OF A RADICAL

Hatfield is notable for the consistency and firmness of his values, which he places above party politics. There is obvious conflict between the senior senator from Oregon and the President, the titular leader of his party. Hatfield believes that Nixon has not fulfilled his promises. In June of 1970 he suggested that the Nixon-Agnew team might be dumped in 1972 if the war and the economic issues they had inherited remained unresolved. "The people elected this man because of disenchantment on the war and the economy," said Hatfield. "I don't think he has produced." Reaction to this statement was quick and sharp; Oregon Republican chairman, Irving Enna, suggested that if Hatfield didn't like the ticket, he should be the one to leave.[28] There was talk in Washington of purging Hatfield in 1972 as Charles Goodell (R-N.Y.) had been purged in 1970.

Vice President Spiro Agnew's denunciations of those who opposed the Vietnam war had been the subject of a rather sharp statement on the part of Hatfield:

"On April 26, 1967, I stated in a speech: "What kind of men have we at the helm of government who would deliberately coerce the public into accepting their policies on the threat of being branded traitor?" My position today has not changed. It is nonpartisan and applies equally to the Johnson and Nixon Administrations." [29]

But the Hatfield-Agnew "confrontation" resulted in what amounted to a tribute to Hatfield as a man of principle. Agnew told reporters that no senator who kept his disagreements within the family and remained loyal to his convictions would ever be disowned by the administration.[30] Goodell, he added, had tried to subvert the Nixon policy stands and therefore had lost face with the party. Hatfield has no complaints.

"I have never been pressured or armtwisted, no threats have been applied, never even a facial expression indicating they were ostracizing me or disciplining me. During the Haynsworth vote I received some phone calls from Martha Mitchell and Nixon aide, Bryce Harlow, and I was grabbed several times in the office corridors, but there were no threats." [31]

Hatfield considers himself a true Republican in the historical sense. He calls himself a libertarian, and, like any good professor, is ready to define his terms:

"Libertarian comes from the classical liberalism, meaning "to liberate." It is concerned with the relationship of citizen and government and has as its purpose the freeing of men's minds. This is in contrast with the classical conservative, concerned with the values of property, possession, and the preservation of the strong state. Today, the parties have strayed from their original purpose. The Democratic party has been compromised by the values of the South. Even the supposed "liberal" New Deal was not liberal, because it was not liberal in method. (strong centralization of power)." [32]

Wesley Michaelson, Hatfield's executive assistant, has additional thoughts on the senator's Republican philosophy. "The original Radical Republicans of 1856, men like Charles Sumner and Horace Greeley, believed in many advanced concepts which we embrace today, like reducing the military involvement and spending, equal rights for women and this women's vote, and the need for human justice." [33] As for the term "radical," Hatfield, the political science professor, has a definition:

"The term 'radical' is used today to envoke fear and to brand a position as most undesirable. To be a 'radical' is to be some sort of misguided individual who has lost touch with reason and is highly suspect of treasonous thoughts. It is interesting to note that the 'radical' label did not always carry such negative connotations. Early Republicans chose the term to distinguish themselves as those who were loyal to the ideals of the founding fathers of our country. Webster defines 'radical' as 'of or from the root; going to the center.' It was with great pride that such men as Charles Sumner, Salmon Chase, and others referred to their ideas as 'radical,' and it is ironic that the term has fallen into such public disrepute today.

"All of our massive social trouble must, at least, be dealt with on the home ground of the individual citizen. The actions of government alone, while essential, are not enough. They must find their counterpart in the lives of individual men; the impersonalization of great governmental programs of support and welfare is sometimes their most pernicious and damaging feature." [34]

Mark Hatfield embodies the spirit of the "Radical Republican" in the Senate. His legislation on Interior matters takes into account the local, the individual responsibility. In the consumer area he is concerned with "providing greater protection for consumers against unwarranted invasion of privacy;" after all, the concept of privacy stems from the radical Bill of Rights. In a recent fourth of July speech, Hatfield analyzed the original democratic concepts of Adams, Jefferson, and Madison. He emphasized the dynamic quality of the democratic process, that the democracy was not formed in 1776, it was begun. Democracy, says Hatfield, continues "by inviting and depending upon each citizen to participate in the task of forming a more perfect union." [35]

The training and thoughts of a political science professor turned senator are best exemplified in Hatfield's attempt to reorganize and possibly redefine the goals and values of the world's most important governmental institution. Mark Hatfield has demonstrated as a freshman the same desire for change he had shown as Oregon governor. This time, he is trying it piecemeal style, and often limits his thoughts to just thoughts, realizing the futility for a young first termer trying to change a traditional world. Hatfield believes that the 100 members of the Senate are not continuing the process of making the democracy more perfect as fast as they should. "Trying to depict the problems of the Congress," says the member, "is like trying to summarize the problems of western civilization," such is the enormity of the "institutional mediocrity" that pervades the legislative branch. Hatfield mentioned as a start the seniority system, "a very inhibiting force" in Congress today, and the frustrating quorum system. "You can sit in committee for an hour waiting for a quorum. You are all ready to work on legislation, but if the necessary number of senators don't show up, you've just wasted your time." Hatfield joins his colleague, Bob Packwood, in requesting reform of the debate rules; he feels the hallowed skill of debate has been virtually eliminated from the chamber. One change Hatfield does not favor is a calendar divided into a certain number of weeks for committee work, a number for floor debate and some for conference. He believes this plan would divide the Senate into a small band of workers and a less inspired group who would spend the committee time back home.

The problems of the Senate are not entirely institutional, according to Hatfield; the personnel comes into play as well. Hatfield used a school analogy to illustrate his opinion of his fellow members: "I have always felt that the person at a C-level of intelligence who was working hard was worth more than the person of A-level intelligence who was working at a mediocre capacity." It becomes a question of potential-individually responsibility.

One bill Hatfield introduced tried to eliminate the seniority system by limiting the

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number of consecutive terms a senator could serve to two, or twelve years. The two-termer who wished to return to the upper house would have to take a two year sabbatical. In another sphere of government reorganization Hatfield initiated legislation pertaining to the direct election of the President and Vice-President. But the area that amplifies all of the theory, philosophy, indeed all of the conviction of Mark Hatfield, is the draft.

"THE TRUE LIBERTARIAN MIND CANNOT ACCEPT THE DRAFT" [36]

The rebirth of the volunteer army concept took place at the 1964 Republican Convention.[37] Hatfield, urging his colleagues to remember their history in a 1971 speech on the Senate floor, pointed out that when the draft was first introduced, during the Civil War, riots broke out in New York in which 1,000 people died. "Even in that day, people found it repugnant to accept a system that was characteristic of the European background from which they had fled." To the libertarian Hatfield, the draft is involuntary servitude and "the most odious form of military procurement." [38]

Hatfield has opposed the extension of the draft each time it has been up for renewal during the six years of his term. In 1969, for example, he offered an amendment to the draft extension bill calling for steps toward "the prompt termination of involuntary inductions and a transition to an effective voluntary system." President Nixon appointed Thomas Gates, an ex-Secretary of Defense under John F. Kennedy, to head a commission on the volunteer army early in his administration. The commission reported to the Chief Executive on February 21, 1970. Included in their recommendations were: an increase in basic military pay to stimulate volunteers (enlisted men from $180 to $315 per month; officers from $428 to $578 per month), improve the general quality of military life and training, establish a standby draft to be activated by joint resolution of Congress. Hatfield and colleague Barry Goldwater (R-Ariz.) incorporated these recommendations into an amendment to the 1971 fiscal year military procurement bill. The measure lost, 35–52.

Hatfield tried again in 1971, with S 393, the Voluntary Military Act of 1971. In a one-hour speech on the Senate floor, he analyzed and tried to refute the arguments used to sustain the draft.

First, there is the question of numbers; what would be the loss of men or "shortfall," in switching from the draft to an all-volunteer system. Hatfield cited the Assistant Secretary of Defense's figures to show that "if inductions were terminated June 30, 1971, and no incentives were added, the greatest shortfall experienced would be 213,000 men." But since the Senate Armed Services Committee has already recommended reductions in manpower, the shortfall would approximate only 113,000 men. With incentives such as raise in basic pay added, the Assistant Secretary's most pessimistic figure fell only 25,000 men short of the committee recommendations. "Furthermore," said Hatfield, "there is ample reason to suspect that Department of Defense (DOD) figures are inflated and overstate the manpower needs for the coming year. The accessions projected by DOD for fiscal year 1972 for a 2.505 million man end strength are roughly 200,000 above the estimates of the President's Commission on an All-Volunteer Armed Force commonly referred to as the Gates Commission." This difference of 200,000 men does not seem to be a standard deviation or a normal mistake.

Next in his argument against the draft, Hatfield took up the question of racism. He dismissed the claim of senators such as Edward Kennedy (D-Mass.) that a volunteer army would be an army of poor and black people and a discriminatory operation. In the first place, Hatfield said, even if every eligible black man enlisted, the Gates Commission estimated that they would make up only 22.4 percent of the total force. Second, the present Selective Service System is more racist than an all-volunteer system would be. Student conscientious objectors and medical deferments put the black and the poor at a tremendous disadvantage.

Most convincing to Hatfield is the fact that the blacks and the poor don't want the draft either. He challenges Senator Kennedy "to find one black spokesman that doesn't oppose the draft." The black caucus, and all the black organizations Hatfield knows of, oppose the draft. He points to a statement by David Clarke of the Southern Christian Leadership Conference, which maintains:

"Of particular concern to the Southern Christian Leadership Conference is the 'fear' that an all-volunteer Army will become an Army of the poor and the black . . . such condescending noblesse oblige is not only unappreciated, it is downright repugnant from the point of view of the black soldier who is ordered to die to preserve a freedom that he has never known." [39]

Hatfield sees the draft as a flagrant obstruction of individual rights. He is also adamantly opposed to the concept of "noblesse oblige" as he illustrated in his first book:

"In civil rights there were those who created the illusion that once we got a civil rights act our civil rights problems would be solved. I supported the Civil Rights Act nationally, in keeping with my actions and involvement in civil rights at the state level. But passing a federal law was not in itself going to solve the problem. Ultimately, private groups, nonpolitical groups, would have to involve themselves. The law can tutor us. The law can perhaps ultimately influence men's thinking. But if we are to solve this problem on a crash basis, which is the immediate need, we must mobilize the resources of men to change the minds and hearts of men." [40]

Closely interrelated with the draft issue is, of course, the war in Indochina. The moral and constitutional questions about the "war that can't be won" have been raised again and again. Hatfield warns against desensitization: "Everybody is tired of the war. We all know that . . . but being tired about a war and wanting to forget about it, will not stop it; in fact it will make it easy for it to quietly go on." [41]

HOW DOES OUR MODERN FAITH IN SUPERIOR FIREPOWER RELATE TO OUR NATIONAL MOTTO, "IN GOD WE TRUST" [42]

Hatfield wrote his first anti-war resolution in 1967 and submitted it to the Senate in February of 1968, just after the seizure of the U.S.S. Pueblo. He was the only sponsor because he didn't want to have the bill appear to be a slap at President Johnson. Rather, he tried to keep it a question of constitutional right:

"*Resolved by the Senate,* That if the President determines that it is necessary and vital to the interests of the United States to extend the Vietnam ground war beyond the limits of South Vietnam, the President shall first obtain full participation in this decision by the United States Senate and House of Representatives."

This resolution was an attempt, in the Oregonian's words, to hang "something of a moral albatross around the neck of a President." It was an attempt to limit the war-making powers which Johnson had seized with the consent of the Senate through the Gulf of Tonkin resolution of 1964. But neither the Senate nor the nation was ready for action to limit the president.[43] The resolution was whipped.

There were other attempts to end the war. The most famous was an amendment to the Military Procurement Bill known as the McGovern-Hatfield Amendment. Wes Michaelson, executive assistant to Hatfield, recalls that Senators McGovern and Hatfield talked and came up with the idea and then "McGovern's office called us, and the two staffs worked out the details of the amendment which was subsequently approved by the two senators. We were lucky with the timing of the bill—it was introduced the week President Nixon invaded Cambodia." [44] The amendment provided that "in accordance with public statements of policy by the President," no funds could be used to maintain a troop-level of more than 280,000 in Vietnam after April 30, 1971. After that date, funds could be used "in and over Indochina" only for withdrawal by December 31, 1971, release of prisoners of war, and asylum for Vietnamese.

The amendment quickly became the rallying point for many Americans who were aghast at the Cambodia move. Buttons sprouted and ad-hoc groups were formed to lobby for the bill. Vice-President Agnew called it "a blueprint for the first defeat in the history of the United States." [45] The two sponsors and Senators Alan Cranston (D–Calif.), Charles Goodell (R–N. Y.), and Harold Hughes (D–Iowa) purchased national television time on May 12 to gain more support, but as it turned out, the vote was not even close.

One year later, Hatfield described the effect that amendment had had on the war:

"Let us begin the debate this year by remembering where it ended last year. On September 1, 1970, the Senate defeated a proposal offered by Senator McGovern and myself, by a vote of 55–39. What did the opposition say then? We were told that those who supported our amendment were not the only ones who were for peace, that all Senators were for peace, but disagreed over the means to achieve it. Of course, we agreed. But what has happened since that time? Has the policy the Senate chose to follow brought us any closer to peace? Three-quarters of a year has gone by since that time. During that time, 2,811 Americans have died in Indochina: 11,250 Americans have been wounded—16,578 South Vietnamese soldiers have died, and about 100,000 North Vietnamese soldiers, according to the Pentagon, have died. Thousands of tons of bombs have been dropped by our planes. Thousands of civilians in Indochina have been killed or wounded. And we are no closer to peace." [46]

Hatfield is dissatisfied with the President's handling of the war, even though he has reduced the number of ground troops, because American bombing goes on. A second McGovern-Hatfield amendment lost by a vote of 42-55 in June of 1971. On November 23, 1971, Hatfield marked an interesting date in Vietnam war chronology. It has been three and a half years since the first Paris peace talks had begun, an ostensible attempt to "wind down the war." He pointed out that America had been engaged in the process of winding down this war for about the same amount of tire it took this country to enter, fight, and end World War II.[47]

As of June 1972 Hatfield was still trying to end the war and halt the draft. He offered yet another amendment to the Military Procurement Bill for fiscal year 1973, requesting that the set date for the end of the draft, June 30, 1973, be moved up to six months. He cited as reason for the amendment "the mismanagement and indecisiveness" of the Department of Defense, which was "falling short of the mandate of the President to move to an all-volunteer Armed Force." The amendment was defeated 25-64, and several senators believed that Hatfield had gone about it the wrong way. Since he did not introduce his measure in committee, there were no hearings, and the absence of hearings was used as an argument against passage. Wes Michaelson says that Hatfield took the only course open to him, since Senator John Stennis, chairman of the Armed Serv-

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ices Committee, would have surely pigeonholed the amendment.

Hatfield has also pursued his efforts against the war in the group known as Members of Congress for Peace Through Law. This is the only bicameral and bipartisan congressional group in existence, and it has about 100 members. Hatfield was chairman this year, and before that headed the Military Spending Committee along with Senator William Proxmire (D-Wisc.). "We can claim some credit on the Military Spending Bill," says Hatfield, "we produced and provided the necessary data to fight defense expenditures independent of the Armed Services Committee."

To Mark Hatfield, peace does not mean the mere absence of conflict. He is now interested in what he calls "peacekeeping machinery," or some sort of "firefighting group on an international level that would be prepared to snuff out skirmishes and prevent more wars." Hatfield places great value on the potential of the United Nations. He says that the United States should give U.N. affairs higher priority; he maintains that we haven't done all that we could in this area.[48]

Although he is against American intervention in the affairs of the Vietnamese people, Hatfield is by no means an isolationist. In the six years of his tenure, Hatfield has traveled to India, Thailand, Hong Kong, to the International Christian Conference in Bermuda, and twice to the Middle East on fact-finding tours at his own expense. He has traveled, at government expense, to New Zealand and Anarctica on a scientific research expedition. On personal trips at his own expense he has been to Canada, Spain, Costa Rica, Hong Kong and Yugoslavia.[49]

It is interesting to note that the senator, while not visiting Vietnam once during his Senate term, has gone to the Middle East twice. Hatfield has adopted an almost neutral stance on the crisis in the Middle East, which is often misinterpreted to be an anti-Israel position. Although the senator is less vociferous about the Jewish state than many of his colleagues, he is not an avid supporter of the Arab position. There are pictures of both King Hussein of Jordan and Prime Minister Golda Meir of Israel prominently displayed in Hatfield's outer office. Michaelson says that the senator believes the central issue in the Middle East (at least from an American point of view) must be the refugee problem. He added that Hatfield has supported the Nixon administration's actions on the Middle East situation consistently; the Administration has been considered a good friend to Israel.

There are other areas in which Hatfield has attempted to pass legislation. He introduced some 175 bills in 1971, of which he initiated 51. These include the American Forestry Act, the Vietnam Disengagement Act (the name for the second McGovern-Hatfield amendment), and the Voluntary Military Act. Some of his lesser bills are quite fascinating. His S. 2345 would have amended the Internal Revenue Code of 1954 to allow an income tax deduction for donations of blood. Anticipating economic arguments against the peace motions, Hatfield and McGovern sponsored a bill designed to provide assistance to defense workers whose employment had been adversely affected by the transition to a peacetime economy. There was an amendment to the Foreign Assistance Act of 1961 to provide for a United States contribution to the United Nations, earmarked for a peacekeeping force.

One bill, in keeping with Hatfield's emphasis on the rights of the individual, proposed to allow United States citizens to own gold. Hatfield told us that

"The United States Government should relieve itself of its gold, just as it does any other surplus, and let the free market determine its value and consequently the value of the dollar . . . this is an instance where the government has been operating contrary to the interests and to the detriment of the citizens it represents."

One bill even proposed to provide for a temporary increase in the membership of the House of Representatives to 437 members, adding a seat from Oregon. For the sake of speculation, the 1970 population of the state of Oregon was 2,091,385, and they have four congressional districts. This is more than West Virginia (1,744,237) which has five districts, but less than Mississippi (2,216,912) which also has five. To make matters more confusing, the state of Colorado, which has only four districts, has a greater population than Oregon (2,207,259). The bill remains in the Judiciary Committee.

THE PSYCHOLOGY OF LEGISLATION

By introducing 51 bills, the senior senator initiated more legislation than any other freshman senator. Indeed, he introduced more bills than any other Republican senator except Jacob Javits (R-N.Y.). Most, like the great majority of all bills introduced in Congress, received no action. Thirteen of the bills won cosponsorship, but only two have become law.

Hatfield's ability to get legislation passed is limited by the minority position he occupies and by his lack of seniority. As the lowest senator of the "class of 66," Hatfield cannot turn to his party. The party organization is not strong in Oregon, and Hatfield, though respected, is not popular at the White House. The lack of support he found for the Forestry Act is a case in point. Any timber or forestry bill is crucial for Hatfield, since it will most likely mean a gain or loss in votes. In general, says Smith, Hatfield respects the interests of the timber industry, but he, like Morse, picks and chooses the bills he wishes to support. He does what he thinks is best for the interests of his state. The American Forestry Act did garner considerable support with forest interests, but it was in direct conflict with the interests of the Administration, and this has prevented party support.

Perhaps Hatfield introduces so much legislation because as a libertarian Republican he occupies an almost unique philosophical spot. To be sure, there are others who often agree with his stands. The Wednesday Club, a weekly luncheon of moderate and progressive Republicans, usually attracts ten to twelve senators. Here, the members work on legislation, passing judgments and making criticisms. This is the Senate group with which Hatfield most strongly identifies.[50] Yet in many ways, Mark Hatfield stands alone.

Hatfield was described in a 1963 *New York Herald Tribune* article as a man who was "not one of the boys of the state legislature," a loner of sorts.[51] Certainly he wasn't bothered by the pressures of conformity when he was the only governor to speak out against the war back in 1965. By now, of course, says reporter A. Robert Smith, the entire Vietnam affair could only boost his self-confidence and crystallize his convictions. "Mark is not a two-fisted guy," adds Smith. His independence and firmness of convictions seem to be the most important facets of his legislation. It is evident that he doesn't mind being alone.

In 1971 Hatfield voted against President Nixon's position 55 percent of the time, more than any other Republican senator. There were many occasions on which he opposed all but a handful of his Republican senatorial colleagues. Among these were his votes to ban the use of defoliant chemicals in Vietnam, to deny military aid to Greece, to end subsidies to tobacco companies, to require the Department of Defense to file statements of the effects of their projects on the environment, to defeat the Nixon plan for compulsory arbitration of transportation strikes, to deny the President's appointment of Judge Carswell to the Supreme Court. (See Tables 3 and 5.)

The fear of change is something Mark Hatfield's "legislative psychology" must take into account. "When they (both senators and constituents) learn of some new policy they will react adversely unless they have been introduced and acquainted with the concept over a period of time. We need in Congress some procedure by which the input of new ideas and bills can be effectively increased. I am dissatisfied with the rate of change in Congress," Hatfield told us. The rate of change, the continual process of democracy, this is what Mark Hatfield believes in and what he fights for.

FINANCES

Due to loopholes in the federal law in effect over the 1966 election. Hatfield filed no significant information about campaign finance with the Secretary of the Senate. He was bound to report only those contributions and expenses of which he had personal knowledge, although nothing in the statute stops members from exercising greater candor. The Oregon campaign finance law is, in its reporting requirements, one of the best in the country. However, Congress Project researchers did not examine the files listing Hatfield's contributors. Thus, through no fault of the senator's, we have no detailed information on his backers.

"The Senate has become a business for the rich," says Hatfield about the personal wealth of his fellow-legislators. "I don't belong here economically. I have voted against salary increases because that's not where I need the money. I believe we should appropriate the money for greater and better staffs. I don't need the money for personal finance, but I do need it for the office."

The senator's expenses basically fall into these areas: travel and transportation costs for trips, both to Oregon and to foreign countries; office material and staff, and personal expenses. Michaelson says that the senator wants to pay his own bills without being dependent on any special interests or groups. He earns the money he needs by speaking.

Over the last three years Hatfield has earned over $100,000 in honoraria from speaking engagements. This is more money than any other Republican senator earns via this method; only Birch Bayh (D-Ind.) and Hubert Humphrey (D-Minn.) have made more. In 1970 the Oregonian netted his largest amount for any year—$41,956. This was earned through some 38 engagements, 27 of which were on college campuses.[52] Hatfield believes that students have always been and will continue to be his best audience. It is his way of keeping in contact with the university environment he lived in for so long; the greater proportion of his college lectures are at small independent schools like Willamette.

At the National Conference on Higher Education in 1970, Hatfield analyzed the temperament of the current collegiate scene.

"With the advent of student unrest—of 'student power'—there has been a great erosion of the image of higher education in the public mind. The result is that many colleges and universities find themselves not only confronting turmoil from within but also vicious attack from without. . . . Students are reacting to students, faculty, administration, minority rights, our nation's inequities. The public is reacting negatively to this reaction. And the politicians are reacting to the public's reaction. No one gains in this vicious circle and everybody is hurt."

Hartfield went on to back up his claim by describing several bills that were formulated "in a reactionary vein" towards the colleges and universities of America. He notes that unfortunately, the adverse reaction is in the majority, and that the politicians and the

Footnotes at end of article.

public have not looked at the problem of student unrest from the proper perspective.

"Student unrest today is, in many ways, a part of a quest for self-discovery, a transcendental curiosity which is finding outlets in such popular fads as yoga, astrology, gurus, the whole drug experience or culture, the trends in popular music and the interest in mysticism and eastern religions. Every one of these fads, in many respects, expresses to some degree that the external society—particularly our commercialized materialism—is all superficial, phony, and fraudulent. Beneath it all there is a search in many, many instances for a deeper reality—the quest for some other realm of experience that can give fulfillment and true meaning to life.

"Student after student has said to me that they cannot even find the professor in the classroom that can define his professional ethic, let alone a personal ethic. They cannot find an institution which they are attending which can define its institutional ethic, let alone relate to them in understanding of a personal ethic." [53]

The crux of everything that is Mark Hatfield is contained in that last statement. Although he himself is "attending" an institution which cannot define its ethic, its purpose, its spirit, he has defined his own place, his own professional ethic. But even more importantly, he has a personal ethic, a theological belief which allows him to remain true to his political convictions. For Mark Hatfield, politics is second; God is first.

"EVERYTHING MARK HATFIELD DOES IS FOR THE LORD" [54]

In his second book, *Conflict and Conscience*, Mark Hatfield has collected several of his addresses in an attempt to "call into question the legitimacy of my Christian beliefs on the basis of my political positions." He adds that his political convictions are merely the consequences of his life's orientation toward the Baptist religion, and more importantly, toward the meaning of Jesus Christ. Peace, to Hatfield, "can come only when needs—physical and spiritual—are fulfilled." The issues he deals with day to day, like war, racism, poverty and ecology, are but symptoms of a spiritual disease that exists in the United States. They are reflections of "the shallow, corrupt, and warped values we hold." And, says the senator, it is obvious that legislative action is not enough.

The relationship between theology and political science, between God and Country, have been distorted in recent years.

"We often make the mistake of starting with our own prejudices or presuppositions, and then choosing theological perspectives that suit us best . . . those who begin with a right-wing ideology . . . adopt a theology that supports their prejudices . . . theology is being used for our own purposes, and our own selfish intentions."

In other words, theology and politics are related through a process, and the process has been reversed in Hatfield's eyes. He maintains that inquiry and study must flow *from* faith.

"Our pastors are those concerned chiefly about personal salvation; they see the primary responsibility of the Christian as ministering to the personal problems of other individuals. Our prophets are those concerned chiefly with seeing God's purposes for the world being realized. They hear a call for the "Kingdom of God" to be furthered on earth, and are concerned about the problems of war, poverty, and social injustice." [55]

Which role is best? Hatfield looks to Christ's own life for the answer. The need is for "pastor-prophets," because the prophetic words about the forces destroying our society are meaningless unless there is a pastoral love behind them. "Only when one knows that he is loved and forgiven by Christ's love can he bear the full truth of God's judgment of the world."

Hatfield criticizes the organized church for its role in Washington. "I believe churchmen should not view politicians merely as someone who has to be 'lobbied.' Rather, their aim should be to build honest personal relationships with politicians, based on true concern, love and understanding." [56] And, adds Senator Hatfield, if the church does not "open its eyes to the vision of a better society," it will "by default share in the guilt for the nightmare of a secular ideological totalitarianism." [57] The prevention of such a spiritual disaster and the fulfillment of that vision supersedes all other concerns for Mark Hatfield.

FOOTNOTES

[1] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 153.
[2] *Washington Evening Star*, March 22, 1967.
[3] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 45.
[4] *The New York Times*, July 14, 1964.
[5] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 12.
[6] Ibid, p. 22.
[7] Robert Sherill, "Hatfield: The Oregon Enigma," *The Nation* (July 17, 1967), p. 38.
[8] Interview with A. Robert Smith, reporter for the *Portland Oregonian* by Congress Project researcher on August 11, 1972.
[9] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 20.
[10] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 45.
[11] "Commission Lands in National Forests," *National Journal*, III (March 27, 1971), p. 663.
[12] Interview with Senator Mark Hatfield by Congress Project researcher on August 8, 1972. (Hereafter cited as Interview with Member.)
[13] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 155; Interview with Member.
[14] Ibid, p. 159.
[15] Ibid.
[16] Interview with Representative Robert Duncan by Congress Project researcher on July 17, 1972. (Hereafter cited as Interview with Duncan.)
[17] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 163.
[18] Interview with Duncan.
[19] *Washington Evening Star*, January 15, 1967.
[20] U.S. Congress, Senate, *Subcommittee on Public Lands of the Committee on Interior and Insular Affairs: Hearings on Management Practices on Public Lands*, 92d Cong., 2d sess., March 10, 1972, p. 1.
[21] U.S. Congress, *Congressional Record*, Senator Mark Hatfield, remarks at Forestry Hearings, Atlanta, Georgia, vol. 117, pt. 28, p. 36728.
[22] Ibid.
[23] Senate, *Committee on Interior and Insular Affairs, Hearings on Management Practices on Public Lands*, 92 Cong., 2d sess., March 10, 1972, p. 1.
[24] Ibid, pp. 59, 60.
[25] Senator Mark Hatfield, Press Release, June 12, 1972, U.S. Senate, Washington, D.C.
[26] *Digest of Public General Bills & Resolutions*, 92d Cong., 1st sess., 1971. (Washington, D.C.: Library of Congress, 1971.)
[27] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 52.
[28] *Washington Evening Star*, June 30, 1970.
[29] *The New York Times*, August 18, 1970.
[30] "Politics," *National Journal*, III (March 6, 1971), p. 538.
[31] "Hatfield Confident About 172" *Washington Evening Star*, November 26, 1971.
[32] Interview with Member.
[33] Interview with Wesley Michaelson, executive assistant to Senator Mark Hatfield by Congress Project researcher on August 1, 1972. (Hereafter cited as Interview with Michaelson.)
[34] *Congressional Record*, Senator Mark Hatfield, floor remarks on behalf of S. 18150–53, October 14, 1970.
[35] Hatfield, Press Release, July 4, 1972.
[36] J. L. Moore, "Draft, Volunteer Army Proposals Head for Showdown in Congress," *National Journal*, III (March 6, 1971), p. 489–99.
[37] "On the Issues," *Congressional Quarterly Weekly Report*, XXIX (April 2, 1971), p. 752.
[38] *Congressional Record*, Senator Mark Hatfield, floor remarks on behalf of S. 804, June 2, 1971.
[39] *Congressional Record*, Senator Mark Hatfield, floor remarks on S. 804–8026, June 2, 1971.
[40] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), p. 69.
[41] *Congressional Record*, Senator Mark Hatfield, floor remarks on S. 8760, June 10, 1971.
[42] Mark Hatfield, *Conflict and Conscience* (Waco, Texas: World Books, 1971), p. 29.
[43] Mark Hatfield, *Not Quite So Simple* (New York: Harper and Row, 1968), pp. 174–75.
[44] Interview with Michaelson.
[45] "On the Floor," *Congressional Quarterly Weekly Report*, XXVIII (August 21, 1970), p. 2087.
[46] *Congressional Record*, Senator Mark Hatfield, floor remarks on behalf of S. 8761, June 10, 1971.
[47] *Congressional Record*, Senator Mark Hatfield, floor remarks on behalf of S. 19537, November 23, 1971.
[48] Interview with Member.
[49] *Congressional Quarterly Weekly Report*, XXIX (June 21, 1971); XXX (August 1, 1972).
[50] Interview with Member; Interview with Michaelcon.
[51] *The New York Herald Tribune*, November 24, 1963.
[52] "Financial Disclosure," *Congressional Quarterly Weekly Report*, XXVIII (May 24, 1971.)
[53] *Congressional Record*, Senator Mark Hatfield, floor remarks on behalf of S. 5445–S 1, April 9, 1970.
[54] *The New York Herald Tribune*, November 4, 1963, quoting Antoinette Hatfield.
[55] Mark Hatfield, *Conflict and Conscience*, p. 40.
[56] Senator Mark Hatfield, "Pastors, Prophets and Politicians: 159th Commencement Address," Princeton Theological Seminary, Princeton, New Jersey.
[57] Mark Hatfield, *Conflict and Conscience*, p. 73.

## THE RESPIRATORY DISEASE BENEFIT ACT

Mr. TAFT. Mr. President, on February 27, I introduced S. 1029, the Respiratory Disease Benefits Act. This measure is designed to extend to thousands of industrial workers, crippled with occupationally related respiratory diseases, the same benefits which we now provide to coal miners who contract black lung. I am pleased that this measure has now been cosponsored by the Senator from Rhode Island, (Mr. PASTORE) and the Senator from Idaho (Mr. CHURCH). In analyzing this matter, a verbal presentation before the American Industrial Hygiene Association has come to my attention which I wish to commend to my colleagues. Made by Joseph K. Wagoner, S.D. Hyg., William M. Johnson, M.D., and Richard Lemen, M.S. of the National Institute for Occupational Safety and Health, it is entitled "Malignant and Nonmalignant Respiratory Disease Mortality Patterns Among Asbestos Production Workers."

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

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

MALIGNANT AND NONMALIGNANT RESPIRATORY DISEASE MORTALITY PATTERNS AMONG ASBESTOS PRODUCTION WORKERS

INTRODUCTION

There is little doubt today that occupational exposure to asbestos, under a wide variety of circumstances is causally associated with lung cancer, mesothelioma and asbestosis. To date, however, only one study has evaluated these responses in relation to the interaction between duration of exposure and interval since onset of exposure. This study, by Newhouse, is limited by the multiplicity of fiber types used in production; that is, amosite, crocidolite and chrysotile asbestos. The purpose of the present epidemiological investigation was to evaluate the mortality patterns among a cohort of workers in one major asbestos manufacturing complex utilizing predominantly chrysotile asbestos in textile, friction and packing products.

METHODS

Selected for study were all individuals employed in the manufacturing of asbestos textile, friction and packing products during the period January 1, 1940 through December 31, 1962. Occupational histories were ascertained from company employment files. In an attempt to obtain a group of more manageable size, study was limited to those individuals having completed one or more years of employment.

Follow up of all study group members was attempted from the time of termination of employment to January 1, 1968, the cut-off date for analyses of these data. Vital status ascertainment was made through records maintained by Federal, state, and local government agencies including sources such as the Social Security Administration, the Internal Revenue Service and State Vital Statistics Offices. For those individuals not located through these conventional data resources, use was made of State Motor Vehicle Licensing Agencies, R. L. Polk directories, Post Office mailing correction services, and town hall voter and property tax records. As a result of this intense follow-up program, less than 6.9% of the study group were lost to observation (Table I). Death certificates were obtained for the known dead, and cause of death were interpreted according to the *Revision of the International Lists of Diseases and Causes of Death* in effect at the time of death by a qualified nosologist. Those individuals whose vital status was not ascertained were considered alive, thus making conservative any finding of increased cause-specific mortality among the study group. In addition 29 individuals who were known to have died but for whom no death certificate could be obtained were considered as deceased, cause of death undetermined.

A modified life table technique was used to obtain person-years at risk of dying by five year calendar time periods, five year age groups, number of years of employment, and number of years after start of asbestos exposure. Comparison was made between the observed risk of dying among the study cohort with that expected on the basis of age-sex-race-calendar time-cause-specific mortality rates for the general population of the United States.

RESULTS

Table 2 shows that during the period January, 1940 through December, 1967, a total of 655 deaths occurred among asbestos workers as contrasted with 526.84 expected, an excess significant at $p<.01$. The distribution of deaths is most revealing. Only one organ system complex was significantly in excess of expectation, that being the cardio-pulmonary system. This excess of deaths within the respiratory system was not specific to any one response, rather it was demonstrated both for malignancies with 46 observed versus 18.84 expected, $p<.01$ and for non-malignancies with 72 observed versus 35.02 expected, $p<.01$. Disease of the heart, which in part were secondary to pulmonary disease, i.e., cor pulmonale and congestive heart failure, were also increased among asbestos workers, with 239 deaths observed versus 202.37 expected, an excess significant at $p<.05$. Note should be made that among the 83 deaths in the all other known cause category, 16 were malignancies of the lymphatic and hematopoietic system. The etiology of these malignancies will be the subject of a separate report.

A more detailed breakdown of respiratory deaths, both malignant and non-malignant by duration of employment and time since onset of asbestos exposure is shown in Tables 3 & 4. By examination of the mortality patterns in Table 3, it may be seen that an excess of respiratory cancer occurred among asbestos workers at each duration of employment category down to and including 1-9 years. The lack of an excess respiratory cancer risk during the first nine years after onset of asbestos exposure, followed by a significant excess for each time interval beyond 10 years is not consistent with a predisposition (endogenous or exogenous) to respiratory cancer among individuals employed in the asbestos industry.

Table 4 shows that in contrast to the excessive risk demonstrated for respiratory cancer down to and including 1 to 9 years of employment, only during the period of ten or greater years of employment was non-malignant respiratory disease (pneumoconiosis) excessive. These observations do not support the speculation that excessive respiratory cancer is found only in presence of asbestosis.

Consideration must be given to the fact that some of the accumulated exposure (in this case duration of employment) is wasted or irrelevant as far as the initiation of cancer is concerned. This is so as malignant transformations do not lead to instantaneous cancer but must be transmitted over several years through the cell progeny. Analytic methods, however, used in the epidemiology of asbestos—induced cancer are unable to discriminate between the initiation dose and subsequent (wasted) exposure. In view of these concepts and the magnitude of excess risk shown in Tables 1 and 2, the prudent course of action would be to reduce asbestos exposure substantially below those levels demonstrated to be associated with malignancy.

Now that an excess of 110.73 cardio-pulmonary deaths has been observed and an association with duration of employment has been demonstrated, it seems desirable to evaluate the distribution of those malignant and non-malignant respiratory disease deaths according to interval since termination of employment. This evaluation is undertaken to shed light on the practice of respirator use in the absence of strict medical controls, during periods of excessive asbestos or other pneumoconiosis producing dust exposures.

Figure I shows the percentage of both total lung cancer and pneumoconiosis deaths according to five year intervals since termination of employment. The majority of lung cancer and of pneumoconiosis deaths occurred within five years of termination of employment. Twenty-six out of 45 lung cancer deaths and 41 out of 52 pneumoconiosis deaths occurred within this five year interval.

Table 5 shows a breakdown of those lung cancer deaths which occurred within the first five years since termination of employment. The majority (14 out of 26) of these lung cancer deaths occurred within six months following termination of employment. The average age at death of these 14 individuals was 53.4 years.

Furthermore, a breakdown of pneumoconiosis deaths which occurred within five years since termination of employment may be seen in Table 6. The majority of these respiratory deaths occurred within one year since termination of employment including 17 deaths which at an average age of 53.8 years occurred within six months of termination. Note should be made that the average age of those 41 individuals who died within five years since termination of employment was only 55.9 years.

Lung cancer and pneumoconiosis deaths which occurred within six months of the termination of employment are evaluated further according to one month intervals since termination of employment (Table 7). The majority of both lung cancer and of pneumoconiosis deaths which occurred within six months took place within three months of termination. Note that five lung cancer deaths and eight pneumoconiosis deaths occurred within one month. Cor pulmonale and congestive heart failure were noted as contributing cause of death on the death certificates of many of these individuals with pneumoconiosis whose age at death was usually less than 60 and in a few cases under 50. These data demonstrate the need for a comprehensive medical evaluation of employees who are required to wear respirators in asbestos operations with excessive exposure levels. Individuals with pulmonary function findings consistent with restrictive lung disease and with other evidence of asbestosis are at excess risk of cardio pulmonary death, and the routine use of both filter and air supplied respirators in individuals with moderate and advanced asbestosis could aggravate an already serious medical condition.

Cardio-pulmonary death within a short interval since termination of employment is not a problem limited to the past. Table 8 shows lung cancer and pneumoconiosis deaths according to time since termination of employment and decade of death. During the years 1960–67, eleven of these deaths occurred within six months since termination of employment. Asbestos-related pulmonary disease is a current problem in the asbestos products industry according to the findings of NIOSH medical surveys. A recent survey in an asbestos insulation plant demonstrated approximately a 50% prevalence of X-ray, pulmonary function, and clinical findings consistent with asbestos is among individuals with ten or more years of employment. The routine application of respirators in such an employed population is hazardous, and the need for comprehensive medical surveillance is indicated. These data provided the rationale upon which the Advisory Committee on Asbestos Standards recommended that use of respirators during periods of excessive asbestos dust be preceded by strict medical evaluation.

TABLE 1.— *Status of asbestos textile, friction and packing study cohort as of December 31, 1967*

| | |
|---|---|
| Known to be alive | 2,481 |
| Known to be deceased | 655 |
| Death certificate obtained | 626 |
| Death certificate outstanding | 29 |
| Not known to be alive or deceased | 231 |
| Total | 3,367 |

TABLE 2.—OBSERVED AND EXPECTED DEATHS DUE TO SELECTED CAUSES, WITH STANDARDIZED MORTALITY RATIOS AMONG WHITE ASBESTOS, TEXTILE, FRICTION AND PACKING EMPLOYEES, JANUARY 1940 THROUGH DECEMBER 1967

| Cause of death | Number of deaths | | SMR | Cause of death | Number of deaths | | SMR |
|---|---|---|---|---|---|---|---|
| | Observed | Expected | | | Observed | Expected | |
| Tuberculosis | 10 | 10.90 | 92 | Cirrhosis of liver | 12 | 10.55 | 114 |
| Malignant neoplasms | 117 | 95.82 | [1] 122 | Accidents | 29 | 42.40 | [1] 68 |
| Digestive system | 36 | 29.07 | 124 | Suicide and homicide | 23 | 15.81 | 145 |
| Respiratory system | 46 | 18.84 | [2] 244 | All other known causes | 83 | 70.85 | 117 |
| Other and unspecified | 35 | 47.91 | 73 | Unknown causes | 29 | | |
| Vascular lesions affecting CNS | 41 | 40.14 | 102 | | | | |
| Diseases of the heart | 239 | 202.37 | [1] 118 | Total | 655 | 526.84 | [1] 124 |
| Nonmalignant respiratory diseases | 72 | 35.02 | [2] 206 | | | | |

[1] Significant at 5 percent level.
[2] Significant at 1 percent level.

TABLE 3.—OBSERVED AND EXPECTED RESPIRATORY CANCER DEATHS ACCORDING TO DURATION OF EMPLOYMENT AND TIME SINCE ONSET OF EMPLOYMENT AMONG WHITE ASBESTOS, TEXTILE, FRICTION AND PACKING EMPLOYEES, JANUARY 1940 THROUGH DECEMBER 1967

| Time since onset of employment (years) | Duration of employment (years) | | | | | | | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 1 to 9 | | 10 to 19 | | 20 to 29 | | 30 and over | | | |
| | Observed | Expected | Observed | Expected | Observed | Expected | Observed | Expected | Observed | Expected |
| 1 to 9 | 3 | 2.75 | | | | | | | 3 | 2.75 |
| 10 to 19 | 5 | 2.78 | 6 | 3.21 | | | | | 11 | 5 99 |
| 20 to 29 | 6 | 2.95 | 5 | 1.01 | 10 | 3.04 | | | 21 | 7.00 |
| 30 and over | 1 | .47 | 3 | .61 | 3 | .80 | 3 | 1.85 | 10 | 3.74 |
| Total | 15 | 8.96 | 14 | 4.83 | 13 | 3.83 | 3 | 1.85 | 45 | 19.47 |

TABLE 4.—OBSERVED AND EXPECTED NONMALIGNANT RESPIRATORY DEATHS (LESS INFLUENZA AND PNEUMONIA) ACCORDING TO DURATION OF EMPLOYMENT AND TIME SINCE ONSET OF EMPLOYMENT AMONG WHITE ASBESTOS, TEXTILE, FRICTION AND PACKING EMPLOYEES

| Time since onset of employment (years) | Duration of employment (years) | | | | | | | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 1 to 9 | | 10 to 19 | | 20 to 29 | | 30 and over | | | |
| | Observed | Expected | Observed | Expected | Observed | Expected | Observed | Expected | Observed | Expected |
| 1 to 9 | 2 | 4.49 | | | | | | | 2 | 4.49 |
| 10 to 19 | 3 | 3.45 | 14 | 4.09 | | | | | 17 | 7.54 |
| 20 to 29 | 1 | 2.51 | 4 | 1.34 | 13 | 3.05 | | | 18 | 6.90 |
| 30 and over | 1 | 0.46 | 4 | 0.49 | 9 | 1.00 | 12 | 1.08 | 26 | 3.03 |
| Total | 7 | 10.91 | 22 | 5.92 | 22 | 4.05 | 12 | 1.08 | 63 | 21.96 |

TABLE 5.—LUNG CANCER (162.1 AND 163X) DEATHS AMONG ASBESTOS WORKERS

| Time since termination of employment | Deaths | | Average age |
|---|---|---|---|
| | Number | Percent | |
| Less than 6 months | 14 | 53.8 | 53.4 |
| 6 months to 1 year | 5 | 19.2 | 51.0 |
| 1 to 2 years | 3 | 11.5 | 60.1 |
| 2 to 5 years | 4 | 15.5 | 76.6 |
| Total | 26 | 100.0 | 60.3 |

Note: Male—23; female—3.

TABLE 6.—PNEUMOCONIOSIS (523X) DEATHS AMONG ASBESTOS WORKERS

| Time since termination of employment | Deaths | | Average age |
|---|---|---|---|
| | Number | Percent | |
| Less than 6 months | 17 | 41.5 | 53.8 |
| 6 months to 1 year | 8 | 19.5 | 53.7 |
| 1 to 2 years | 9 | 21.9 | 58.1 |
| 2 to 5 years | 7 | 17.1 | 57.8 |
| Total | 41 | 100.0 | 55.9 |

Note: Male—33; female—8.

TABLE 7.—LUNG CANCER AND PNEUMOCONIOSIS DEATHS AMONG ASBESTOS WORKERS

| Interval since termination of employment (months) | Deaths | | | |
|---|---|---|---|---|
| | Lung cancer | | Pneumoconiosis | |
| | Number | Percent | Number | Percent |
| Less than 1 | 5 | 35.7 | 8 | 47.1 |
| 1 to 2 | 0 | 0 | 0 | 0 |
| 2 to 3 | 4 | 28.6 | 4 | 23.5 |
| 3 to 4 | 1 | 7.1 | 3 | 17.6 |
| 4 to 5 | 2 | 14.3 | 1 | 5.9 |
| 5 to 6 | 2 | 14.3 | 1 | 5.9 |
| Total | 14 | 100.0 | 17 | 100.0 |

TABLE 8.—LUNG CANCER AND PNEUMOCONIOSIS DEATHS ACCORDING TO TIME SINCE TERMINATION OF EMPLOYMENT AND DECADE OF DEATH AMONG ASBESTOS, TEXTILE, FRICTION, AND PACKING EMPLOYEES

| Time since termination of employment | 1940–49 | 1950–59 | 1960–67 | Total number | Percent |
|---|---|---|---|---|---|
| Less than 6 months | 9 | 11 | 11 | 31 | 32.0 |
| 6 months to 11 months | 3 | 7 | 3 | 13 | 13.4 |
| 1 to 2 years | 2 | 4 | 6 | 12 | 12.4 |
| 2 to 5 years | 3 | 3 | 5 | 11 | 11.3 |
| 5 years and greater | 1 | 17 | 12 | 30 | 30.9 |
| Total number | 18 | 42 | 37 | 97 | |
| Percent | 18.6 | 43.3 | 38.1 | | 100.0 |

## REMARKS OF SENATOR HUMPHREY BEFORE THE NATIONAL LEAGUE OF CITIES/CONFERENCE OF MAYORS

Mr. HUMPHREY. Mr. President, on March 6, 1973, I had the honor to address the National League of Cities/Conference of Mayors legislative meeting.

In that speech, I ask the mayors to join with me in preventing an Era of Domestic Retreat. For, to me, that is what the Nixon administration's new budget represents.

I told the mayors that I would introduce a National Priorities Resolution—to place the Congress on record favoring cutting wasteful military programs, closing tax loopholes, and devoting these resources so saved to pressing domestic needs.

Mr. President, I ask unanimous consent that my address be printed in the RECORD at this point.

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

REMARKS BY SENATOR HUBERT H. HUMPHREY

Just one month ago, the President of the United States sent his budget to Congress. A budget of $268.7 billion.

A budget representing more than ¼ of the total Gross National Product of this country.

The budget of the President is a tremendously powerful tool for structuring social and economic policy.

It represents a President's priorities.

And, it embodies within it the goals of a nation's leaders for the people.

But, to the Mayors of this nation, I charge that the new budget is hard evidence of bad faith, broken promises, and vanishing fiscal support for the cities of our country.

As my Senate colleague, Walter Mondale, said last week, "The Nixon budget means more comfort for the comfortable. Its solution to domestic problems is—if we don't succeed, then quit."

Last year, the Mayors joined with a majority in the Congress and the Administration to enact General Revenue Sharing.

I strongly supported that legislation. I sponsored it in the Senate. I helped lead the battle for it.

And the President, amid all the trappings of Independence Hall in Philadelphia, signed the bill.

Little did any of us know that he was also signing the death knell for many of the critical programs so long supported and so long fought for by many of you here in this room.

I remember, as I am certain you do—the President's words well.

"Revenue sharing is new money," he said.

It does not replace money already going to the cities. It is additional dollars, without strings and without encumbrances.

Now, one election later, what do we find?

Revenue sharing is not new money.

It is not supplemental money.

It is not even the promise of new money.

It is an excuse for the Executive Branch to engage in one of the most massive assaults on domestic programs ever waged by one President.

It is an excuse for a lot of double talk about increasing funds when actually programs are being phased-out.

In short, it is an excuse for deceiving and neglecting the American people.

Look at the deception in the budget.

The budget says that funds for mental health will be doubled. But what it does not say is that the community mental health centers will be phased out—and all the money for that eight-year phase-out is included in this year's budget.

Presumably, the Mayors are supposed to fund community mental health centers by general revenue sharing funds.

Or, consider the claim that more money is going into the poverty program. But at the very moment, the Office of Economic Opportunity is being systematically—and illegally—dismantled.

Presumably, you could find that with general revenue sharing funds also.

And, the budget says that more money will go to the cities—for pollution control and water and sewer grants. Yet, billions of dollars for these projects are impounded.

Presumably, you could build sewers with general revenue sharing funds also.

And finally, buried beneath the confines of the budget is a $2.1 billion hidden emergency fund in case hostilities resume in Vietnam—a kind of insurance fund.

Just try to get this money converted to revenue sharing.

In the City of St. Paul, in my state of Minnesota, the Mayor there, Lawrence Cohen, has informed me that the city will lose more than 13 million dollars due to funding impoundments, program cancellations, and funding cutbacks.

In addition, the entire Neighborhood Development Program—over $11.2 million—is in jeopardy. The acreage for NDP has been acquired in St. Paul. The buildings have been razed. But, the money from the Feds isn't there.

I call that breaking a contract. It's illegal. And, it ought not be tolerated.

But, the Nixon Administration says: You can use the pipeline. Money in the pipeline will take care of you.

Well, let me tell you, friends, the old "pipeline dodge" of the Nixon Administration will not work.

If the pipeline is so full, why has the Nixon Administration told 147 communities participating in the model cities program that they had to absorb immediate cuts of about 45% in funding?

If the pipeline is so full, why is it that low and moderate income housing starts in fiscal year 1975 will fall to zero?

The fact is that there is no pipeline—there is only a line.

Listen to what former HUD Secretary Robert Wood said about the urban budget of the President:

"Mr. Nixon is offering local governments $6 billion in General Revenue Sharing, and phasing out or terminating over 112 social action programs costing $16.9 billion or in effect a $10 billion withdrawal."

That's deception. But it is only one side of the budget. Neglect is the other side. Not benign neglect, but malignant neglect.

How does a Mayor tell employees paid through the Public Service Employment program that they no longer have a job?

What is a Mayor to do this summer without the Neighborhood Youth Corps?

What is going to happen to cities that have urban renewal programs underway?

What about the cutbacks in medical education, medicare, hospital construction, solid waste, open space, and model cities programs?

What are we to do about increased rents? The President says the answer is to build more housing. But, he slaps on a housing moratorium. That's hardly building more housing.

And how is a Mayor of any community going to answer to his constituents when he has to ask for property or sales tax increases to replace all the federal funds he thought he was going to receive—all at the very time the President of the United States loudly proclaims his no tax increase dictum?

That's budget fakery. That's neglect. That's deception.

But, there is more than that.

At the critical moment when our economy starts to look better, and with the cessation of hostilities in Vietnam—at a time when the energies and dreams so long postponed by war should be turned to the problems at home—the Nixon budget ushers in an Era of Domestic Retreat.

We have been this route before. And we have suffered the consequences.

I will recall the mood of the national administration at the end of the Korean War.

We had opportunity then—and we lost it.

We faced a challenge then—and we sidestepped it.

As a result, many of the problems of the '60's were a product of the indifference of the '50's.

It is easy to abandon the arduous effort to help 30 million Americans in poverty or to turn away from the cities or ignore the urgent pleas of middle America.

It may even be temporarily popular to do so.

But I say to the Mayors of this country, we cannot let that happen.

We cannot let the problems of the 1980's result from the indifference of the 1970's.

We must seize the opportunity now before us.

And, no amount of sloganeering or pious moralizing will do it for us.

It takes hard work, commitment, and leadership to meet needs.

We only have to look at the President's "New Federalism" to see that talk about problems doesn't solve problems.

The President talks often about efficiency, the spectre of big government and of spending reform.

He talks decentralization of government, but with the new "Supercrats" he is actually centralizing control.

What is the "New Federalism?" What is the Nixon Administration really doing?

I tell you: Power to the people? No—no.

The power is staying in Washington.

The money is staying in Washington.

The problems are being returned to the people.

This is not how government ought to work.

Government ought to be a partnership, dedicated to improving the lot of people.

We do not have to get bogged down by fights over categorical programs versus special revenue sharing. I support the Mayors for their drive for flexible financing tools.

I favor a bloc grant approach.

But what is really important is getting the kinds of programs to meet the problems. In other words, money and resources, not words and promises.

That is why I called now for a new resolve—to do the things that must be done.

I have spoken before of a Marshall Plan for our communities—a plan to organize the resources, the energies, the talents, and the financing to rebuild neighborhoods, improve public services, and bring a new and better quality of life to the have-nots as well as the haves.

We need a Marshall plan for this nation.

If we can have a foreign aid program for Hanoi and Saigon, then we can have a domestic aid program for Detroit, New York, Cleveland, Minneapolis, or Washington, D.C.

How do we start? Where do we begin?

We must squarely face the threat to the cities posed by the 1974 budget.

And we must do so not out of blind opposition but with constructive alternatives.

This afternoon—on the floor of the Senate—I will take the first step towards providing those alternatives.

I will introduce a National Priorities Resolution that will mandate the Congress to pare the fat from a bloated, overgrown military budget; begin a program of immediate tax reform; and devote an estimated $14 billion saved and earned to the pressing domestic needs—public employment, health care, urban rehabilitation, rural economic development, housing, education, pollution control, and other constructive national and local programs.

My resolution will draw the line.

It will say what the President's budget does not.

It will challenge the President's assumption that in a time of peace we actually need a bigger and higher military budget.

It will clearly say that we favor spending reform, but we also want tax reform.

But, most of all, this resolution will allow us to seize the opportunity—to avoid the Era of Retreat—and to begin the Era of Domestic Development.

There are things to do in this country.

We have streets that need repair; we have rivers and air to be cleaned; we have poverty and racial injustice to overcome; we have massive transportation problems; we have to care for the working families of our land.

Is it wrong to do these things?

We can completely fund the water and sewer projects Nixon says he cannot afford by cutting back the Trident submarine.

We can double funds for low and moderate income housing by not building the CVN–70 aircraft carrier.

We can have a summer youth program—and put 500,000 youngsters to work—by refusing to build the B–1 bomber.

Is it so wrong to take the $2 billion in the hidden funds for Vietnam and employ 180,000 men and women in public employment—rather than force them to the welfare rolls?

Is it wrong to say that we must create a tax system that promotes justice instead of promoting special privilege?

Is it wrong to want to make urban life liveable? I say No. I will not retreat from these responsibilities.

You must not retreat from them.

Together, we must forge an America that can best be found in the words of Carl Sandburg:

"I see America, not in the setting sun of a black night of despair ahead of us. I see America in the crimson light of a rising sun fresh from the burning, creative hand of God. I see great days ahead, great days possible to men and women of will and vision . . ."

## THE COURT AND ABORTION

Mr. DOMENICI. Mr. President, I would like to bring to your attention and to the attention of this body an interview published in a recent edition of the Washington Star-News. The subject of the interview is the recent Supreme Court decision concerning legalization of abortion. The interviewee is Dr. Andre Hellegers, director of the Kennedy Institute for the Study of Human Reproduction and Bio-Ethics.

Dr. Hellegers say, in part, the real question regarding abortion is, and I quote—

Whether you are going to have a utilitarian view of man or whether you are going to have some other view. The court's decision is a utilitarian one.

Let us examine this view. If we are, as a society, to consider life as a utility, then we are well along our way with the Court's decision. Whether we morally agree or disagree with the decision is not the issue. The issue is whether we are dealing with valuable human life, whether we are dealing with dignity in that life, and whether it has to be protected under the Constitution.

Dr. Hellegers points out that it is not possible to speak of potential life just as one cannot logically talk of a potential hand or a potential foot of a fetus. The simple biological fact is that the fetus is human—because human is a category. And it is a being, because it is there. If it were not a being, a woman would not need the abortion.

So we are discussing life—not potential life—but life itself. We are discussing the dignity and value of the concept of life.

The Court has ruled simply that we may now handle certain social problems with the medical technology of killing life, Dr. Hellegers says. Life is then a utility to be used by us as we please—and to be disposed of as we wish. Once we establish the foundation that life has no value and no dignity, then where do we draw the line? The Court has said 3 months into pregnancy. Will it then be birth, then infancy, then old age? That is a mere technicality and a matter of size alone.

We know where life begins. It begins at conception. It is our duty as defenders of the Constitution which stands to preserve value and dignity of life, to preserve that life from the beginning.

I ask to have the article inserted at this point in the RECORD.

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

THE COURT AND ABORTION—AVOIDING A QUESTION ABOUT HUMAN LIFE

(An Interview with Dr. Andre Hellegers)

Q. The Supreme Court, in its recent decision on abortion, calls a pregnant, but otherwise healthy, woman a "patient," and states that abortion is "primarily and inherently a medical decision up to the end of the first trimester." Is she a patient in the traditional medical sense?

A. Well, we've traditionally taken care of pregnant women. The question is whether you consider pregnancy a disease. Within the definition of the Court, pregnancy is a disease. The Court considered the stressful factors of pregnancy and the possibilities of future stress in making its decision. So the Court very rigidly followed the World Health Organization's definition of health which says that it is not just the absence of disease but "a sense of well-being." If being pregnant does not give a woman a sense of well-being, then she's ill.

Q. The Court uses the term "potential life" when talking about the fetus. What is a "potential life?"

A. I don't understand the language of the Court myself. You can't talk of the potential hand or the potential foot of a fetus; at least I presume not. It's there or it's not there, and its obviously there. I think that people are confusing the term "life" and the term "dignity." The whole abortion debate has been very fouled up in its linguistics.

I think the simple biological fact is that the fetus is human, only because "human" is a biological category. So, first, the fetus is categorically human. Second, the fetus is a "being" because it's there. If it wasn't a being, you wouldn't need the abortion. So we're dealing with human beings; we're dealing with human life.

The issue is whether we're dealing with valuable human life, whether we're dealing with dignity in that life, whether it has to be protected under the Constitution. All of these are not biological questions.

The unfortunate part of the whole debate is that people have misused biology to create phrases like "when does life begin?" When the question should have been "when does dignity begin?" They have used terms like "potential life," trying to say that life wasn't there, when the reason for saying that life wasn't there was because they didn't attach any value to it. The abortion issue is fundamentally a value issue and not a biological one.

Q. The Court says that it is only "a theory" that human life is present from conception. You obviously think that it can be substantiated beyond mere theory.

A. Oh, it's obvious. I don't know of one biologist who would maintain that the fetus is not alive. The alternative to alive is dead. If the fetus was dead, you would never do an abortion. Today we are employing euphemisms to pretend that human life is not present. This stems from the fact that we are not quite ready yet to say, yes, there is human life but it has no dignity. We have wanted to avoid that statement at all costs.

Q. So abortion is only a euphemistic question of life?

A. That's right, because of the fear of saying what we know—yes, there is human life but we attach no value to it. And it has led, incidentally, to a very interesting phenomenon. The Court specifically says that it does not want to take a stand on whether human life is there or not. But it says, operationally, you may proceed to abort. If you are not willing to say when life starts, there are two possibilities—either it is there or it is not. If you then proceed to abort you are factually saying that you may abort even though human life may be there.

Q. What is "the point of viability?"

A. The Court divides pregnancy into three sectors. During the first three months it rules totally under the issue of privacy. Then it says, as pregnancy advances, the state may have a compelling interest in the fetus at viability which it puts at 24 or 28 weeks.

The issue, of course, is that the fetus is perfectly viable at any time during pregnancy provided you leave it in place, and it is only because of your action that it becomes not viable. To me the odd situation is that because you do something to the fetus and doing that makes it not viable you may proceed to do so.

Q. What is the "compelling point" of three months? The Court says that is the point at which the woman and her doctor are free to make a private decision about abortion, and the state may step in after three months.

A. The state may step in after three months except when the life and health of the woman are involved—and the Court clearly defines health as being economic state, stress and so forth. Now, any pregnant woman who says, "I am pregnant and it is stressful to me," is right there a candidate for abortion.

Q. What is the basis of regarding the first three months as a turning point in pregnancy?

A. It's based on the proposition that it is safer to have an abortion at that time than to go ahead and have the childbirth. The Court says that up to that time the mother's health is automatically provable to be better off not pregnant than pregnant. And that, incidentally, is just terrible use of statistics. What has happened is that one compares the statistics of undergoing an abortion procedure with the general statistics on maternal mortality as whole. Several problems arise.

First, childbirth as a whole takes nine months whereas the abortion by definition takes less than that. So, obviously, there is less risk of dying in a three-month period than in a nine-month period because you have lived less long. The second problem is that if you die of anything before you have had a chance to get an abortion, you are counted among the non-abortion deaths. The third problem is that all women who want a child regardless of their health status and who decide to go through with it, and die, automatically fall under the death statistics and not under the abortion statistics. So you are really comparing apples and oranges. It is total misuse of scientific method.

Q. Medically where does the term "the first trimester" come from?

A. The first trimester comes from the fact that up to 13 weeks the abortion procedure is rather a simple one. The first trimester has nothing to do with what a fetus is at 13 weeks compared to what it is at 26 weeks. Up to 13 weeks it is rather safe to get aborted. From 13 to 26 weeks you have to change methods; you have to do saline infusions or hysterotomies. Then the statistics don't look quite as good.

The Court maintains that up to 13 weeks it is safer to be aborted than to have a child, which is already poor statistics. After 13 weeks the Court recognizes that the abortion procedure becomes more dangerous and therefore says that the state may begin to have some regulations to protect the health of the woman. After the 27th week there may be some interest in protecting the fetus as well. But it again spells out very clearly that whenever maternal health is involved, as defined under the World Health Organization's definition of stress, the state cannot stop the woman from getting an abortion. The first trimester has nothing to do with the viability issue; it has to do with the safety of the abortion procedure.

Q. You're saying that meaningful life outside the womb could start at the 27th week?

A. Well, after the 27th week we no longer use the term "abortion" in obstetrical circles. We then talk about "premature delivery." Now the survival rate between 20 and 28 weeks is only 10 percent. The question here is how long must you have lived to

be considered viable. That's an issue in its own right.

What is, of course, absurd about the situation is that it is the procedure that makes the fetus unviable. Obviously the chances of survival are greater the closer to 40 weeks you are. But viability at any time during pregnancy is only with assistance. But it is just like a newborn child which is only viable with assistance.

Q. The Court maintains that the abortion question turns on whether the existing laws violate a woman's "rights" and "privacy." Is the fetus the possession of a woman the same as an appendix?

A. In the opinion of the Court it is. Not just the decision but a great deal of things that are going around suggest that intercourse is a given. It shall be without consequence; philosophically, that is what we are saying. It is now assumed that intercourse is one action that everyone can engage in without accepting any consequences. We are now saying that the decision whether to bear a child is not a decision to be made prior to intercourse.

In the high schools we are trying to teach children that, good heavens, intercourse does things. It is very strange the way Justice Douglas puts it in his concurring opinion. He says, "The vicissitudes of life produce pregnancies that may be unwanted."

We are trying to teach in the high schools that pregnancies are produced by intercourse, and here is a Supreme Court Justice who says that pregnancies are produced by "vicissitudes of life." If he had said that rape produces pregnancies which are unwanted and over which no one has control, you might be able to agree. That is not a decision for which one must take the consequences because it was not entered into voluntarily. The philosophy now becomes all intercourse is involuntary. Or else everyone is getting raped. It really is amazing.

Q. The Court allows the state a "concern for the health of the mother," and allows the state a concern for the "potential life" of the fetus, but only after 27 weeks. Why?

A. The Court simply and flatly states that the fetus is not a person to be protected under the Constitution. If that is right, then there is no reason at all for the Court to worry about the health of the fetus. Now, very interesting things will happen as a result of this.

As I read the decision, you should now be able to experiment on the fetus *in utero*. The Food and Drug Administration has always had very strict rules about what drugs may be used in pregnancy. There has been a lot of talk about setting up primate colonies to test the effect of drugs on the unborn fetus. As a consequence of this decision it is now possible to test all drugs on pregnant women who are going to have an abortion, providing the woman agrees, of course.

Q. The Court says that it wished "a consensus" could have been reached from philosophers, theologians and doctors about the starting point of life.

A. There is a consensus on the starting point of life, without any question. There are many ways to prove when the starting point of life is. If we were going to make a test tube baby how would we do it? We would start off by putting a sperm and an egg together and if we succeeded, then we would be in business; we would have life. The fertilized egg would develop automatically unless untoward events occurred. The first definition of life, then, could be the ability to reproduce oneself and develop on one's own, and this the fertilized egg has while the individual egg and sperm do not.

The Court makes some really amazing biological errors in its decision. When it deals with the history of abortion, it talks about what people thought about conception in the past without realizing that conception was only discovered in the 19th century. The ovum wasn't discovered until 1827. The Court says that the Pythagoreans held as a matter of dogma that the embryo "was animate from the moment of conception." Well we didn't even know about conception until 150 years ago. The Pythagoreans were philosophers, not biologists, but the Court seems to regard their opinions as dissenting biological opinions. Factually, of course, they arrived at the right answer anyway, even though they knew very little about biology.

But unless you can think about an ovum as an entity, you cannot talk medically about a start of life. Before people thought the seed was planted and it either caught or it didn't, almost as if the seed itself was life. They is why we have such crazy terms as insemination, a pure agricultural term that implies that the seed is planted. One ought to talk about co-semination or something that recognizes that the woman contributes an ovum.

The American Medical Association in the 19th century took its stand against abortion when it became known what the process of conception was and what the ovum was. When they found out when life began they thought it imperative to protect it from the beginning.

Q. It seems that the 20th Century has used the same medical knowledge to draw the exact opposite conclusion.

A. That's right. Now that it is absolutely clear how the process works one begins to falsify history and blame the 19th century for having written laws which it wrote, not based on Victorianism, but based on the new knowledge about the process of conception. Unless you are aware of the fact that biologists did not discover the ovum until the 19th century you will completely misread the history of the subject.

The original idea was that the soul was attached at some time to the body but nobody knew when the process of body-building started. When that became known, doctors and the AMA began to count the start of life from conception.

It has been commonly assumed that once human—not cat or rat—life—not death—has started then the concept of soul or human dignity has started. That is where the falsity of the Supreme Court decision lies. If the Court had said that we know when life starts but the issue is when we shall protect it or when we shall attach value to it, then it would have had rational ground for its decision. In the whole debate I have resented the falsification of embryology for the purpose of avoiding the fundamental question—when shall we attach value to human life?

Q. Do you think the Court could have reached the same decision if it had put the question on the proper grounds?

A. Ah, that would have been the difficult one. The Court would have been forced to say something which the California Journal of Medicine has already said very clearly. It says that we know when life starts, let's not kid ourselves. We ought to admit that we are handling certain social problems with the medical technology of killing life that has already started. The Court didn't have the courage of its convictions. So it wound up with the principle that you may kill the fetus even though it is already alive, but the Court didn't quite dare to come out and say it.

Q. What are some further implications of the Court's decision.

A. Hellegers: I am not sure that the Court's decision will cause any further harm other than the killing of fetuses. I am not a domino-theory man. Some people predict that euthanasia, infanticide and other practices will follow hard and soon on the abortion decision. I do think that the abortion decision and other bio-ethical problems are common symptoms of an underlying question. The question is whether you are going to have a utilitarian view of man or whether you are going to have some other view. The Court's decision is a utilitarian view. This fundamental question will come up very clearly, very shortly when the issue of how we use the live fetus for experimentation comes up. In England it has already been decided; you may use the live fetus for experimentation.

There are two great issues before us now. First, does one adopt the World Health Organization's definition of health, and does it become a doctor's duty to ensure "a sense of well-being," which is, in a way, happiness. The second issue is whether we shall look at the body in a utilitarian sense or whether we shall attach some greater value to it.

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## MR. NEEDHAM AND COMPETITIVE PRICING IN THE SECURITIES INDUSTRY

Mr. WILLIAMS. Mr. President, February 22, 1973, was a very important day for the securities industry. On that day, James J. Needham, chairman of the New York Stock Exchange, publicly urged members of his exchange to support the prompt elimination of all fixed brokerage rates. In light of the long history of that exchange's defense of fixed rates and the continuing opposition within certain segments of the industry to any further reduction of the level above which price competition is possible, I believe Mr. Needham's statement was not only sound and foresighted but courageous as well.

I have been advocating competitive rates for the securities industry for many years. At times, apart from the company provided by the Antitrust Division of the Department of Justice, this position has been a lonely one. The tide has now begun to turn, however. The progressive elements of the industry have begun to recognize that competitive rates are not only in the interest of investors but are also in the best interest of the industry itself. Mr. Needham's statement is a signal that the battle over rates is almost at an end. Because of his forthright espousal of competitive commission rates, I believe we are witnessing the last days of price fixing in the securities industry.

Because of the importance of Mr. Needham's remarks I ask unanimous consent to include them in full in the RECORD.

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

CONCLUDING REMARKS OF JAMES J. NEEDHAM, CHAIRMAN OF THE NEW YORK STOCK EXCHANGE, AT A SPECIAL MEETING OF THE EXCHANGE MEMBERSHIP IN NEW YORK CITY, FEBRUARY 22, 1973

The presentations that we have just seen must be labelled among the most important ever made to the membership of this Exchange in its 180 years of existence.

We have seen and heard for the first time the full picture, in all its latest detail, of the economic forces which are exerting such pressure on our industry that we cannot survive indefinitely without relief.

We have also learned, in fuller and more current detail, the basic premises and plans of both the Senate and House sub-committees, based on their study reports of the securities industry.

Putting everything together—the economic picture as well as that of Congressional intent—we no longer lack the information we need to make decisions for the future. Decisions which will affect not only the viability

of member firms, but of this and other exchanges, so as to better serve the public interest in the future.

The basic issues involved are well known to every member of the brokerage community. We have lived with them too long not to know them inside and out. Our problem up to now is that we have not been able to see far enough up the road to determine our correct course of action with respect to each of them.

Our caution has brought us criticism from some people who know little or nothing about our industry and from some who are convinced they know more about it than we do ourselves. Too many simple solutions have been proposed in the past with no thought of their far-reaching consequences.

The tragedy of all this is that so many people simply do not understand the fundamental fact that the economic well being of our country depends directly on a strong and viable securities industry.

Under the circumstances, we owe it to ourselves and to the public to consider now what measures will guarantee a healthy future for the securities industry.

Let's review the facts.

Our studies show an alarming decrease in profits. This cannot be glossed over because of the cyclical nature of our business. What we are faced with is an irreversible downward trend—a trend that will decline even more sharply as costs continue to climb. What's more, the trend toward minimal or no profits is even greater for transactions subject to the fixed commission rates.

This last fact is not without its touches of irony. Individual investors want to see fixed commission rates removed entirely, because they are convinced that brokers make too much money. What they do not realize—as the statistics bear out—is that the commission rate has become an artificial ceiling which protects them—the customers—but not the broker, from inflation and the rising cost of doing business.

What can the broker do under the circumstances? He certainly does not want to go into bankruptcy as he surely will if his business is primarily retail and the present commission rates remain unchanged. He cannot, by any stretch of the imagination, hope that Congress will increase present rates—he must realize that Congress, acting on behalf of the individual investor, is absolutely determined to remove the fixed rate structure altogether.

What the broker can do to escape his financial straightjacket and remain solvent now becomes obvious. He can base his prices on the cost of the services he renders. And in so doing, assure himself a reasonable profit.

Under the circumstances, Congress's motive for eliminating fixed commission rates doesn't matter. What does matter is that the securities industry be free to assure itself of future profitability. It can do this by relating prices to the cost of doing business, and in the process better serve the public interest.

The opportunity to serve individual as well as institutional investors in an open and competitive environment will be a challenging and rewarding one.

There will be a greater incentive to provide customers with services tailored to their individual needs.

Those who require more costly services will pay a correspondingly higher price for them. Those brokerage firms which provide services of high quality will be sought out by customers who are willing to pay for such service. We all know how important it is that individual investors be attracted back into the securities markets. The years ahead will see millions more requiring the services of our industry. The outlook for the national economy as well as ourselves is correspondingly great.

The transition from fixed commission rates to competitive pricing will require, for some firms, adjustments in policy and practice. No one need be concerned that investors will pay more than a fair price for services rendered—they can evaluate service in relation to price and determine for themselves where they can get the most for their money. At the same time, brokers should not worry that they will be driven out of business by unfair competitive practices. There are laws in this country which prohibit predatory business practices. There are also laws which effectively prohibit any one company or group of companies from monopolizing an industry.

There is another aspect to the elimination of fixed commission rates. It will remove the incentive for institutions to join exchanges. As we have seen, the SEC did all they could, legally, with the so-called 80–20 test—which still provides an incentive for exchange membership so long as fixed commission rates remain in effect. This rule was issued to put a brake on institutional membership; the fact of the matter is that it didn't. So now it is up to the Congress to resolve this issue. What do they intend to do! They intend to go all the way with a 100–0 rule—to prohibit money managers from acting as stockbrokers for the funds they manage.

Institutional membership on exchanges is something we can well afford to do without. Institutions, as such, are not brokers, and they should not be permitted to threaten the viability of the securities industry by being allowed to act as brokers solely for themselves. Furthermore, there are inherent conflicts of interest involved, along with the dangers that always accompany concentration of financial power.

On the other side of the coin, brokers who manage funds will not be exempt from the 100–0 rule. The Congress has decided that it is clearly in the nation's interest to see that a permanent wall is placed between money management and brokerage functions, so as to avoid any potential conflict of interest. Otherwise, they predict continuing attempts by institutions to act as brokers for themselves—without any concern for the individual investor.

Elimination of the fixed commission rate thus has two advantages—it makes it possible to restore industry profits to reasonable levels while tailoring services to meet the public need, and it reduces the incentive for institutions to recapture commissions. But unless proper safeguards are built into the proposed legislation, elimination of fixed commission rates could have the most damaging consequences to the national economy.

To put it very simply, what will be the incentive for membership on an exchange if any registered broker-dealer can trade in listed securities anywhere and at anytime, at prices that will assure him a profit?

And if there is no incentive to belong to an exchange, it certainly follows that the exchanges themselves will disappear from the scene.

It is hard to believe, but some members of Congress appear not to appreciate this fact—or even more unbelievable—see nothing wrong with allowing the stock exchanges of this country to go out to existence.

Their inability to comprehend this is due to the fact they do not relate the auction market process to the role of the network for distributing securities—both of which are absolutely vital to raising capital for government and industry.

They have got to understand that if the exchanges were eliminated today, the capital markets of the world would be in a state of chaos overnight. And the entire economy of this nation would grind toward a standstill.

Consequently, Congress must act to preserve the exchanges of this country. It can do this by creating incentives for exchange membership. How? Simply by requiring that all listed securities be traded exclusively on exchange markets.

I have stated publicly that membership in the exchange system, together with the O–T–C system, would be open to all qualified broker-dealers. No one can claim they would be denied admittance, any more than they can claim with any justification, that they are denied admittance today.

We've covered a lot of territory in a short period of time this afternoon, but we all know what's at stake. We all have questions as to timing, but questions of timing are easy to resolve. Far more important is the willingness to face the facts and make the decisions that have to be made.

To sum up, the facts are in, the pressures at work are obvious. The economic consequences are clear. The time to start the decision making process is now.

What is the next step?

The Board has been discussing the interrelationship of incentives for exchange membership and fully competitive rates. Those discussions will continue until the Board is convinced a satisfactory solution of this dilemma has been reached.

The Board will also review the provisions of the Senate bills dealing with institutional membership.

Uppermost in their minds, however, will be the viability, the profitability, if you will, of the securities industry—because that is essential to the continuing pre-eminence of the American securities markets among the capital markets of the world.

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## REMOVAL OF ARCHITECTURAL BARRIERS FROM CAPITOL HILL

Mr. PERCY. Mr. President, as chief sponsor of S. 1105, a bill to provide income tax incentives for the renovation of buildings to remove architectural and transportational barriers to the handicapped and elderly, the problem of architectural barriers in the Capitol complex is of particular interest to me. The unfortunate situation that currently exists was made particularly clear to me when I sought to hire a handicapped person for the Select Committee on Nutrition and Human Needs last year, and, because of the inaccessibility of the Senate Annex, the position was automatically closed to a nonambulatory person.

I would, therefore, like to associate myself with the fine remarks of the Senator from West Virginia (Mr. RANDOLPH), the chairman of the Subcommittee on the Handicapped, about the need for removal of architectural barriers from the Capitol complex. Like Senator RANDOLPH, I feel the Nation's Capitol should be an example of total accessibility, so that all our citizens, whether young or old, handicapped or nonhandicapped, can enjoy and use its premises. Consequently, I agree that, until architectural barriers have been eliminated as completely as possible from the Capitol complex, no funds should be provided for the project of extending the West Front of the Capitol itself.

I note with pleasure and satisfaction that a ramp has already been installed at the First and C Street corner of the Dirksen Building, providing wheelchair users free access to the Dirksen Building. Also, the Architect of the Capitol, Mr. George M. White, is currently directing studies for future projects to eliminate similar barriers. I support these activities wholeheartedly and I would like to com-

mend Senator RANDOLPH, Senator STAFFORD, and the staffs of the Special Committee on Aging and the Subcommittee on the Handicapped for initiating these worthwhile activities.

## CONDEMNED TO DIE FOR SCIENCE

Mr. KENNEDY. Mr. President, America was shocked to learn of the experiments conducted on innocent syphilis victims in Tuskegee, Ala. It is alarming to learn that in our great democratic society, scientists and researchers used humans as laboratory specimens without informing them that they were being studied or without even telling them they were suffering from a serious malady. The Tuskegee experiment represents at best a callous indifference to human suffering. Of the 400 or more patients in the study, 28 men died directly as a result of syphilis, another 154 have died from side effects.

In the November 1972 edition of Ebony magazine, a clear and concise account of the Tuskegee experiment is presented by Jack Slater. Mr. Slater graphically describes the formulation, implementation, and the results of the experiment. The full extent of this experiment should be read by all.

The Tuskegee experiment was indeed tragic. The paralyzing truth is that other experiments, more inhumane, and just as inexcusable as the Tuskegee experiment are still being conducted in America. Our prisons, hospitals, and mental institutions have become stowaways for human misery. Many experiments are being conducted without the knowledge or the consent of the patients. These medical investigations continue to go unchecked by Federal authorities.

It is time for America to become aware of the full range of experiments taking place under the auspices of "medical advances." It is past time for public officials to put the stopper on experiments that may damage and destroy life.

For that reason, Mr. President, I request unanimous consent to enter in the RECORD the article, "Condemned To Die for Science," published in the November edition of Ebony magazine.

Last week the Health Subcommittee heard testimony from two of the victims involved in the Tuskegee study. I believe every Member of the Senate will profit from reading about the Tuskegee experiment.

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

CONDEMNED TO DIE FOR SCIENCE

Tuskegee syphilis experiment allows 400 Alabama black men to suffer without treatment.

Last July, during a hot, dry, sun-tormented afternoon in Montgomery, Ala., Charlie Wesley Pollard, a 66-year-old farmer from nearby Notasulga, was greeted with the news that he had a venereal disease. He was not seated in a doctor's office when he became privy to this information, and he was not anywhere near a city health clinic. He was standing inside Montgomery's Hooper Stockyards amid hundreds of cattle, some of which he had just sold, when a young white woman, whom he did not know and whose name he has since forgotten, approached him, introduced herself as a reporter from a local newspaper and proceeded to inform him that he, Charlie Pollard, had syphilis. Listening to this woman who may have seemed an unstable soothsayer or clairvoyant, Pollard simply stood there, in silence, while she went on to tell him that he had had syphilis for at least 40 years and that since the onset of a 1932 U.S. Public Health Service experiment his body had been used in the name of medical science, used as one might use a guinea pig or any of those cattle now being unloaded from his truck.

Pollard is a reserved, very patient, very polite man, a man whose most striking characteristic embodies a great gentleness, so it never occurred to him to become angry, ignore what he had just heard or perhaps usher this strange, apparently mad woman out of his way. Besides, she spoke with some knowledge, since for more years than he could remember he had indeed been undergoing medical examinations at various intervals by teams of men who called themselves "government doctors."

"You ain't got nobody's name but mine?" he finally asked her, thinking of the scores of other men, some of them his own acquaintances, who had undergone those same examinations. Did this woman want him to become a part of another medical study? Was that it?

"Yes," she answered. "Yours is the only name I've got."

"Where did you get my name?"

She hesitated only for a moment. "From Washington."

She apparently had come to get a story, to find out, among other things, if (1) the public health officials had ever told him they were conducting a syphilis experiment on him and (2) if he had ever signed an informed consent release form permitting the government to conduct its experiment on him. Pollard answered "No" to both inquiries.

They talked a little longer, still surrounded by the cattle and the Alabama dust and the heat which was reaching migraine level. Finally, however, Pollard left the young woman and drove the 40 miles to his 500-acre farm near Tuskegee. He was disturbed and frankly he still did not believe anything he had just heard—didn't believe it until he arrived home and unfolded the afternoon newspaper, which told him more than he could wish to believe:

"WASHINGTON, July 25.—For 40 years the U.S. Public Health Service has conducted a study in which human guinea pigs, denied proper medical treatment, have died of syphilis and its side effects.

"The study was conducted to determine from autopsies what the disease does to the human body. . . .

"The experiment, called the Tuskegee Study, began in 1932 with about 600 black men, mostly poor and uneducated, from Tuskegee, Ala., an area that had the highest syphilis rate in the nation at the time.

"One-third of the group was free of syphilis; two-thirds showed evidence of the disease. . . .

"The Tuskegee Study began 10 years before penicillin was discovered to be a cure for syphilis. . . . Yet even after penicillin became common, and while its use probably could have helped or saved a number of the experiment subjects, the drug was denied them. . . ."

The sun was going down by now, and a kind of Alice-in-Wonderland air of unreality arrived with the dusk. Later, much later, Charlie Pollard would tell another reporter that, at that moment with the newspaper in his hand, he could only think of the word "ridiculous." "Ridiculous. It's ridiculous," he kept repeating to himself, over and over. Then taking the newspaper with him, Pollard struggled out of his chair and went to eat supper with his wife.

They were trying to determine—or so they said—how the course of untreated syphilis affected the human body—how the disease advanced into the central nervous system to render the limbs useless or bring about insanity, exactly how it deformed the bones and teeth, attacked the heart, ears and eyes, and ultimately caused an early coronary, early deafness and premature blindness. It was to be a scientific experiment. And they, the officials in the U.S. Public Health Service, wanted, in the fall of 1932, to study the manner in which syphilis caused death.

Of course, the physicians who originated the Tuskegee Study didn't explain their purpose in such ghoulish terms, didn't say they wanted to watch death or observe for science the syphilitic decline of black men. They did mention in a 1936 progress report that "the infected Negro population . . . seemed to offer an unusual opportunity to study . . . the disease to the death of the infected person." But for the most part any tacit hints of racial callousness were banished from their published statements to give way to the neutral, objective, reasonable language of science: "Because of the lack of knowledge of the pathogenesis of syphilis," says a recent background paper by the PHS Center for Disease Control (CDC) in Atlanta, "a long-term study of untreated syphilis was considered desirable in establishing a more knowledgeable syphilis control program."

All of which, it should be stressed, may indeed have been true. Yet, it didn't seem to matter that scientists even then, in the fall of 1932, already knew how the untreated syphilis germ affected the human body, already knew the precise "pathogenesis of syphilis" from data obtained from an earlier Oslo (Norway) Study in which treatment had been withheld from 1,976 syphilitics during the 20-year period between 1891 and 1910.

"Nowhere in the world," states a 1964 report of the Medical Clinics of North America, "was there a more unique opportunity to learn what happens when early syphilis goes untreated than from the files of Professor Boeck of Oslo, Norway."

Apparently, however, the conclusions of the Oslo Study did not suit the needs of the founders of the Tuskegee project. "In the medical circles of the 1930s there was a great deal of controversy about how syphilis affected blacks and whites," says Dr. Donald Printz, assistant chief of the venereal disease branch at CDC, which supervises what remains of the Tuskegee Study. Dr. Printz was citing the controversy partly because he felt it may have been one of the justifications for initiating the Tuskegee project. "With whites there tended to be a much higher rate of syphilitic insanity," he says, "whereas that complication was very rare in blacks. On the other hand, the rate of heart disease [due to syphilis] seemed to be higher in blacks than in whites."

According to other VD specialists, however, the Printz statement has little or no basis in fact. "The presumed manner in which syphilis affects blacks and whites has been in the literature for years, and frankly I have never seen it properly documented," declares Dr. Vernal G. Cave, the black director of New York's Bureau of Venereal Disease Control. "And even if it were true, even if blacks did have a higher rate of syphilitic heart disease, what the hell difference would it make? You didn't begin that kind of study to pick up a crumb."

Whatever the real reason, whether for science or because of some unspeakable indifference to human suffering, the Tuskegee Study did begin—if only for a crumb. Whether a few medical scientists wanted sincerely to diminish the Tuskegee area's high syphilis rate or whether they wished (as one physician suggests) to outdo the Oslo Study—whatever the reason—the fact remains that 28 black men, and perhaps as

many as 100 or more in the study, have died directly as a result of untreated syphilis, while 154 have died of the disease's grim side effects. The 74 known survivors, including Pollard, have a latent, non-communicable form of the disease, which is now considered "dead" and non-infectious.

The study began, ironically, during the same year Adolf Hitler, who would soon initiate his own "experiments" in the name of medical science, rose to power. In fact, it was Hitler's misuse of humans as guinea pigs which led in 1946 to the establishment of the Nuremberg Code, a series of ethical guidelines meant to be applied world-wide to all human experimentations, including those then and now being performed in the Tuskegee project.

The project got under way with recruitment drives in private homes, community stores and in various churches after Sunday morning services in Tuskegee and throughout the surrounding back country of Macon County, where the high rate of syphilis was due to the area's general lack of health care facilities.

Unemployed, poor and made poorer by a devastating Depression, the recruits were tempted by the PHS offer of free hot lunches, free medical care and free burial service. ("Often it was the 'only insurance' they could hope for," said public health nurse Eunice Rivers in a 1953 report.) And so they came, more than 1,700 of them, from the decaying plantations of the county, from the tenant farms and the economically unstable hamlets of Shorters, Hardaway, Sambo, Notasulga, Chesson, Liverpool, Millstead, Cecil—towns (some of them vanished now) in which a team of government doctors and nurses formally initiated the study by selecting blood samples from a random 1,782 black males who were 25 to 70 years old.

Of the 1,782, some 400 men who had syphilis were chosen to go untreated, while another 201 who were free of the disease were selected to be the control group.

"I wasn't briefed, even as a doctor, as to what the purpose of the study was," says Dr. J. W. Williams, 73, a black Tuskegee physician who was an intern at the local John A. Andrews Hospital when the project began. Dr. Williams, then 33, was asked by his superiors at the hospital to assist the newly arrived public health doctors "in whatever duties they would require." Those duties, he says, "consisted of selecting blood samples and later injecting some of those patients with what I thought was neo-arsphenamine (the mercury-arsenic compound used at the time to combat syphilis). Now, in retrospect, I sometimes think the injections I gave may have been a placebo (a substance administered purely for its psychological benefit). But I can't be certain," Dr. Williams admits.

Did he ever at any time become aware that the patients were not receiving treatment? "When the reports from the blood samples came back from the state laboratory in Montgomery, I never saw them," recalls Dr. Williams, who stayed with the study for only a few months. "I didn't know who was reactive and who wasn't."

Eunice Rivers, however, apparently did know. As the public health nurse for the Tuskegee Study from its inception, Miss Rivers, who is black, had broad contact with the patients and, as she also states in her article in Public Health Reports (April 1953), "was thoroughly familiar with their local ideas and customs."

Today Miss Rivers is retired, but in 1932 and during the later years of the study she served as a liaison between "the government doctor" and the "government patient," transporting recruits to and from examinations and following up the patients after the physicians returned to Washington.

Miss Rivers' article is, therefore, worth quoting at length, partly because it reveals a particularly condescending attitude the PHS physicians held toward their black patients and partly because it exposes the extent to which Miss Rivers, like her patients, was unknowingly and tragically used. Here is her account of what the project was really about:

"A most important phase of the study was to follow as many patients as possible to post-mortem examinations, in order to determine the prevalence and severity of the syphilitic disease process. Cooperation of patients with this plan was sought by offering burial assistance (through a private philanthropy, the Milbank Memorial Fund) on condition that permission be granted for autopsy. For the majority of these poor farmers, such financial aid was a real boon. . . . The Federal Government offered physical examinations and incidental medication, such as tonics and analgesics, but was unable to provide financial assistance on a continuing basis. The Milbank Memorial Fund burial assistance made it possible to obtain a higher percentage of permissions for post-modern examinations than otherwise would have been granted."

Speaking of herself in the third person, Miss Rivers now describes the men as she transports them to and from medical examination:

"Later, the nurse's small car was replaced with a large, new, government station wagon. The ride to and from the hospital in this vehicle with the government emblem on the front door, chauffeured by the nurse, was a mark of distinction for many of the men who enjoyed waving to their neighbors as they drove by. They knew that they could get their pills and "spring tonic" from the nurse whenever they needed them between surveys, but they looked forward happily to having the government doctor take their blood pressure and listen to their hearts. Those men who were advised about their diets were especially delighted even though they would not adhere to the restrictions.

"Because of the low educational status of the majority of the patients, it was impossible to appeal to them from a purely scientific approach. Therefore, various methods were used to maintain and stimulate their interest. Free medicines, burial assistance or insurance (the project being referred to as "Miss Rivers' Lodge"), free hot meals on the days of examination, transportation to and from the hospital, and an opportunity to stop in town on the return trip to shop or visit with their friends on the streets all helped. In spite of these attractions, there were some who refused their examinations because they were not sick and did not see that they were being benefited. *Nothing provoked some of the patients more than for a doctor to tell them that they were not as healthy as they felt. This attitude sometimes appeared to the examining physician as rank ingratitude for a thorough medical workup which would cost anyone else a large amount of money if sought at personal expense* [italics added]. At these times the nurse reminded the doctor of the gap between his education and health attitudes and those of the patients."

Various attempts have been made by various reporters to talk with Miss Rivers, but to most of them (as far as can be determined) she declines to say anything regarding the Tuskegee project. In Tuskegee, when EBONY telephoned Miss Rivers to request an interview, she said, "I have nothing to say."

By 1946, the Tuskegee Study had been in existence for 13 years. Penicillin, discovered three years earlier, had just become generally available to the medical profession. The Nuremberg Code, just promulgated, was being hailed as a giant step forward for the civilized world. And the Tuskegee Study, already written about in 1936, was discussed in 1946 in at least two medical journals and was being hailed, moreover, as an experiment "of great scientific interest to the medical community . . . widely discussed at medical meetings and . . . the subject of [by 1971] not less than 15 papers published in . . . American medical literature," says a recent PHS background paper. Still, in spite of the interest it generated, in spite of the Nuremberg Code and the civilized world, penicillin, the miracle drug in the mid-'40s, was not given to the Tuskegee survivors. Why?

In his Atlanta office of the Center for Disease Control, Dr. J. D. Millar, chief of the VD branch at CDC, explains that he doesn't know why. "That's what is concerning everyone," he says. "We can't tell you at this point why the decision was made, or why there was no decision at all." Then he suggested that simple indifference to the fate of the Tuskegee patients might have been involved: "It may well be that there was simply a lack of decision [to administer penicillin]. People didn't identify this group and say, 'Ah, ha! Now we have this brilliant new drug and we need to treat those people.' That process," explains Dr. Millar, who seems quite unaware of the condemnation implicit in his words, "just may not have occurred."

When he was interviewed by the Washington Post, a physician who joined the Tuskegee Study in 1950, Dr. Sidney Olansky of Atlanta's Emory University Medical School, explained it this way: "We did not know enough. We would not have been comfortable about treating this group with penicillin until the mid-1950s."

Perhaps so, but Dr. Vernal Cave disagrees. "By 1946," he declares, "standardized treatment schedules for the treatment of all stages of syphilis—primary, secondary, latent and late—had been established. Moreover, in 1946, we hadn't yet become aware of penicillin's allergy reactions. And besides, if the Public Health Service withheld treatment from the Tuskegee patients because it believed the benefits of *not* treating them were better, then it is guilty of having disseminated all over the nation information encouraging treatment of syphilis at all stages."

None of these retorts, explanations, hastily assembled justifications and charges of genocide swirling around the Tuskegee project would probably be occurring today if it hadn't been for the alertness of Associated Press correspondent Jean Heller, 30, who learned about the existence of the study in July when she was covering the Democratic National Convention in Miami.

A few weeks prior to the convention, one of Miss Heller's colleagues based in San Francisco had been told of the Tuskegee project by a former employe of the U.S. Public Health Service in that city. Since the Tuskegee area was beyond the "beat" of AP's San Francisco office, the colleague passed her information along to Miss Heller, who is based in Washington. After the convention, Miss Heller immediately began her research into the Tuskegee Study, and three weeks later on July 25, she filed her story.

One of the persons probably most embarrassed by Miss Heller's disclosure was her namesake, a noted scientist Dr. John R. Heller, whom Dr. Millar cites as the originator of the Tuskegee Study. An assistant surgeon general at PHS in 1932 and later chief of the service's VD division during those crucial years between 1943 and 1948 when penicillin became widely available, Dr. Heller says today of the Tuskegee project: "There was absolutely no racial overtone, and this was not an attempt to exploit the Negroes. We told them what they had." Nevertheless: "It never occurred to us to ask for penicillin because the demand was so great for other people who needed it much more than they did. We were not responsible for getting it to them, so we made no effort to get it."

When Miss Heller's disclosures became public, congressional leaders and other government officials reacted with expressions of "outrage," "disbelief," "horror," "shock and "dismay." And so a month later, on August 24,

the inevitable panel to investigate the Tuskegee project was appointed by Dr. Merlin K. DuVal, assistant secretary for health and scientific affairs in the U.S. Department of Health, Education and Welfare.

A prepared HEW statement quotes Dr. DuVal as saying, "The panel will review all of the available evidence and evaluate the ethical and scientific merits of the study against the backdrop of the social and scientific history of the period from 1932 to 1972."

The town of Tuskegee displayed mixed reactions to the disclosure of the syphilis experiment. During interviews with EBONY, some Tuskegee citizens indicated that they did not want to discuss the study, while others said they had no opinion about it. Others, however, were quite vocal and bitterly angry.

"The study shows that black people have been fooled once again," said Mrs. Anita Lennard, a black housewife.

Miss Sally Robinson, a white elementary school teacher, indicated that she felt the study could have only been perpetrated against powerless people. "I would assume at least that it would only happen to people who were without power," she said, "people who were unknowing and unable to protect themselves."

One white citizen, however, didn't agree with Miss Robinson's analysis. Charles Keever, mayor of Tuskegee at the time of the experiment's disclosure, put it this way: "It [the study] has certainly been blown out of proportion. It's a very small pig, and it seems that a great big hog has been made out of it. It's only small in my thinking. In Pennsylvania in the flood areas, those people are suffering up there, too. I mean, black and white, up there. You have some people up there," said the perspicacious mayor, "who don't even have a shelter over their heads."

In the meantime, Charlie Pollard and many of the other 74 survivors have asked Fred D. Gray, the prominent civil rights attorney, to represent them in efforts to secure compensation for their 40-year service as human guinea pigs. "We represent," says Gray, "a substantial number of those who are still living and also some widows and other heirs of the deceased participants in the study."

Fifteen years ago, the government made an effort to compensate Charlie Pollard and the other survivors of the project by awarding them a 25-year certificate and a few new, crisp bills amounting to $25 in appreciation of their long service to U.S. Public Health. Pollard's certificate, awarded in 1958, read:

"U.S. PUBLIC HEALTH SERVICE

'This certificate is awarded to Charlie Pollard in grateful recognition of 25 years of active participation in the Tuskegee medical research study."

Pollard remembers the little ceremony during which he received the certificate quite well, remembers the warm thanks given him and the others, and the broad smiles of the PHS officials. "I been looking for that certificate," Pollard recently said, also smiling, "to give to the lawyer."

Not long ago, Dr. Millar, who has been struggling for the past several months with the implications of the Tuskegee Study, attempted to sum it up: "I think there were racial overtones, because if you were looking for a group with which to do a long-term study, what kind of group would you look for? First of all, you would look for one that is reasonably stable. Secondly, one that is compliant and will do what you tell them to do. And, thirdly, one that will not ask too many questions. Well, you can take all of those points and apply them more to the black population at that time than to the white. . . . The question I have been asking myself of late is: Would it have been conceivable to do such a study on whites? My feeling is that the study would not have been done on whites."

## THE 100TH BIRTHDAY OF ENRICO CARUSO

Mr. WILLIAMS. Mr. President, on February 25, the famous and gifted Italian operatic singer, Enrico Caruso, would have celebrated his 100th birthday.

Born in Naples in 1873, Caruso also made his debut there in the Theatre Bellini at the age of 21. By the turn of the century, the talented tenor was highly acclaimed throughout Italy and was beginning to enjoy international fame. His brilliant performances in Monte Carlo and London in 1902 joined with his personal warmth and generosity, brought to him a worldwide popularity that continued throughout his career.

When he developed a serious case of pleurisy, however, Caruso returned to his native home of Naples and died at the young age of 48. Because of his enormous popularity among fellow performers and fans, his death was considered a tragic loss.

Mr. President, recently Peter Hume of the Washington Post presented a light and human story of Enrico Caruso. I believe the article typifies what was the Caruso style of talent and charm. I would like at this time to have printed into the RECORD, in honor of Enrico Caruso's 100th birthday, the article, "A Voice Like No Other."

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

[From the Washington Post, Feb. 25, 1973]

A VOICE LIKE NO OTHER

(By Paul Hume)

Can you believe the truth of how the world came to hear the name and voice of Enrico Caruso? One hundred years ago Tuesday, on February 27, 1873 (some records say it was the 25th), a son was born to Marcellino and Anna Caruso. In Naples a century ago a son was no novelty. And Enrico was the 18th son to be born to the Carusos.

This one, however, was different. Not only because he was destined to become one of history's most famous singers. But because he lived. Seventeen boys had been born to that unlucky couple and seventeen had died. This time it was different. And the change of fortune that came with Enrico held for a bit longer, for his mother bore two more boys and—miracolo!—her 21st and last effort produced the Carusos' only girl, Assunta.

Of the last two sons, one died early. But Giovanni, No. 20, lived to watch over his world-famous brother's last days.

For his centenary the world will give special remembrance to the name of Caruso. But there has never been a time, in the more than 50 years since he died in 1921, at the age of 48, that the world has not listened to his voice.

The statistics of his career alone are astonishing. No other opera singer of the past still sells as many recordings as Caruso, whose Victor records have paid his family more than $2 million in those five decades. All told, about 50 million Caruso records have been sold. (John McCormack is second to his famous Italian friend in this category.) During his 18 seasons at New York's Metropolitan Opera, he sang 626 performances of 37 operas, adding another 235 on Metropolitan tours. These statistics leave out entirely the hundreds of performances between his debut in Naples in 1894 and the New York debut in 1903.

Nor do they take in the hundreds of times he sang opera in Buenos Aires, Mexico City, Havana, London, Barcelona, Paris, Prague, Dresden, Berlin, Boston, San Francisco and every other opera capital that could land him during time away from the Met.

His Metropolitan repertoire ranged from the most famous of his roles such as Radames in "Aida", Canio in "Pagliacci," Eleazar in "La Juive," and all the other big ones he sang in New York, to some that are never heard there any more, such as Raoul in Meyerbeer's "Huguenots," Loris in Giordano's "Fedora," and Vasco de Gama in Meyerbeer's "L'Africana." Outside the Metropolitan walls he sang a number of famous roles in operas the Met never performed with him: Don Ottavio in Mozart's "Don Giovanni," Faust in Boito's "Mefistofele," and Arturo in Bellini's "I Puritani."

Among the many records Caruso rang up during his years at the Met was a unique honor never approached by any other of its greatest stars. Caruso sang on every opening night of those 18 years with the exception of the year that Geraldine Farrar made her debut as Juliet opposite Rousseliere. The role of Romeo was one Caruso steadfastly refused to sing, though he regularly sang other French parts such as Don Jose, Samson, and Faust.

Caruso's top fee at the Met was $2,500 a performance though he frequently sang for four times that much with other companies. Even in those days of lower income taxes, Caruso paid the U.S. government $153,933.70 in 1918.

What was it about Caruso and his singing that placed him on this extraordinary pinnacle? A few years ago one of the New York writers on music commented that no tenor since Caruso had been able to approach him in the sheer volume with which, in his more heroic roles, he filled the house. That remark, while quite true, tends to mislead people who may not have known the whole range of the storied tenor's singing. And since many of his most famous recordings tend to spotlight this tremendous power, there are those who think that he was great in loud passages but perhaps somewhat less affecting in quieter moments or more lyrical roles.

It is precisely to this point that the Met's manager, Gatti-Casazza, who knew Caruso throughout his professional career, spoke when discussing his favorite tenor: "He retained to the end his facility to permit him to keep in his repertoire such roles as Lionel, Nemorino and the Duke . . . all of a purely lyric, almost light character."

My father was the first person ever to tell me flatly that the greatest beauty in Caruso's singing was the indescribable quality of his soft voice. It was not until I heard Rosa Raisa rein in her huge voice that I glimpsed the fantastic sounds that are possible when a voice capable of trumpeting is checked by the superb technical control of its owner. So it must have been with Caruso.

Rosa Ponselle, whose debut at the Metropolitan, in company with Caruso—in the company's first production of Verdi's "Forza del Destino"—was the direct result of Caruso's patronage of her, once talked about Caruso's voice at length.

"It is impossible to describe his voice," she said. "It was like no other voice you have ever heard, and there has never been another voice at all like it." Gatti-Casazza wrote, "He was a unique artist, with whom none other compared."

And he added, "I do not see how we can ever have such another." Along this same line, Ponselle continued. "There were other wonderful tenors, with beautiful voices: Martinelli and Gigli. But Caruso's was different and the recordings do not really give you any idea of the fantastic sound."

The degree to which this last comment can be understood is apparent to those who

heard Flagstad live in opera or concert and then listen to her recordings. Except for the stereo discs made in her last great years, the records fail to capture the real vibrant texture and amplitude of the voice. Even more is this true of Marian Anderson whose greatness in sound no recording ever caught.

So we must believe Ponselle, who sang opposite Caruso both in "Forza" and in his last and in some ways greatest triumph, "La Juive."

There is one other interesting area of comparison that often arises with the names of Caruso and McCormack. Let any tenor of the slightest Irish persuasion appear on the horizon and he is instantly heralded as "a second John McCormack," even though not one has yet come around who was fit to shine McCormack's shoes. Much more often, if always just as foolishly, too many masters of the stentorian sound have appeared in some famous Caruso role, and sure enough, out come the banners: "A second Caruso." The bright ones among these are the ones who insist that they would rather be "a first (insert the name of any of a dozen tenors of the past 50 years) than a second Caruso."

The truth about Caruso is that his singing was the product of superb control of a great voice, in a man of whom no colleague or rival was ever known to speak with bitterness, rancor, or anything but understandable envy.

A historical note about Caruso that is rarely recalled will be of special interest to fans of Joan Sutherland who have been dismayed or puzzled by the great Australian soprano's using her sheet music in her two song recitals here. When asked about it by a nosy woman in the audience, Sutherland answered, "I use my music because I have a rotten memory. And if I don't use my music then I can't sing."

Caruso did not like to sing concerts, saying frankly that they were not his metier. When he was forced into them, he invariably used his music and said, "I feel more secure, and I always read both the words and notes. If I were to forget the text or the music, I would be lost."

There has never been a first-rate biography of Caruso, though a superior biographer would find eveything in his story as a man and artist for which such writers go around praying.

In the meantime, Vienna House, Inc., of New York City, has just republished the fine full-length study by Pierre Key which he wrote together with Bruno Zirato, the tenor's secretary in the last years of his life. It is a handsome reprint of the 1922 original, on sale at $12.50. As for the great voice, any record store can offer you a wide choice. If you reach back to the arias made in the early years of this century you will come closest to the lyrical sounds that later records rarely caught.

## THE FEDERAL BUDGET

Mr. BROCK. Mr. President, I was struck by the cogency of some comments made recently by the well-known newscaster David Brinkley on the subject of the Federal budget.

In his regular radio program, Mr. Brinkley pointed out the tremendous popular support which exists for cutting back on Government expenditures.

My own feelings on this matter are well known. I believe it is of great urgency that we scale down the vast array of Government projects, both for fiscal and humanitarian reasons.

Additionally, I believe that the Congress needs new tools with which to tackle the problem, and it is to that end that I have introduced legislation, S. 40, which would create a Joint Committee on the Legislative Budget to serve as a mechanism for dealing with these complex issues.

Thus, the Congress could get into the budgetmaking business, and would not have to leave it up to the executive branch to carry the great burden of establishing national priorities and achieving fiscal responsibility alone.

Mr. Brinkley's comments on the President's program in that area, and on the support he has for his objectives, are therefore of great value to all of us, and I ask unanimous consent that they be inserted in the RECORD.

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

DAVID BRINKLEY, NBC NEWS, WASHINGTON

With some rambling comments on President Nixon's program to reduce, dismantle, take apart or close down much of the so-called Great Society. He is now going ahead with it over many objections . . . and my guess is that, (to a great extent), he will do it. Because in this general plan, if not every detail, he has wide public support. On the basis of traveling around this country . . . of reading the mail . . . and of seeing the other evidence, including the primary elections last fall and the vote for George Wallace . . . it seems clear there is a deep public resentment of the tremendous government spending on what are called handouts.

Of course, people tend to see government handouts as payments going to somebody else. The other day I got a phone call from a newspaper editor in a small town in the midwest . . . in a farm area . . . saying why he thought the Rural Environment Assistance Program—called REAP, or reap, for short—should go on. He said it was paying for farmers making permanent improvements to their properties, that this was a benefit to the country. A city dweller might say if the government will pay for improving a farmer's property . . . why shouldn't it pay for improving mine? Landscape the yard and put up a new fence and plant some trees and shubbery? It would be a benefit to the country, too. A city resident is, in fact, discouraged from improving his property because the more he improves it, the more they raise his property taxes.

Anyway, a government handout usually is money going to somebody else. Those getting the money usually say it's an essential program. There are dozens—indeed, hundreds—of these. Some are useful and some do nothing but spend money . . . and they've been accumulating, one by one, for about forty years . . . in housing, health, education, agriculture, environment, the poor, the military, labor, industry . . . and others. And a colossal bureaucracy has grown up as a result.

Sooner or later, somebody had to do something about it because it has all reached such a point of absurdity as to threaten the stability of American society. One out of six people in America is now on the public payroll and that number is rising fast. No other developed country is even close to that figure.

There may be many arguments for particular programs but I don't see any argument against a generalized scaling down of the Federal establishment and its spending. Other Presidents have said in private what Mister Nixon says in public . . . but never had the time or the inclination to take on the job he's now doing. Sooner or later, somebody had to do it. He will have—(already has)—many critics. But also much support. David Brinkley, NBC News, Washington.

## COMMON CAUSE SUES IRS FOR THWARTING $1 TAX CHECKOFF FOR PRESIDENTIAL CAMPAIGNS

Mr. MONDALE. Mr. President, on March 6, I introduced legislation (S. 1109) that would require the Internal Revenue Service to place the $1 checkoff for the presidential election campaign fund on the front page of the taxpayer's tax return form.

That legislation has been cosponsored by 16 Senators, including the Senators from Indiana (Mr. BAYH), Texas (Mr. BENTSEN), Iowa (Mr. CLARK), California (Mr. CRANSTON), Missouri (Mr. EAGLETON), Michigan (Mr. HART), Colorado (Mr. HASKELL), Maine (Mr. HATHAWAY), Iowa (Mr. HUGHES), Montana (Mr. MANSFIELD), Wyoming (Mr. MCGEE), South Dakota (Mr. MCGOVERN), Utah (Mr. MOSS), Maine (Mr. MUSKIE), Wisconsin (Mr. PROXMIRE), and New Jersey (Mr. WILLIAMS).

S. 1109 also requires the IRS to give "extensive publicity" to the $1 checkoff provision, something they have thus far failed notably to do.

Common Cause, the citizens' lobby, has tried over a period of many months to get the IRS to administer the $1 checkoff in the way Congress intended. The IRS has resisted their best efforts, however, and Common Cause has now filed suit in U.S. district court to force the IRS to put the checkoff on the front of the return and give it adequate publicity—exactly what S. 1109 would direct them to do.

I ask unanimous consent that a Common Cause press release describing the suit be printed in the RECORD.

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

COMMON CAUSE SUES IRS FOR THWARTING TAX CHECKOFF FOR PRESIDENTIAL CAMPAIGNS

Congress's first step to rid the political system of dependence on private campaign financing has been thwarted by the Treasury Department and the Internal Revenue Service, Common Cause charged today. The national citizens' organization filed suit in U.S. District Court, charging that the two Executive agencies had failed to carry out the intent of Congress.

In enacting a tax checkoff system to finance future Presidential election campaigns, Congress intended to set candidates free of "their distasteful and degrading" job of soliciting large campaign contributions from individuals and special interests, Common Cause Chairman John Gardner said.

The suit claims that the Treasury and IRS failed to include the $1.00 checkoff on the Forms 1040 and 1040A in violation of federal statutes; failed to solicit the required public comment on the proposed form; and failed to publicize the tax checkoff adequately.

The law under which Common Cause acted provides that every individual taxpayer owing $1.00 or more in Federal income tax can designate that one of his tax dollars should go into the Presidential Election Campaign Fund. A designation does not increase the amount of income tax which taxpayers are required to pay. Rather, it merely causes one of the dollars that was required to be paid anyway to go into the Fund, rather than into the U.S. Treasury. Taxpayers can send the dollar either to a particular candidate or to a nonpartisan general account that will be divided up among the various political parties. Congress intended that taxpayers be

able to designate their dollars merely by making a checkmark in a space to be provided on their tax returns.

Congress anticipated that over 20 million taxpayers a year would designate their dollars to the Fund, thereby providing ample financing for Presidential elections. Treasury officials recently announced that only 4% of the first 12 million taxpayers who filed their 1972 Federal income tax returns chose to designate $1.00 of their tax into the newly created Presidential Election Campaign Fund. This reflects the Treasury's failure to follow Congressional directions.

Common Cause maintains the Treasury has completely frustrated the new law by simple means. Instead of providing space on their 1040 and 1040A forms in which taxpayers might designate their dollars for the Election Fund by a stroke of the pen, the Internal Revenue Service requires the designation to be done on a small separate Form 4875.

The taxpayer who happened to receive a packet of forms and instructions from IRS will find Form 4875 among the forms he received. His instruction booklet will inform him that he may use Form 4875 to send a dollar to the Fund, but only on the *back* of the form itself is the taxpayer told that the dollar does not come out of his pocket, but is one of the dollars that he must send to Uncle Sam anyway. Furthermore, the taxpayer cannot use the order blank contained in his tax packet to order additional Forms 4875. In addition, 4875 forms are often unavailable at banks, postoffices, and other places where taxpayers obtain their income tax forms.

Common Cause protested to the IRS when the new forms were made public last fall. When Common Cause threatened to file suit against IRS, Treasury officials offered to publicize the new checkoff system and encourage taxpayers to designate their tax dollars into the Fund. Three months have passed since then, however, and IRS has still done little or nothing. The results of the separate forms requirement and lack of publicity are clearly evident in the Administration announcement. If the same number of individuals who filed 1971 income tax returns—76 million—file returns for 1972, and only 4% designate dollars for the Election Fund, the system will raise only $3 million a year, instead of the anticipated $20 million. The vested interests, giant corporations and labor unions will still be able to make puppets of elected officials by financing their election campaigns.

Common Cause has gone to court to force IRS to permit taxpayers to make checkoffs on their Forms 1040 and 1040A in future years and to make IRS publicize and make available 4875 forms this year. It is regrettable that court action is necessary to make the Administration implement laws enacted by Congress in a manner that does not frustrate the Congressional intent in enacting the laws. Until such time as more reform legislation is enacted and put into effect, however, Americans will be governed by officials who too often serve the interests of those who financed their election campaigns, rather than the interests of the people themselves.

## CONSUMER PROTECTION AGENCY

Mr. GURNEY. Mr. President, the distinguished Senator from Alabama (Mr. ALLEN) last week introduced legislation to provide for an independent Consumer Protection Agency. Senator RIBICOFF already has introduced S. 707 which similarly calls for the creation of such an agency.

I am sure that many of our colleagues join me in supporting the general concept of consumer protection, while remaining hesitant concerning just what type of agency should be created, and just what powers it should be granted.

In light of the past history of consumer protection legislation before this body, such hesitation and careful consideration is certainly justified. When the 1970 Consumer Protection Agency bill passed the Senate, before dying in the House, advocates such as Ralph Nader claimed it was perfect. Mr. Nader had helped draft the bill, on a subject on which he was supposed to be expert, and few wished to challenge his work.

When the Government Operations Committee decided to look closely at the bill in 1971 and 1972, however, its sponsors publicly admitted that a defective bill had been allowed to pass the Senate in 1970. It behooves us to make sure that we do not pass again defective legislation, in an attempt to blindly support anything with the "consumer protection" label tied to it.

During the last session of Congress, the Executive Reorganization Subcommittee, under the control of the bill's original sponsors, made hundreds of changes in the bill. These changes were followed by some 58 more changes made by the full Government Operations Committee during mark up of the bill. Seventy-seven more amendments were filed when the bill reached the floor. These amendments were by no means all proposed by so-called enemies of consumer protection. Many supporters and sponsors of the bill introduced amendments as it was processed through subcommittee, full committee, and onto the floor.

When the bill became embroiled in controversy last year, and failed to gather sufficient support for passage, one of its advocates predicted that it would be reintroduced this year and that it would be "tougher, meaner, and—a much more difficult one for American business."

The bill (S. 707) introduced this year by the distinguished Senator from Connecticut (Mr. RIBICOFF), certainly seems to fulfill that prediction. Not only does it further insulate the CPA from political or judicial control, it grants the CPA more discretionary powers than the 1972 bill in all areas of interest—consumer advocacy, information gathering and disclosure.

The bill which reached the floor last year had been significantly improved before it was reported by the Full Committee on Government Operations. A comparison of the bill as it reached the floor last year, and S. 707, as it was introduced this year, shows at least 10 major areas in which changes from the 1972 version are grave cause for concern. They are as follows:

### CHANGES IN BILL

#### 1. THREE-MAN COMMISSION ABOLISHED; POWERFUL ADMINISTRATION PROPOSED

The new bill would have the CPA headed by a single Administrator who would have more discretionary power to affect the operations of the Federal government than any existing official, except perhaps the President. The CPA Administrator would be appointed for a four year term by the President with Senate advice and consent.

In 1972 executive session, the Government Operations Committee rejected the concept of a single, powerful Administrator and amended last year's bill to replace such an Administrator with a 3-member Commission, all of whom would be appointed by the President with Senate advice and consent.

#### 2. ADMINISTRATOR THE ONLY ACCOUNTABLE APPOINTEE

Under the 1973 Senate version, only the CPA Administrator shall be appointed by the President and confirmed by the Senate.

Unlike past Senate CPA bills (and all the House bills), the second-ranked Deputy Administrator who would take over in the absence of the Administrator would not be appointed by the President and confirmed by the Senate. This officer would be appointed by the Administrator, as would the General Counsel and five Assistant Administrators, and none of these appointments could be challenged under the new bill.

#### 3. "INTEREST OF CONSUMERS" DEFINITION BROADENED

It must be remembered that the CPA is to intervene or participate in court and agency proceedings and activities to protect an "interest of consumers."

The new, all-inclusive definition of this term, the most important term in the bill, has been expanded. It includes concerns of consumers that, in the opinion of the CPA, "*may become* the subject of any business, trade, commercial or marketplace offer or transaction"—whether or not they ever *do* become subject to them. The 1972 definition included only present business activity, not possible future activity.

In addition, this concern of consumers need not be a "substantial concern," a qualification that appeared in last year's definition; it need merely be, in the unchallengeable opinion of the CPA, a concern.

Further, the new bill does not delete the sweepingly confusing 1972 definition of "interests of consumers," which was widely criticized last year. This definition is transplanted as a declaration of Congressional purpose, thus becoming another confusing layer in the "guidelines" covering what the CPA will be advocating.

#### 4. AMICUS-LIKE ADVOCACY TO BE USED IN INFORMAL ACTIVITIES

In the 1972 version, the CPA would have had, as of right, an "opportunity equal to that of any person outside the agency to participate" in the informal activities of another Federal agency.

In the new version, the CPA would have a right to a "full opportunity to present orally or in writing . . . relevant information, briefs, and arguments" in such informal activities.

Although this is an improvement over last year's bill in that it avoids making the CPA a party, as of right, in informal agency activities, it could in some cases give the CPA an unfair advantage over other parties to informal activities. For example, a "full opportunity" to present arguments may very well exceed an "equal opportunity," in a case where a businessman is presenting informal views to an agency.

#### 5. SUBPENA-LIKE POWER EXPANDED

The 1972 proposed power under which the CPA would be authorized to issue court-enforceable orders to force a person engaged in a trade, business, or industry to answer questions or file information reports has been broadened in four ways—

#### A. SCOPE OF USE BROADENED

Under the 1972 bill, the CPA was limited in the exercise of this extraordinary power in that it could be used only to protect the health or safety of consumers or to discover consumer frauds. To this clause, the 1973 bill adds authority for CPA to use this

power to discover other unconscionable conduct detrimental to an important interest of consumers—thus widening the scope to virtually any limit desired by the CPA.

B. LACK OF SAFEGUARD CLARIFIED

The 1973 bill clarifies what critics said last year—the safeguards of the Federal Reports Act (in 44 USC) would not be applicable where the CPA asks individuals or individual companies for information. The new language says that the Federal Reports Act safeguards will only apply "where applicable," which means where identical requests for information are made of 10 or more persons.

C. BURDEN OF PROOF SWITCHED FROM CPA TO CITIZENS

Under the 1972 bill, the CPA had to prove to a court, upon complaint by a citizen subject to a CPA order, that the order was *not* unnecessarily or excessively burdensome.

Under the 1973 version, the burden of proof is shifted to the person to whom the interrogatory is addressed, making that person *prove* that compliance would be unnecessarily or excessively burdensome.

This provision will undoubtedly subject the person complained against to such heavy legal costs that only big business could afford to provide a defense. Small businessmen would have no practical protection whatsoever.

D. CAN BE USED FOR INTERVENTION PURPOSES

The 1972 bill, as reported by the Government Operations Committee, would have prohibited use of this extraordinary subpoena-like power if it were for use in connection with CPA intervention in any pending agency proceeding. During floor debate on the bill, this safeguard was severely limited by an amendment, which was passed without discussion by voice vote, making the prohibition applicable only to proceedings against the person to whom the interrogatory was addressed.

The 1973 bill apparently is intended to incorporate the limited version as adopted on the Senate floor, but what appears to be a typographical omission has made this provision totally unclear.

6. ACCESS TO VOLUNTEERED TRADE SECRETS OTHER CONFIDENTIAL INFORMATION

A new provision applies to trade secrets and commercial or financial information that is given to a federal agency with the understanding that it should be considered privileged or confidential.

The new provision would require that such an understanding be in writing after the effective date of the act, and allow CPA access to such information after certain CPA findings, subject to being enjoined under certain conditions by the person who volunteered the information.

This provision, in effect, gives the CPA a blanket right of access to trade secrets and other privileged or confidential information held by Federal agencies, unless certain exceptions apply. Even those exceptions are not to be considered in cases where access by the CPA to such information is "likely to be necessary . . . to protect against immediate or imminent substantial economic injury due to . . . unconscionable conduct."

Unquestioned access in such cases might indeed appear to be fair and necessary—unless one considers that the only judge of what is "likely" or "unconscionable" is the CPA—without even any opportunity for the original source of the privileged information to seek an injunction to prevent its disclosure.

Furthermore, the "exceptions" under which the CPA is not to be granted access, afford little real protection. One of these exceptions would be where the agency in possession of the privileged information determines that CPA access to the information might cause substantial harm or be excessively burdensome to the person providing such information. In this case, the person who originally supplied the privileged information is to be notified of the CPA request for access, and afforded an opportunity to comment and seek an unjunctive order to prevent access. The 1973 bill provides, however, that the court cannot enjoin access where it determines that the "importance of access . . . clearly outweighs . . . injury or burden to the person".

Thus not only is the burden of proof placed on the person defending his privileged information, but the court is instructed to subjugate the individual's legitimate rights to the "interests of consumers" if such rights are "outweighed" by the "importance of access."

Is this reasoning in accordance with our basic legal heritage—which bases the public good on the sanctity of individual rights?

7. GSA FUNCTIONS TRANSFERRED TO CPA

Another new feature of the 1973 bill would be to transfer the Consumer Product Information Coordinating Center, its functions and its personnel from the General Services Administration to the CPA.

This Center, pursuant to a recent Executive Order, centralizes and distributes product information derived from the Federal Government's experience as a consumer of products.

Because the GSA will continue to be the Government's major consumer product purchaser (and policeman of Government purchases), and because the CPA could have obtained the information from the GSA under the 1972 bill, this new provision may indicate lack of faith by the 1973 sponsors in GSA's integrity.

8. CPA NOT SUBJECT TO MANY RESTRICTIONS

The 1973 bill includes an amendment adopted last year by voice vote without debate that would limit the restrictions placed upon the disclosure of information by the CPA to those restrictions contained in Section 208 of the bill—no other restrictions in the bill or current law would apply.

9. CPA MAY INDIRECTLY RATE PRODUCTS

The 1972 bill, after an amendment in Committee, would have prohibited the CPA from indicating, "in any manner" that one product was a better buy than another. The 1973 bill substitutes the word "expressly" for the words "in any manner." Thus, in the new bill, by clever and subtle implication, the CPA could express preference for one product over another.

10. CONSUMER IMPACT STATEMENT DELETED

The 1972 version of the bill contained a provision which required that any public announcement by a Federal Agency of a final action which might have a significant impact upon the interests of consumers be accompanied by a public statement setting forth the consideration given to such interests of consumers in deciding upon such action. One effect of this requirement would have been to require each agency to stipulate exactly which of multiple and possibly conflicting interests of consumers were considered, and to provide some indication of how those interests were weighed in reaching a final decision.

The new bill contains no such requirement, deleting any need for agencies to account for any consideration of interests of consumers, in taking final actions of significant impact on the interests of consumers.

These changes in the bill greatly widen the CPA's intervention powers, information gathering powers and information disclosure powers, while simultaneously making it almost totally free of any restraints from the executive or legislative branches. Despite this, the bill's sponsors maintain that the bill contains adequate "safeguards," and recently inserted a list of 19 such alleged safeguards into the RECORD.

Here are the 19 "safeguards" in the CPA bill, as set forth recently in the RECORD, together with the reasons why, in most cases, the public at large is in need of being safeguarded from these safeguards.

CPA'S POWER TO OVERRULE DECISIONS OF OTHERS

The first safeguard in the Senate CPA bill is stated as follows:

1. The CPA will have no regulatory authority. It will not be able to overrule, veto or impair any Federal agency's final determinations. The participation rights granted to the CPA are procedural only, not substantive, such that no authority granted to the CPA shall be construed as superseding, supplanting, or replacing the jurisdiction of any agency over any subject matter, nor deprive any agency of its responsibility to exercise its authority under law. Section 3(3) Declaration of Purpose.

Senator BROCK pointed out last year that saying this was a safeguard is like saying, "Don't worry about that madman with an ax—he's too weak to do anything without the aid of the ax which I supplied him with."

Senator BROCK pointed out that no party can overrule an agency's final determination. Only a court can do that, and the CPA is given automatic standing to get a court to overrule the final determinations of other agencies. See section 204.

Thus, if the sponsors of this bill really desire such a safeguard, they would delete the proposed CPA power to seek judicial review of the actions of its sister agencies, and delete the proposed power that would enable the CPA to attack sister agencies and other parties or participants in formal proceedings.

CPA TO USE ENOUGH POWER TO WIN

The second safeguard is stated as follows:

2. Limitation on CPA interventions: Authority to intervene as of right as a party is granted to the CPA in formal agency proceedings, but the Administrator must exercise discretion and avoid unnecessary involvement. He is to refrain from intervening as a party unless he determines that such extent of involvement is necessary to represent adequately the interests of consumers. Where submission of written briefs or other material is sufficient, or presentation of oral argument is sufficient, he is to exercise self-restraint and limit his involvement accordingly. Section 203(a)

What the safeguard says is that the CPA should use self-restraint, and not use more of its great arsenal of powers than needed to win its case.

In other words, if CPA can win without having to take a sister agency to court, it should not take its sister agency to court. The clear implication of the entire bill, however, is that the CPA should use all of its available and abundant powers whenever needed to win a case.

It is preposterous to grant an advocate far-reaching powers and then suggest that he would not avail himself of those powers when necessary to win—no one loses intentionally.

Rather than depending upon the self-restraint of some unknown presidential

appointee, it would appear far more prudent to reduce the number of powers available to the CPA until and unless experience proves that they are needed.

CPA'S POWER TO DISRUPT AND DELAY

The third safeguard is stated as follows:

3. Protection against disruption and delay of agency proceedings and activities: Upon intervening, or participating in formal agency proceedings, the Administrator must comply with the host agency's statutes and rules of procedure governing the timing of his participation and the conduct of such proceeding (Section 203(a)). In participating in an informal agency activity, the Administrator must do so in an orderly manner and without undue delay. Section 203(b).

At first glance, this safeguard would appear merely to protect orderly procedure—something to which no one might object.

However, what the safeguard fails to disclose is the fact that the bill would require all the rules of procedure of all agencies to be changed to accommodate the extraordinary powers of the CPA. See section 203(c).

Therefore, compliance with these new rules of procedure will not work to prevent the unfair use of extraordinary power by the CPA to stack evidentially records, use compulsory discovery devices which would be unavailable to anyone else, and a host of other unusual powers for a party or participant.

CPA'S POWER TO INTRUDE IN PRIVATE MATTERS

The fourth safeguard is stated as follows:

4. Protection against CPA intrusion in the private meetings and discussions between a Federal agency and a particular business firm: While the CPA may present orally or in writing relevant information and arguments (Section 203(b)(1)), it is not granted the right or authority to be present at any particular meeting or discussion, nor to monitor any phone conversations, between an agency and a company. Instead, it need only have full opportunity comparable to that of the company to present its views. CPA's participation, therefore, need not be simultaneous (and generally will not be) but need only occur within a reasonable time of any prior involvement by such company or at a time when it might reasonably have an input into a contemplated agency action. Section 203(b)(2).

The mere characterization of such an absence of power as a safeguard—the CPA not being authorized to intrude in "private meetings and discussions" nor to "monitor any phone conversations"—shows the insensitivity to private rights that this bill has created.

The powers proposed for the CPA are so extraordinarily far-reaching that the first amendment right of petitioning the Government without undue interference had to be safeguarded specifically.

Even so, these are many who feel that this safeguard is still inadequate, because the bill would continue to grant the CPA coercive power with which to inhibit the guaranteed right of Americans to petition their Government. For example, the CPA can order a Federal official (see sec. 207(c)) to turn over copies of all documents discussed in a "private meeting" with businessmen or even Senators, and it can order the business firm (see sec. 207(b)) to answer any question whatsoever about what happened at such a "private meeting."

The proponents of this legislation implicitly recognize the legitimate need for private meetings and discussions between Federal agencies and particular business firms, by purporting to provide "protection against CPA intrusion" into such meetings. In practice, the provisions of section 207(b) would allow the CPA to seriously interfere with agency use of such meetings to gain needed information.

CPA'S POWER TO SUBPENA WITNESSES AND DOCUMENTS

The fifth safeguard is stated as follows:

5. Protection against misuse of a host agency's compulsory process: Where the CPA seeks to use an agency's subpoena authority for discovery purposes, the host agency retains discretion and control over such use. CPA's request must be: (1) relevant to the matter at issue; (ii) not unnecessarily burdensome to the person from whom the information is sought; and (iii) not such as would unduly interfere with the conduct of the host agency proceeding—all to be determined by the host agency, not the CPA. Section 203(e).

All these "safeguards" are presently required by the Administrative Procedure Act because due process and efficiency require them. Therefore, again, what is listed as a safeguard is the sponsors' failure to inhibit further an established right.

Discretely omitted here is any mention of the CPA's extraordinary right to demand use of subpena power when no other person representing the same interests would have such a right. For example, under the bill, the CPA could decide to appear as an amicus curiae in an agency proceeding, yet still demand that subpenas be used, thereby confounding basic ex parte rules. See section 203(e).

Also not mentioned is the fact that the bill contemplates that the CPA will be able to take advantage of another Federal agency's subpena process in an informal activity, as well as a formal proceeding. See section 203(3).

CPA'S POWER TO REQUIRE CITIZENS TO ANSWER QUESTIONS

The sixth safeguard is stated as follows:

6. Protection against unfair advantage to CPA in requiring information from business: The compulsory information gathering authority of the CPA (Section 207(b)) may not be exercised to obtain information which: (i) is available as a matter of public record; (ii) can be obtained from another Federal agency; or (iii) is for use in connection with his intervention in any pending agency proceeding. (Section 207(b)(2)). The Administrator's request under Section 207 must relate to consumer health or safey, frauds or unconscionable conduct and be specific as to the purpose for which the information is intended. Moreover, the request must be relevant to that purpose and not unnecessarily burdensome to the person from whom the information is sought. The scope of the Section has been limited so as not to require the production of records, books, or documents the appearance of witnesses, or the disclosure of information which would violate any relationship privileged according to law. Section 207(b)(1).

First of all, not allowing the CPA to obtain information from a businessman if it is available to the CPA elsewhere as a matter of public record or obtainable by CPA from another Federal agency can hardly be called a "safeguard against unfair advantage," by the wildest stretch of the imagination.

This leaves only one stated safeguard, according to the above: The CPA's extraordinary compulsory investigation authority cannot be used to obtain information that "(iii) is for use in connection with his (CPA Administrator's) intervention in any pending agency proceeding."

That is not what the cited section of the bill now says. This investigatory power can be used for intervention in any pending agency proceeding, as long as the interrogatory is addressed to anyone other than the person involved in the pending agency proceeding. It requires little imagination to conceive of how this interrogatory power could be used against the person involved in the agency proceeding, even though the interrogatory was not directed specifically at him.

For example, the CPA could issue a court-enforceable demand for any desired information under oath from an assembly line worker or a newspaper reporter, and use this information in a proceeding against the company that employs the worker or the source of a newsman's articles.

There is neither precedent nor reason to support the granting of such sweeping powers to an independent, nonregulatory agency which is not responsive to anyone.

CPA'S POWER TO INTRUDE VINDICTIVELY

The seventh safeguard is stated as follows:

7. Protection against arbitrary capricious or vindictive intervention by CPA: The determination by the CPA that a consumer interest may be substantially affected by the result of an agency proceeding will be subject to ultimate judicial review if there was prejudical error involved. (Section 201 (e)(1)(B)). The Administrator is required explicitly and concisely to set forth in a public statement the interests of consumers he is representing in a particular agency or court proceeding.

First of all, there is no provision in the CPA bill that would subject to judicial review of any kind the CPA's determination that a consumer interest might be affected substantially; the bill has been misread.

In fact, just the opposite is provided expressly—such a CPA determination shall never be subject to judicial review, because it is not to be considered as final action. See section 210(e)(2).

Second, the fact that the CPA must set forth in a statement the interests of consumers it is representing in a proceeding would appear to be of little consequence as a safeguard against arbitrary, capricious or vindictive intervention—it is doubtful that the CPA could intervene and keep such information secret.

Therefore, if this is all that stands between the administrative process and arbitrary, capricious or vindictive CPA intervention in that process, the bill presents a major danger to the public interest.

At the heart of the problem is the CPA's intervention and participation power. As proposed in the bill, this power is far too broad and practically guarantees that a CPA will prove to be a disruptive, coercive force.

CPA'S POWER TO MAKE UNWARRANTED ALLEGATIONS

The eighth safeguard is stated as follows:

8. Protection against unwarranted allegations in complaints from consumers against business, its products or services: Upon receipt of consumer complaints, CPA will as a matter of course promptly notify the company named, furnish it a copy of the complaint, and afford it a reasonable time in which to respond to the charge. Both the complaint and the company's response will be placed in the public file simultaneously, together with any comments or report from any Federal agency to which the complaint was referred for action. Frivolous, malicious and unsigned complaints will not be placed in the public file. Sections 206 (b) and (c).

The cited subsections 206 (b) and (c) do contain reasonable safeguards against publication of consumer complaints containing unwarranted allegations.

CPA'S POWER TO GAIN ACCESS TO CLASSIFIED DATA

The ninth safeguard is stated as follows:

9. Protection against access by CPA to all classified information and restricted data under the Atomic Energy Act. Section 207 (c) (1).

It should be noted that the provision cited does not prohibit the CPA from gaining access to restricted data under the AEC Act or other classified information; all that provision says is that another Federal agency may, if it wishes, deny the CPA access to such information. See section 207(c) (1).

What the safeguard fails to point out, however, is that the CPA apparently could obtain the same information in the hands of a private person—such as a nuclear reactor construction company official—merely by ordering that person to file a report on the subject. See section 207(b):

CPA'S POWER TO GAIN ACCESS TO ANOTHER AGENCY'S INTERNAL DOCUMENTS

The 10th safeguard is stated as follows:

10. Protection against CPA access to internal policy recommendations: The CPA will have access to factual material developed by agencies but will have no right to have access to opinions expressed by agency personnel which are not in the nature of factual data. Section 207(c) (2).

Again, the cited provision does not deny the CPA access to such material, it merely enables another Federal agency to refuse the CPA access to such documents. See section 207(c) (2).

Second, that cited provision is very limited; it alllows other Federal agencies to deny access to the CPA to "policy recommendations by agency personnel intended for internal agency use only."

If, however, the CPA should use its unchallengeable discretion to determine that such recommendations might affect substantially an important consumer interest, other provisions of the bill would allow the CPA actually to participate in the making of the internal policy of another agency—see section 203(b), 401(4)—and even to appeal the adoption of these recommendations to the courts. (See sec. 204, 5 U.S.C. secs. 702 through 706, particularly 704.)

This raises questions about the desirability of such intrusion and appeal powers.

CPA'S POWER TO INTERFERE IN ANOTHER AGENCY'S INTERNAL MANAGEMENT

The 11th safeguard is stated as follows:

11. Protection against CPA access to information concerning routine executive and administrative functions: Most internal agency documents dealing with the management of the agency need not be accessible to the CPA. This will protect the legitimate interests of federal agencies in managing their own affairs without interference. Section 207(c) (3).

Again, if a Federal agency wishes, it can give the CPA such information under the cited provision. More importantly, such "routine executive and administrative functions" would be open to CPA participation as of unchallengeable right if the CPA determines that they might result in a substantial effect upon an important interest of consumers. See section 203(b), 401(4).

In addition, the result of such functions could be appealed to the courts by the CPA on the same grounds. See section 204, 5 U.S.C. sections 702 through 706, particularly 704.

Again, serious questions are raised about the desirability of granting the CPA such potentially disruptive intrusion and appeal powers.

CPA'S POWER TO INVADE PRIVACY

The 12th safeguard is stated as follows:

12. Protection against CPA access to personnel and medical files and other files access to which would constitute an unwarranted invasion of personnel privacy: The CPA will not have a right to have access to these files, which should properly remain private in order to preserve important interests of confidentiality. Section 207(c) (4).

Once again the statement of the safeguard is misleading; the CPA is not prohibited from access to such information, the Federal agency in possession of the personal information merely is given permission to deny the CPA access to the information, if it wishes to do so. See section 207(c) (4).

And, once again, if the CPA uses its unchallengeable discretion to determine that the process of compiling such files of information might affect substantially a major interest of consumers, no one may prevent the CPA from participating in the compilation of such a file of information, and appealing to the courts what the CPA considers to be an inadequate final action as a result of such a compilation. See section 203(b), 204; 5 United States Code, sections 702 to 706, particularly 704.

CPA'S POWER TO GAIN ACCESS TO PROHIBITED INFORMATION

The 13th safeguard is stated as follows:

13. Protection against CPA access to information which any agency is expressly prohibited by law from disclosing to another federal agency: Where a statute of judicial decision has declared that an agency may not disclose information to another agency, this policy applies to the CPA, and denies the CPA the right to access to such information. Section 207(c) (5).

The cited provision illustrates well the dangers to the public that lie within these safeguards, and the extent to which some would go in further diminishing private rights.

The cited provision does not prohibit CPA's access to information that is prohibited from being transferred from one agency to another—such as census information—the cited provision says that all Federal agencies must give the CPA access to any information that the CPA desires, but that the agency in possession of the information may, if it wishes, deny the CPA access to certain information, including information such agency is expressly prohibited from giving to another agency. See section 207(c) (5). The cited provision has just the opposite effect of what the "safeguard" says it does. It opens up information prohibited to other agencies to the CPA.

And again, if the process of compiling such prohibited information is deemed by the CPA, in its unchallengeable opinion, to be a process that might result in a substantial impact on an important consumer interest—that is compilation of census material from manufacturers—the CPA may as of right participate in that process, and appeal the results of it to the courts. See section 203(b), 401 (4), 204; 5 United States Code, sections 702 to 706, particularly 704.

CPA'S POWER TO GAIN ACCESS TO TAX RETURNS

The 14th safeguard is stated as follows:

14. Protection against CPA access to income tax records: There is no authorization in this act to any federal agency to disclose the amount or source of income, profits, losses, expenditures, or any particular thereof, from any income return or to permit CPA access to any such return. This will insure that records which are now treated as confidential by the IRS with respect to access by other federal agencies will be treated in the same manner with respect to the CPA. Section 207(d).

Although one of the more tightly drawn safeguards, even this complicated provision will not prevent CPA access to income tax returns.

This safeguard merely would prevent any authority in other provisions of the bill from being construed as authorizing a Federal agency to turn over to the CPA Federal income tax returns.

It would not prevent IRS or other Federal agencies from volunteering tax returns to the CPA as a matter of intra-Government course—a common practice.

In fact, it appears that the CPA could force a citizen, himself, to give it information contained in his tax returns such as lists of income, profits, and deductions. (See section 207(b).)

CPA'S POWER TO DISCLOSE BUSINESS SECRETS

The 15th safeguard is stated as follows:

15. Protection against disclosure of confidential information relating to business practices in the files of another agency: The CPA has access to, and can copy agency files, but cannot disclose to the public any information which the host agency has ex-

empted from disclosure or is otherwise exempted by law. Section 208(b).

Such a safeguard may be better than none, but there are many more restrictions that can, and should, be placed upon CPA's power to disclose business secrets in the hands of the Government.

Why put the burden of prohibiting CPA disclosure of business secrets on the agency holding the information? Why is CPA able to gain access to such information without proving to the host agency, and courts if challenged, a definite need for CPA access and public release?

CPA'S POWER TO DISCLOSE MORE BUSINESS CONCEPTS

The 16th safeguard is stated as follows:

16. Protection for business trade secrets that may come into CPA's possession: Trade secrets and other confidential business information may not be disclosed under criminal penalty of law except if necessary to protect public health and safety, or to courts, committees of Congress, and other concerned federal agencies in a manner designed to preserve confidentiality. Section 208(c).

The loophole in the cited provision is the fact that the CPA may disclose to the public any trade secret or confidential business information if, in the sole discretion of the CPA, release of such information is considered necessary to protect health or safety.

CPA'S POWER TO ISSUE FALSE AND MISLEADING INFORMATION

The 17th safeguard is stated as follows:

17. Protections against disclosure to the public of false or misleading information regarding a business: CPA disclosures may not be inaccurate, misleading or incomplete. Otherwise, CPA will be required promptly to issue a retraction, to take other appropriate meaures to correct any error, or to release significant additional information affecting the accuracy of information previously released. Section 208(d).

This is no safeguard because the CPA is not required to issue a retraction where it releases false or misleading information; it is given the leeway to cover up its mistakes with "other reasonable action," or merely by releasing new data. See section 208(d).

This otherwise good safeguard should be made better by requiring an immediate retraction of all false or misleading information distributed by the CPA, in addition to any other appropriate steps.

CPA'S POWER TO INJURE GOOD-WILL

The 18th safeguard is stated as follows:

18. Protection against "surprise" disclosures to the public of information likely to injure the reputation or good will of a business: CPA is required, as a matter of course, to give prior notice to such company and afford an opportunity to comment, unless public health and safety would be imperiled by such action. Section 208(d). Injunctive relief to a company which might be damaged is provided for.

Again this otherwise good safeguard suffers from the fact that the CPA is granted absolute discretion to decide—without guidelines as to how—whether disclosure of specific information is necessary to protect the health or safety of the public, and if it so decides, it may go ahead and ruin a company.

CPA'S POWER TO MAKE UNFAIR COMPARISONS

The 19th safeguard is stated as follows:

19. Protections against unfair comparisons of the products or services of a business: In disclosing information, CPA: (i) must make clear that all products of a competitive nature have not been compared, if such is the case; (ii) must make clear that there is no intent or purpose to rate products compared over those not compared, not to imply that those compared are superior or preferable in quality to those not compared; and (iii) must not subjectively indicate that one product is a better buy than another. Section 208(e).

This final "safeguard" fails to disclose a major change in the 1973 bill compared to the bill of last year. Last year's bill provided that the CPA could not "in any manner" indicate that one product was a better buy than another. The 1973 bill merely prohibits the CPA from "expressly" indicating that one product is a better buy than another. See section 208(e).

CONCLUSION

The basic objections to the 1972 bill, which were responsible for its failure to obtain sufficient support for passage, are legitimately applicable to the 1973 bill. This bill would create a super agency which would pursue the goal of absolute product perfection at any cost—including sufficient harassment of producers and merchandisers to necessarily result in greatly increased consumer prices.

All of us want to protect the consumer where needed, and all of us realize that such protection is needed in some instances, but we must not overlook the fact that the consumers consider cost one of the most important, if not the most important consideration in choosing products.

We must not throw out the baby with the bathwater by creating an agency which will result in greatly increased costs to the consumer, in return for disproportionately small increases in product quality.

## TITLE IV–A FUNDS—DAY CARE

Mr. TUNNEY. Mr. President, the proposed HEW child-care regulations are outrageous. If implemented, almost two-thirds of the children presently enrolled in child-care programs in California will be expelled and over 5,000 jobs for day-care workers will be eliminated.

These proposed regulations completely undermine efforts to make persons self-supporting and will force working parents back onto welfare rolls.

Specifically, the regulations no longer permit State facilities to use private donations as their share of matching funds and establish unrealistic maximum income levels—$253 a month for a working parent with one child, for example. In addition, revised definitions of former and potential recipients drastically reduce eligibility.

Dr. Wilson Riles, State superintendent of public instruction, has estimated that of the 19,000 children presently served by California's preschool programs, 11,000 would lose eligibility because of the new definitions of former and potential recipients. The corresponding loss of Federal matching funds would be over $3 million.

The proposals almost totally exclude migrant children from the program and mean that many campus child-care facilities would close.

Eliminating private contributions as the State's share of matching funds is in direct contrast with recent HEW policy. In a letter from former Secretary Elliot Richardson to the Honorable WILBUR MILLS, the Secretary said:

I am convinced that this kind of partnership between private funds and public agencies should be encouraged rather than discouraged. I believe a prohibition on public-private partnership in the field would be a great mistake.

California's use of private funds has reduced greatly the strain on an overworked social service budget and has helped lift the tax burden. This has allowed California to develop innovative child care programs which have freed many parents—who otherwise would be on welfare—to enter the labor force or to continue their education.

Reducing these services will do nothing more than force many people back to the welfare rolls.

On March 6, I sent a telegram to HEW Secretary Caspar Weinberger protesting these regulations and urging an immediate withholding of implementation until at least June 30. The telegram was signed by 25 members of the California congressional delegation.

Mr. President, I ask permission to insert the text of our message at this point in the RECORD.

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

HON. CASPAR WEINBERGER,
*Secretary of Health, Education, and Welfare, Washington, D.C.:*

We are greatly disturbed over the effects of the proposed HEW regulations regarding social services—particularly those affecting the operation under title IV A of the Social Security Act. Eleven thousand children will lose eligibility in one program alone for federally funded day care services. Migrant children will be almost totally excluded and many campus facilities will be shut down. These regulations, if implemented in their proposed form, will force many presently employed parents back onto welfare rolls. Therefore, we urge you immediately to withhold implementation until at least June 30 and hold public hearings in the interim.

Signed: Senator John V. Tunney and Congresswoman Yvonne Brathwaite Burke, Senator Alan Cranston, Congressmen Harold Johnson, John Moss, Robert Leggett, Phil Burton, Ronald Dellums, Fortney Stark, Donald Edwards, Jerome Waldie, B. F. Sisk, Pete McCloskey, Chet Holifield, Augustus Hawkins, James Corman, Charles Wiggins, Tom Rees, Alphonzo Bell, George Danielson, Edward Roybal, Charles Wilson, Richard Hanna, Glenn Anderson, William Ketchum, George Brown, Jr., Lionel Van Deerlin

## THE GENEROSITY OF A "STINGY MAN"

Mr. BROCK. Mr. President, an article in the current issue of Nation's Business

tells the story of a truly remarkable man, Mr. Clayton Arnold of Thompson's Station, Tenn.

Mr. Arnold is an 81-year-old retired rural letter carrier. He lives simply in the house in which he was born, and in which he has lived all his life, except for his service in World War I.

His salary was that of any other letter carrier, but he lived frugally, saved, and invested wisely. Today, he is the largest single living benefactor of the University of Tennessee, having given over $1 million in the last 10 years.

I believe that Mr. Arnold's life should be an inspiration to all of us, and I ask unanimous consent to have the article about him entered into the RECORD.

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

THE GENEROSITY OF A "STINGY MAN"

Clayton Arnold was only a mail carrier, but investing made him rich—to the benefit of students who've gone further in school than he ever did.

What image springs to mind when you hear a man described as "the greatest living benefactor" of a big university?

Perhaps a wealthy alumnus who made it big in business and wants to thank the school that set him on that track?

Maybe the generous scion of a fine, old family who has endowed a beloved alma mater with a chunk of his inherited riches?

Or possibly a brilliant scientist who has assigned valuable patents to the temple of higher learning that tutored him?

Surely not a retired rural mail carrier who never got past high school, a lifelong bachelor who lives quietly and frugally in the simple, white frame house in which he was born.

Yet that's an accurate description of Clayton Arnold, 81, of Thompson's Station in central Tennessee, whose gifts to the University of Tennessee have a current value of more than $1 million, making him that school's greatest living benefactor.

His contributions, nearly all in securities, were made over the past 10 years. They have gone into the Clayton Arnold Teacher Training Fund.

Mr. Arnold will receive an income from the trust during his lifetime, but part of the trust's earnings are already at work helping needy students who are planning to teach.

"SIMPLE MATHEMATICS"

In explaining how he built up a fortune while working as a small carrier, and kept on building it in retirement, Mr. Arnold credits "the simple mathematics of a stingy man."

"I've been a miser, living within my income," he says and, with the money he saved that way "I made fortunate investments."

Except for combat service in France during World War I, Mr. Arnold has spent his entire life in and around Thompson's Station, about 25 miles south of Nashville.

But one of his earliest ambitions was to make a million dollars. He worked on his family's farm until he was 21, when he became his community's first postmaster at $60 a month, planning to save money to buy land and equipment to start his own farm.

He also set up his own business on the side, buying and shipping grain, and finally began to acquire some farmland. He later bought a general store, but sold it when he went into the Army. After the war, he resumed his duties as postmaster but later became a mail carrier because it paid more. He also continued in business ventures in his spare time.

While in his 40s, Mr. Arnold took enough night school law courses to pass the state bar examination, although he never earned a law degree. He practiced little law, however, commenting once that "mostly people came to me to ask if their lawyer was treating them right." His full-time job remained that of rural mail carrier until he retired in 1961.

He began investing in stocks in the late 1930s with capital from sale of some land. But concern over unsettled conditions with the onset of World War II led him to put the money back into land.

RECIPE FOR SEASONING

It wasn't until 1957 that he began a series of stock investments that enabled him to make his gifts to the university.

Some of his early efforts didn't turn out too well, but he says those mistakes enabled him to develop his successful "recipe."

He doesn't go in for speculative stocks, Mr. Arnold explains, but favors, for example, "a good corporation that is five to 10 years old; one that is a going concern." The next thing, he says, is to wait for its stock to reach a bargain level.

His formula is then reduced to the age-old goal of every investor: "Buy low and sell high."

Mr. Arnold recalls buying stock in Life of Georgia for $85 a share.

Later, the stock dropped to $60. Undaunted, Mr. Arnold borrowed money to buy more. Four years later, he sold at prices ranging from $192 to $217 a share.

In 1963, he ignored his own rule about investing only in seasoned businesses, and lost $40,000 he had put into a three-year-old insurance company. But outside of that and a "few other things" there haven't been any losses in the past decade.

His decision to turn his money over to a university has been explained by others as stemming from "a love for humanity," and even from frustration over the fact that he never got to college himself. He sternly dismisses such notions.

"I don't have affection for the human race," he says. "But I have loyalty to it. I think there's still some hope for it. I'd rather do something for people than talk about love. After all, love without loyalty is not love at all."

As for college, he says, he has no feeling of frustration—he just never wanted to attend one, though "if I had my life to live over I'd go." Mr. Arnold was educated in a two-room schoolhouse, and recalls that he was "not particular fond" of school.

"I was born and raised in what some people might call poverty," he says. "I don't want a fine car or a fine home. I have had no desire for luxury. So I took the money I had no use for and gave it to the scholarship fund for teachers."

Mr. Arnold was born in the front parlor of the home his parents built in 1887.

The room still has its Victorian-age furniture.

But there's something new there now, a gift presented to him in grateful appreciation: A chair bearing the seal of the University of Tennessee.

## DR. CHARLES C. EDWARDS: A CHRONOLOGY OF ACCOMPLISHMENTS AT FDA

Mr. PERCY. Mr. President, the President is to be commended for nominating yesterday the current Commissioner of Food and Drugs, Dr. Charles C. Edwards, to the critically important position of Assistant Secretary for Health of the Department of Health, Education, and Welfare.

I have the deepest respect and admiration for Dr. Edwards and believe his record of accomplishments in promoting consumer health and safety, as well as in the area of agency management in one of the most difficult positions in the Federal structure, is singularly outstanding. Commissioner Edwards is eminently well qualified to serve as the Nation's chief health officer.

For a long time, I have been vitally interested in the activities and programs of the Food and Drug Administraton—FDA. While I have not always been in complete agreement with decisions there, one cannot help but be immensely impressed by the record of progress of the FDA under Commissioner Edwards' direction. This is particularly true where matters were referred to Dr. Edwards' personal attention. An example just a few weeks ago was his determination to promulgate mandatory comprehensive standards for infant crib safety.

Under his leadership, FDA has moved with dispatch to meet the needs of a modern and rapidly changing technological society which is making increasing demands on Government. The Agency has progressed more in the past few years than it did in the previous decade—perhaps in the previous several decades.

I ask unanimous consent to have printed in the RECORD an enumeration of some of the more significant accomplishments of the FDA during Commissioner Edwards' tenure. A careful review of these achievements clearly shows that FDA is now a more viable and progressive organization that is meeting legitimate demands for greater consumer protection, while at the same time encouraging consumers, for the first time, to participate in the deliberative process.

Based on his past accomplishments in one of the most sensitive and exposed posts in the Federal Government, we can anticipate Dr. Edwards bringing a new direction and sense of purpose to the health activities of the Department of Health, Education, and Welfare. I think we can look forward to real progress toward our common goal of improved health and safety and delivery of health services for all the people of this country.

I urge that the Senate Labor and Public Welfare Committee move rapidly to favorably consider the nomination of Dr. Charles C. Edwards to be Assistant Secretary for Health. I can think of no one more dedicated to the task or more qualified to serve with distinction.

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

SIGNIFICANT ACCOMPLISHMENTS AND INITIATIVES OF THE FOOD AND DRUG ADMINISTRATION UNDER COMMISSIONER CHARLES C. EDWARDS, M.D.

PRODUCT SAFETY

Banned the use of carbon tetrachloride in products intended for use around the home. This substance is so hazardous that no warning label can be devised that is adequate to protect the householder and his family.

Banned certain classes of fireworks from the market. These fireworks were capable of and had a history of causing injury from their explosive force.

Published a proposed Statement of General Policy or Interpretation which requires the use of impact resistant lenses in eyeglasses and sunglasses. The Society for the Prevention of Blindness and others in the optical community consider this proposal to be a significant step in the prevention of injury to the eye from shattered eyeglasses.

Published regulations under the Child Protection and Toy Safety Act banning toys with certain hazardous mechanical features.

Required special packaging for certain liquid drain cleaners by implementing P.L. 91–601, the "Poison Preventon Packaging Act of 1970," a measure that is intended to reduce the injuries when children open, handle, or ingest drugs and household chemicals.

Published a proposal to implement the "repurchase" provisions of the Child Protection and Toy Safety Act. This Act amended the Hazardous Substances Act and it requires the repurchase of banned hazardous substances from consumers.

Ordered child-resistant safety closures for use on aspirin products, certain furniture polishes containing petroleum distillates, lye products and oven and drain cleaners.

Ordered a phasing-out of lead from household paints.

Acted to close a loophole which has permitted diversion of illegal fireworks to consumer channels.

Announced a recommendation to make bicycles safer and called on manufacturers to seek corrections.

Proposed child safety packaging standards for charcoal starter and cigarette lighter fluids.

Proposed child-resistant safety closures for prescription drugs in oral dosage forms and drugs with an abuse potential.

Requested pharmaceutical companies to expand the use of child-resistant safety closures to all nonprescription drugs which pose a potential hazard to children.

Proposed a ban on garments containing asbestos fibers.

Encouraged manufacturers of vacuum bottles intended for use by children to institute "drop tests" to assure that glass liners do not break.

Proposed regulations to prohibit the marketing of a hazardous substance in a container identifiable as a food, drug, or cosmetic container.

Proposed safety standards for baby pacifiers or similar articles.

Proposed safety standards for electrically-operated tops and other electrically-operated children's articles.

Announced comprehensive mandatory standards for infant crib safety to cover minimum spacing between the slats of wooded cribs; minimum rail heights and standardized interior dimensions; specifications for release mechanisms and associated safety devices; paint and coating surfaces in conformity with F.D.A. regulations; elimination of design characteristics which provide "toe holds" for climbing out of cribs; and elimination of sharp edges and protrusions.

FOODS

Completed the removal of cyclamates from the marketplace and publicly expressed opposition to reimbursement legislation then in Congress.

Instituted a full review of evidence for safety on substances on the "generally recognized as safe" (GRAS) list and food additives on which there have been questions of safety.

Accomplished a study of saccharin and monosodium glutamate (MSG) by nongovernment experts. The findings indicated that saccharin could be safely used while pointing out that MSG served no purpose in infant foods.

Encouraged industry voluntarily to discontinue the use of MSG in prepared infant foods.

Rapidly carried out a nationwide survey of marketed tuna and swordfish to remove any fish from the market containing excessive mercury.

Published proposed criteria for determining the eligibility of substances for classification as "generally recognized as safe" in foods.

Initiated programs for the development of nutritional guidelines and nutritional labeling on classes of foods. Includes the testing of three possible approaches to nutritional labeling by surveying a sampling of consumers.

Undertook a program to develop nutritional guidelines for certain convenience foods.

Proposed regulations to limit human exposure to PCB (polychlorinated biphenyl), a toxic commercial chemical, through our food supply.

Proposed criteria for labeling packaged food with information from which consumers can determine nutritional values.

Completed an Environmental Impact Statement on the use of PCB's in food packaging.

Published regulations for the labeling of foods for special dietary uses which are hypoallergenic and/or contain sodium.

Proposed food names to include percentage of characterizing ingredients and the use of specific names of cocktails containing seafood.

Proposed limitation on the strength of vitamin A and D products available for over-the-counter sale and, thus, established safe amounts of these vitamins that can be effective as dietary supplements for use by consumers.

Published 12 interrelated regulations on food labeling. These are designed to provide the American consumer with specific and meaningful new information on the identity, quality, and nutritional value of a wide variety of general and special foods. In addition, to nutrient and vitamin-mineral labeling, they provided for identification of fats and cholesterol content, set standards for vitamin and/or mineral dietary supplements, and set new rules for the definition and labeling of imitation food products.

Published regulations governing the manufacture and processing of thermally processed low-acid foods packaged in hermetically sealed containers.

Proposed a standard of identity for bottled water which establishes quality standards.

DRUGS AND MEDICAL DEVICES

Improved the handling and review procedures for new drug applications which expedited the review and approval of such drugs as L-Dopa, a drug for Parkinson's disease, lithium carbonate, a drug for control of manic episodes of manic depressive psychosis, and a low estrogen oral contraceptive that may be safer than other formulations.

Removed some 48 fixed-dose combination antibiotic preparations from the market lacking adequate evidence of efficacy as fixed-dose combinations.

Took an important and unprecedented step in patient information by requiring the inclusion of a statement regarding side effects of oral contraceptives in each package that reaches the consumer.

Obtained a court injunction against further interstate shipment of Relaxicisor devices which were demonstrated to be potentially dangerous when used by laymen.

Published revised Good Manufacturing Practice Regulations, for the manufacture, handling, and packing of drugs.

Published, in cooperation with the Director, Bureau of Narcotics and Dangerous Drugs, a Statement of General Policy or Interpretation on the use of methadone in the maintenance treatment of narcotic addicts.

Developed the "Current Drug Information" letter, later issued as *FDA Drug Bulletin*, as a step toward better communication with the medical community. These contained information on L-Dopa, lithium carbonate, oral contraceptives, oral hypoglycemic agents, obesity drugs, methadone, hexachlorophene, and other important drugs and problem areas.

Distributed a summary list of drugs judged "ineffective" to Federal and State purchasing agents as a means of providing summary information on rational purchasing of drugs.

Moved to better regulate medical devices by undertaking a survey of the number, types, and labeling of medical devices now marketed.

Announced a massive, unprecedented program to review the efficacy of more than 100,000 over-the-counter drugs.

Proposed a four-point program to ensure consumer safety in the use of drugs and cosmetics containing antibacterial chemicals.

Established a unique form of licensing for methadone to prevent misuse of this anti-heroin addiction drug.

Published notices of the review of the effectiveness of 10 different classes of over-the-counter drugs.

Proposed regulations for the registration of foreign drug firms.

Announced procedures for review of safety and efficacy of all biological products.

Initiated a far-reaching program to improve regulation of blood collection facilities and require licensing of plasmapheresis centers.

Expedited and brought to near completion initial review of the efficacy of all drugs approved between 1938 and 1962 on the basis of safety only. To date, 2,779 efficacy evaluations have been published in the *Federal Register*.

Completed an inventory of all medical devices on the market.

Developed system to classify devices for regulatory purposes, and to appoint panels of experts to carry out the classification process.

Sponsored a National Conference on Medical Device Standards to organize standard-setting groups and promote development of standards for materials and devices which will be regulated by standards.

Initiated the development of a monitoring system for medical device experience.

Provided advisory opinions and support for evaluation of the safety, efficacy, and labeling of medical devices.

Initiated a number of regulatory actions including several court cases settled in FDA's favor for products such as air purifiers, resuscitators, an electro-acupuncture, and a pulse diathermic device (diapulse).

Proposed procedures for regulation of diagnostic kits.

Initiated implementation of the Drug Listing Act.

ANIMAL DRUGS

Published the NAS/NRC evaluations for 423 pre-1962 drugs.

Established an Antibiotic Task Force to conduct an in-depth review of the use of antibiotics in food animals.

Reorganized the Bureau of Veterinary Medicine.

Implemented the Animal Drug Amendments of 1968.

Increased surveillance of animals marketed for food to assure that such animals do not contain illegal drug residues.

Evaluated a study to determine if there was correlation between antibiotic resistance patterns in animals and humans on farms where people were directly exposed to animal populations, and if there was a transference from animal to man.

Initiated action to limit products containing certifiable antibiotics for intramammary treatment for mastitis to four active ingredients.

Established closer liaison with the U.S. Department of Agriculture for monitoring drug residues.

Took action to restrict the use of antibiotics in fed animals on an effort to preserve the benefits of these drugs for humans.

Acted to eliminate cross-examination of animal foods containing DES (diethylstilbestrol), the growth-promoting chemical.

Announced a ban on use of DES in animal feed effective January 1, 1973.

Withdrew chlormadione acetate for use in cattle from the market.

Reinstituted a National Advisory Board of Veterinary Medicine which includes members from consumer groups, agriculture, human medicine, and veterinary medicine.

ORGANIZATIONAL

The Food and Drug Administration was removed from the Consumer Protection and Environmental Health Service and upgraded to full agency status within the Department of Health, Education, and Welfare.

Accomplished a reorganization of the Food and Drug Administration along product lines.

Completed the realignment of the FDA field districts to conform with DHEW regional boundaries.

Sought and obtained assignment of the Pine Bluff Arsenal facility to FDA for use as a center for toxicological testing of food additives and other substances.

Elevated the product safety function of FDA to Bureau status as the Bureau of Product Safety.

Integrated into FDA radiological health functions of the former Environmental Health Service as the Bureau of Radiological Health.

Published a proposal to ensure separation in function between the attorneys representing the Government at public hearings and the officials charged with decision-making authority, and to require that communications between these officials and affected parties in the private sector be made matters of public record.

Proposed detailed guidelines with respect to the disclosure of documents in FDA files that have not been previously available to the public.

Integrated into FDA the Bureau of Biologics from the National Institutes of Health.

FAIR PACKAGING AND LABELING ACT

Published regulations governing "cents-off," economy sizes, introductory offers, and other labeling promotions for foods, drugs, and cosmetics.

Negotiated new cost-reimbursable contracts with 10 State agencies for the conduct of retail surveys to determine the level of compliance with the Food and Drug Act, and to measure the extent of deceptive price representations.

Initiated programs to determine the nonfunctional slack-fill of food packages.

COSMETICS

Banned hexachlorophene, shown to be dangerous, as a common ingredient in numerous cosmetic products and over-the-counter drugs.

Promulgated regulations for the voluntary registration of cosmetic manufacturers and the filing of product formulations.

Announced proposed Statement of Policy to prohibit the use of mercury as a skin-bleaching agent in cosmetics or as a preservative, except in eye-area cosmetics.

Announced proposed regulations to make mandatory the listing of ingredients on labels of cosmetics.

RADIOLOGICAL HEALTH

Established standards for X-ray medical and dental diagnostic machines to reduce radiation exposure hazards to patients.

## EPITAPH FOR A MODEL CITY

Mr. MUSKIE. Mr. President, a very significant article appeared in the Outlook section of the Washington Post on March 4. The article, "Gary: Epitaph for a Model City," described in clear terms what has happened to the city "that was touted as an urban laboratory" 5 short years ago. What has happened, the article states, is that, in blunt terms, "the whites are moving out of town," leaving behind a predominantly black city, deteriorating, crime laden, and without the tax base it needs to raise the revenue necessary to cope with its problems. The tragic path that Gary has followed can become the course of cities across this Nation if we fail quickly to find solutions to the problems that afflict our urban areas.

During the past weeks my Subcommittee on Intergovernmental Relations has held hearings on the impact of the President's new federalism and the 1974 budget on State and local governments. The distinguished mayor of Gary testified at those hearings. The focus of these hearings has been on the kind of commitment of Federal dollars the Federal Government must make to State and local governments for social programs and on finding an efficient system—categorical grants, special revenue sharing, bloc grants, and so forth—of delivering those funds to meet local needs. Those are important problems of intergovernmental relations. This article points out another critical, but often ignored problem that threatens to stand in the way of responsive government in nearly every city in the Nation.

That problem is the complex and often irrational structure of local and State government in America. The most efficient delivery system of Federal dollars cannot succeed if the very structure of State or local government prevents citizen participation in and examination of the governmental process. Particularly where jurisdictional boundaries and outmoded Government structures tend to divide the predominantly poor and black citizens who live in the cities from more affluent and white suburbanites, the cities must try to survive on shrinking, inadequate, and inequitable tax bases. These unrealistic jurisdictional boundaries frustrate citizen participation and obstruct the delivery of services within our federal system. While counties, cities, States, and regions battle for the Federal dollar, too few people ask which Government units are most responsive to their citizens—why governmental structures overlap and why boards and commissions which serve no significant function are allowed to exist.

Let us look at the governmental structure problem in Gary. The city shares its tax base with other townships in the county. The city and county both get shares of general revenue sharing. The county sheriff's department does not operate within the city, even though city taxpayers contribute to its support. The city depends on the property tax for most of its revenue, but property is assessed not by the city, but by an elected township official whose procedure is so secretive that hearings conducted last year by the Intergovernmental Relations Subcommittee revealed that the mayor of this city of 175,000 people could not even get the information he needed to determine whether the city's largest property taxholder was fairly assessed. These various governmental structures competing for the same limited tax dollars and all performing separate and disjointed services are not the basis for responsive local government. Rather, they are bound to result in frustration and barriers that freeze citizens out of the processes of their local governments.

A basic challenge facing American democracy must be to structure Government to be responsive to the needs and wishes of the people. I feel that government at all levels is inadequately meeting that challenge. Particularly at the State and local levels—which the President describes as closest to the people—governmental structures are too often so archaic and complex that they frustrate responsive government. While we debate the merits of reforming the Federal Government and the federal system, we must not ignore the necessity of reforming State and local governments so they can best serve their citizens.

I ask unanimous consent that the text of the article, "Gary: Epitaph for a Model City," be included in the RECORD.

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

GARY: EPITAPH FOR A MODEL CITY

(By Godfrey Hodgson and George Crile)

GARY, IND.—The blue and gold signs at the entrances to the city proclaim in bold lettering: "WELCOME TO GARY, CITY ON THE MOVE. Richard G. Hatcher, Mayor." But the slogan has now taken on an ironic significance. For the most noticeable movement, in a city that was touted as an "urban laboratory" for the nation when Mayor Hatcher took office only five years ago, is a sad one: The whites are moving out of town.

Whites now number less than a quarter of the city's population of around 175,000. In a last-ditch attempt to stanch this exodus, the Gary city council recently passed an ordinance outlawing the posting of "For Sale" signs. It took the local real estate men only a few days to rise to this new challenge. Up went new signs on houses for sale.

The exodus of the whites is only the symptom of a whole litany of woes that now beset the city of Gary, and with the best will in the world it is not easy to see where deliverance will come from.

There is the problem of crime, and rumors of crime, encouraging the white flight. A drug war broke out in Gary last fall. It is said to be a war over the hard drugs trade between rival black street gangs with names like the "Kangaroos" and "The Family." One explanation heard in Gary is that The Family has muscled in on a vacuum left by white criminals who also left town. Whatever the reason, the war's casualties to date total more than 20 people; one of the victims was gunned down right in front of a police station.

In January, moreover, snipers from a public housing project across the street killed a black student outside Roosevelt High School, which used to be the best school for middle-class blacks in the city. Sirens now wail through Gary every night at 10, announcing the recently introduced curfew, a desperate measure enacted to cope with crisis conditions.

And there are the downtown business and building problems. A 12-story Holiday Inn, across from City Hall, was the first major commercial building constructed downtown in a decade. It was expected to lead to the revitalization of the downtown commercial district. Instead, after only a year of operation, the management has sealed off the top half-dozen floors for want of customers.

Down the street, the imposing Hotel Gary, once the lunchtime haunt of U.S. Steel executives, is boarded up. The city's auditorium,

one out of three department stores and countless smaller businesses present the same sightless face to the street.

Gary's two intersecting main drags are called Broadway and Fifth Avenue, suggesting the happy boosterism in which the city was born only 67 years ago. But today they look as if a Panzer division had fought its way along them, somewhat carelessly. Some of the empty sites are the result not of commercial decay but of urban renewal projects. But with HUD funds from Washington being held up by the Nixon administration, and naught for Gary's comfort in the new budget, it will be years before even those gaping holes are filled.

And there is the unemployment problem. U.S. Steel built the town in the first place. (Local legend has it that Judge Elbert Gary was attracted by the topography of the site where the great Gary mill still stands because "three men could hold it against a mob with machine guns.") At its peak, the mill employed 32,000 workers—a far higher proportion of the total work force than in most towns because of the shortage of secondary industry.

But last year the mill laid off close to half of its work force. The unemployment rate for Gary as a whole went up to 40 per cent. Most of the steelworkers are back at work now, but U.S. Steel has been investing in automation. It must, given Japanese competition so sharp that you can sell Indiana scrap, ship it to Japan, melt it back into raw steel, and still undercut Gary-made steel in the Midwest. Right now the mill employs about 24,000. Thousands of steelworkers have lost their jobs, and thousands more must expect to lose theirs to machines over the next few years.

And there is the education crisis. Gary's schools—nationally known for their experimental curriculum in the days when Prof. Paul Samuelson, for example, was growing up in them—now face catastrophe. According to Gordon McAndrew, an innovative school superintendent attracted to Gary from North Carolina a few years ago precisely because of the opportunities for change he sensed here, the schools are now on the point of running out of funds. They could not now meet another increase in teacher's salaries. Rather than face a strike, McAndrew says, he would be inclined to close the schools down to dramatize the issue, in the hope that the state would bail Gary out. As it is, 10 per cent of Gary's teachers have quit in the last three years.

It's all a vicious cycle. Crime fears chase out whites. Businesses follow them to the suburbs. Confidence and the tax base erode a bit further. More crime is bred. More flee. More tax money goes. And Gary becomes that much more dependent on federal help—at a time when federal aid is about to be brutally cut back.

Bill Staehle, director of Gary's Model Cities program, says wistfully: "If we still had a Democratic administration in Washington Gary really would have been the urban laboratory everyone said it was. The sky would have been the limit." It sounds like an epitaph for a Model City.

Gary may not be the most alluring city in the United States. Pollution often hangs over the city like a miasma, and political corruption has often been almost as noxious and pervasive. But Gary's future has not always seemed so dark. The early days of the Hatcher administration were a time of vaulting optimism, a strange time when the city's very problems were viewed as assets rather than liabilities.

President Johnson had vowed to eradicate poverty, and he decreed that neglected cities such as Gary must join his Great Society. Even after the Vietnam war escalated and the war on poverty became a holding action, the Great Society programs had to be tested somewhere. Gary, with its intriguing multiple ailments, was seen by the urban physicians in Washington as a microcosm of all American cities and chosen as the urban laboratory.

For nearly three years after Hatcher took office as (by a few hours) the first black mayor of a major city, a stream of federal officials, consultants, urbanologists and journalists, flowed through Gary. Studies were generated, projects proposed, programs funded, and concerned reports published in the national media. One city hall official remembers that abundant era with a gleam in her eye: "Whatever program we thought up, they sent us the money for it; and if we couldn't think up a program, why they sent us the money anyway." By 1972 the federal infusion had totaled $150 million, or nearly $1,000 for every man, woman and child in the city.

At one point, the then-city controller, a former gym teacher named Jesse Bell, was reduced to telling a group of evaluators from the Office of Economic Opportunity: "Don't send us any more money until you send us someone who knows about the programs."

The federal blitz was matched by a shower of concern from the big foundations. The Ford Foundation, the National Urban Coalition and others sent their men to town. Then they provided funding to hire three "super-executives" to oversee three key areas: municipal finance, public safety, and housing and community development. (The super-police-chief, known in Gary as "Safety" Johnson, was a colorful New York cop who packed a pistol most of the time. He is back in New York now, where he earned national acclaim recently by rescuing the hostages from a Black Muslim gang in a Brooklyn sporting goods store.)

The public interest law firms weighed in, too, offering to bring suit against U.S. Steel for polluting the air. In the general spirit of goodwill, U.S. Steel itself put up the dough for one of the "super-executives."

The key broker for this flood of social investment in Gary was Jim Gibson, from the Potomac Institute in Washington. One of the tacticians of the civil rights movement in its Southern phase—he grew up around the corner from the Martin Luther Kings in Atlanta—Gibson went to Gary to look around soon after Hatcher was elected and stayed for six months. He became a kind of deputy mayor, and it was he who thought up, and sold, the idea of treating Gary as an urban laboratory for the nation. With Gibson back in Washington, Gary had a hot-line to the foundations and the federal government.

For a while people were going around saying Gary was lucky to be in such bad shape; it would get so much help that it would be a model of what could be done to regenerate cities. And for a while it looked as if the experiment might just work.

The level of administrative competence was nothing to boast of, but things did happen, and without the traditional payoffs and graft. A good deal of excellent low-income housing was built; 4,800 new units in five years. Education and health programs were started. Thousands of "hard core unemployables" were given job training, many of them by U.S. Steel. (Many of those who went on to work at the steel mill lost their jobs in the shake-out of 1971.) The open, burning city dump was safely filled in, and the sewage system began to be cleaned up. In the context of Gary's experience of city government, the reforms were dramatic.

But they were almost all targeted to benefit the Hatcher administration's black constituency. The city's new minority, the white steelworkers, was largely left out. One all-white suburb, Glen Park, tried to disannex itself from the city. The Great Society might be a new day for the city's blacks, but for the white workers, struggling along just above the poverty line, it was something else.

By the beginning of the 1970s, all over industrial America, there was a growing awareness that 25 years of high wages had not brought on the earthly paradise for the white working class. As the economy staggered under the impact of inflation, and unemployment rose, the politicians and the media became aware of a new, bitter mood of discontent and dubbed it the blue-collar blues. The white people who had moved out of Gary and other areas in the white hinterland of the Calumet region of northwestern Indiana were no exception. But at least they had institutions to look to, institutions that had helped them in the battles of the past.

There was the national Democratic Party, for one. None of the candidates for the presidential nomination in 1972, surely, could afford to ignore the plight of what had been the traditional core of the party's electoral support.

There was labor. Even if the big battalions of the AFL–CIO were not likely to be activated quickly, a militant tradition survived elsewhere: in pockets of insurgency inside conservative-led unions and in organizations like the late Saul Alinsky's Industrial Areas Foundation in Chicago.

There were the churches. In the Roman Catholic Church, particularly, there was a general awareness that a majority of the white working class in the troubled cities—Irish, Italian, Polish, Croatian or Mexican by descent—were Catholics.

There were other potential sources of help, too: the foundations, the media, the new consumer movement symbolized by Ralph Nader, and a host of liberal organizations, all anxious to justify their existence by addressing themselves to the newly perceived problems of the white working class. That, in the phrase of that year, was where it was at.

Every one of these principalities and powers was represented in force in the George Rogers Clark high school in Hammond, Ind., across the line from Gary, on Dec. 5, 1970, for the official founding session of the Calumet Community Congress. The great majority of the 1,500 people who crammed into the school's gymnasium that Saturday afternoon, of course, were local people. They represented an impressive cross-section of the life of industrial northwest Indiana.

When the CCC elected its first 20 officers, they included two union officials, two welfare workers, two truck drivers, two housewives, two students, two clergymen, a city employee, a roofer and a steelworker. The 143 groups represented included Protestant churches and Catholic sodalities, union locals and ethnic clubs, students and teachers, peace groups and anti-pollution people, as well as such purely local interest organizations as block committees and a group from a trailer park. There was a group called START and a group called STOP.

These local people could feel that they were not alone. Gary had become a focus of national concern. Sen. Kennedy and Sen. Muskie both sent telegrams of support. The first chairman was George Patterson, who symbolized labor's traditions of militancy: He had been a picket-line captain at the Memorial Day massacre during the steel strike of 1937. The Congress heard a message from Ralph Nader, read by Nader man John Esposito. It was a blistering indictment of U.S. Steel.

Monsignor Geno Baroni of the U.S. Catholic Conference's task force on urban problems was there, smoking small cigars, and trailing behind him with the smoke clouds of reporters from the big Eastern media. He took care that they should all grasp his dream of building the white, ethnic working class into a new, radical force in national politics. And, sure enough, Newsweek, The Washington Post and The New York Times all pegged to the founding of the CCC long stories about what Newsweek called "a rising cry: ethnic power."

Some of the money came from local churches. But the American Jewish Committee came through with a grant, and so did the National Urban Coalition. Just as the federal government and the foundations had seized on Gary in 1967 to show what they could do for black people, so, three years later, the national liberal institutions were rallying round to show what they could do for the white working class with the Gary oven as their laboratory.

A lot of people's work had gone into setting up the CCC. But above all it was born of the interaction of four remarkable men: Saul Alinsky, Jim Wright, Staughton Lynd, and Bishop Andrew Grutka of the Catholic diocese of Gary.

They could hardly have had more diverse origins Alinski, who died last year, was the most famous community organizer in the country, an intellectual radical from Chicago, toughened in the labor wars, pragmatic, effective, a veteran.

Jim Wright is a young steelworker, as tall and powerful as a pro football linebacker, whose father came up from Mexico to work in the Inland Steel mill in East Chicago after World War I.

Bishop Grutka is as impressive a man physically as Wright, with a large, sculpted head and a mane of white hair. He comes of Croatian immigrant stock, and was a friend of Alinsky's since the 1930s. But he is no radical churchman. His concern is pastoral, and he turned to drastic measures because he was desperately worried about what was happening to his flock.

Lynd is a historian, son of Robert and Helen Lynd, who wrote the sociology of "Middletown," and a former professor at Yale. He is a Quaker who played a leading role in the civil rights movement and the national peace movement.

After the Hatcher election, in 1968, Jim Wright had become increasingly frustrated by the indifference of his Inland Steel local to national issues, and especially to the Vietnam war and Chicanos. He met Staughton Lynd at a labor history forum at the community college in East Chicago. Lynd had become interested in the possibility of building a mass working-class movement.

At about the same time Alinsky had been contacted by two Protestant ministers who were appalled by the rapid racial polarization that was developing after the Hatcher victory. They wanted to persuade their (suburban) white working-class church members to become more conscious of their responsibility for the inner city. Alinsky in turn contacted his old friend Bishop Grutka, and the bishop, together with some Protestant churches, put up the money for Wright and two others to be trained in community organizing at the Alinsky school in Chicago.

Early in 1970 the organizing began. Wright, Lynd and several other organizers applied the Alinsky method. They began by contacting as many local groups as they could find: almost any groups, provided they had local concerns.

In August, the Lake County Democratic machine discovered that Lynd, who was involved in the organizing, had been to Hanoi. The county chairman, John Krupa, promptly denounced the CCC as "a power grab . . . motivated by the godless, atheistic forces of Communism."

In the short run, these attacks were a godsend. "When Krupa attacked us," Staughton Lynd remembers, "we were sitting around saying, 'How can we get some attention?' Never in the world would we have been able to get 1,000 people at that convention without Krupa." Bishop Grutka agrees.

In the long run, though, Krupa's attack may have been shrewd. "We just rolled brother Krupa out the window," says Lynd. Then, smiling wryly, he adds, "and it turned out we also rolled Staughton Lynd out the window." Several of the Protestant groups, nervous at the idea of being associated with radicals, withdrew their support. Wright fired Lynd. It was the first blow to the CCC, and it came right after the triumphant convention.

The row over Staughton Lynd was not the only shadow over the founding of CCC. Less than half a dozen of those 1,500 faces at the CCC convention were black.

The whole idea behind organizing in the Gary area—Alinsky's idea, but also the ministers' and Bishop Grutka's—had been to build two parallel organizations, one black, one white, which would march together to fight the good fight. When Wright went off to the Alinsky school, a black trainee, Obadiah Simms, went too.

Simms, one of the original Freedom Riders and a former pro-football player, was supposed to build his black organization simultaneously with Wright's. But as things turned out—partly because the row over Lynd made it necessary to advance the timetable for CCC—Simms didn't get his outfit, called the Federation of Community Organizations (FOCO), going for another six months. And when he did, the founding congress was a fiasco.

Simms had hired the cavernous Gary armory, which was a mistake. Only about 100 people turned up, and they looked lost in the sea of chairs. The sound system didn't work. But what was worse was that the Hatcher administration had stacked the meeting with its own people, many of them people they had put into federal manpower jobs. In private, Hatcher administration officials make no bones about the fact that they were not about to have anyone else organizing the black in Gary. "Who needed confrontation in the year of the Mayor?" one of them said with a laugh.

Simms' meeting ended up electing as president a man who wasn't even there, a crippled black from East Chicago whom nobody knew. For all practical purposes, FOCO collapsed on take-off.

Even before the FOCO fiasco, the hopes of organizing in Gary had taken a body blow when Jim Wright left, in February 1971, to work for Father Baroni in Washington. He has now moved on again to Baltimore where, he hopes, "the handles are there for doing something with young workers." While Saul Alinsky kept on at organizing in the Back of the Yards section of Chicago for 30 years, Wright, the CCC's strongest leader, departed only three months after the CCC was founded.

At the end of 1971, there was a bitterly disputed election for the CCC presidency. George Sullivan, who had helped organize a breakaway union of steel-haulers to the militant, and indeed paramilitary, displeasure of the Teamsters, won the election. Jim Wright's Alinsky-trained successor refused to accept Sullivan, and CCC split into two. Today, both halves have collapsed.

Today, less than 30 months after the high hopes and media publicity on the founding of CCC, the effort to organize the white working class in northwest Indiana is dead.

"What's been happening?" we asked the Gary planning director, Chuck Allen, a black architect who was trained professionally as a city planner. He answered laconically: "They're leaving."

"Can you stop them?"

"No. We don't control the economics of this city."

The economics of city government in Gary are simpler than in most places. The city depends for its revenue on its share of a property tax. Other public jurisdictions—the school district, for example, Calumet Township, Lake County—also get their shares. And valuation is assessed not by the city, but by an elected county official, according to formulas determined by state law. The power to tax, therefore, does not lie with the city.

Roughly 46 per cent of the property tax paid in Gary is paid by U.S. Steel. Spokesmen for the corporation point out that its tax burden increased 61 per cent from 1966 to 1971, and that, moreover, at a time of economic difficulty for the steel industry.

The corporation's critics and city officials, on the other hand, are more impressed by the fact that although U.S. Steel invested more than $1 billion in Gary during the 1960s alone, its total, multi-billion investment there was only valued for taxation in 1971 at $519 million, and, by state law, the tax assessment was based on only one-third of that, or $173 million.

Half of Gary's tax base, in other words, is assessed at a mere fraction of its replacement-cost value. The other half is steadily being eroded by white flight and the consequent decay of the city's commercial center.

That is why Gary so desperately needs outside help, on a scale which can only come in practice from the federal government. According to Jim Holland, Mayor Hatcher's administrative assistant, the fiscal 1972 budget passed by the city council came to $24.4 million. In the same year the city received $25.5 million in federal funds.

It is—as both Holland and Hatcher point out—too early to calculate precisely how much Gary would get under the new Nixon dispensation, by which categorical federal programs are to be replaced by special revenue sharing and general revenue sharing. But Holland did some disturbing figuring on the basis of what he knows to date. "We can estimate $3.5 million to $4 million in special revenue sharing. If they don't include Model Cities"—that is, if Model Cities continues to give Gary a separate $2.7 million annual grant—"that would bring our receipts up to near $7 million. But the rumor is that Model Cities *will* be included. Then from general revenue sharing we can expect $3.1 million."

That comes to a high of around $10 million and a low of $6.6 million, in place of $25.5 million. "It would really be a kick in the teeth if it happened suddenly," Holland says. He acknowledges that the cities have been promised "hold harmless" clauses in the federal legislation that would protect money already committed, but he asks, "What exactly is a commitment? In any case, 'hold harmless' clauses would only delay the day of reckoning. Add into the equation the holdback on HUD monies, and it is easy to understand why Bill Staehle, the Model Cities man, predicts that "there are going to be an awful lot of sick cities about a year from now."

"The President has been reelected by people who have no serious concern for cities," says Richard Hatcher, not bitterly but as a fact of life. He acknowledges that the concept of revenue sharing looked good to many mayors when it was first talked about, although he maintains that he personally had reservations about it from the start.

"Some mayors I know have the feeling of having been sucked in," Hatcher remarks. Indeed, about a dozen mayors said as much recently before hearings of the Senate Intergovernmental Relations Subcommittee.

"They're beginning," says Hatcher, "to realize a couple of things: that if they go on the basis of what might be the popular will, they're going to be building a lot of small boat harbors and marinas, but the festering problems of poor people are still going to be there, and they're going to be the guys that are going to have to take the brunt of the reaction. And, secondly, they now realize that if you add general revenue sharing to special revenue sharing, it's going to add up to less than what the categorical programs would have been."

For two reasons, this will be especially true for a city like Gary. First, the Great Society programs were deliberately tailored for the needs of places with a disproportionate concentration of poor people. Second, cities like Gary, with administrations responsive to the poor who elected them, were able to go after federal programs aggressively, to develop expertise in getting the most the law would allow them, and get proportionately even more money than less poverty-conscious administrations. "Our ace in the hole," Hatcher says, "was the fact that we could move to the federal level and get resources that were not available to us locally." Equitable in theory, the shift to revenue sharing thus will be regressive in effect.

In the five years he has been in office, in fact, Richard Hatcher has come to understand the limits of black power. This is not only a question of money. The Hatcher administration does not really control the economics of the city, as Chuck Allen said. But that is not the end of the problem.

"The police commission is run by an independent commission," Hatcher notes. "The fire department is run by an independent commission, the health department is run by an independent board, the park department is run by an independent board, the redevelopment commission office is run by an independent commission." Hatcher estimates that it will be seven years after he was first elected mayor before his appointment power would give him control of one vital commission.

Originally, Hatcher concedes, these citizens' commissions were brought in to eliminate corruption. "But what it makes for today is simply a mess. It means that you cannot make concise decisions as the chief executive of a city like Gary, because all those decisions are tempered by what this board or that board will do." The police civil service commission for example, was brought in back in 1939 as a reform measure. But what it means today is that, even when a policeman was found up to his neck in a stolen car ring, the mayor had no power to discipline him. The man in question reached retirement age and qualified for a pension before the commission took disciplinary action.

"Secondly," Hatcher goes on, "some very critical functions are not even handled by the city." The county sheriff's department does not operate within the city, but Gary taxpayers contribute to its support. The city ought to have power to persuade private financial institutions to cooperate, both with loans, and, for example, with bonding for minority contractors. But, under state law, the city is not even free to decide where it deposits its own funds.

At the state level, Hatcher complains, "a rural-dominated legislature has now formed an almost unbeatable alliance with the political representatives of the suburbs—to the great detriment of the central city."

Can Gary make it, then? "It's a very fair question," says Hatcher, "and a very important question. My answer would be, at this point, yes, we can make it, but not without some very significant changes in how we relate to Washington, and how we relate to U.S. Steel, and in how U.S. Steel relates to us, and how Washington relates to us."

Hatcher and the black majority in Gary are discovering, in short, that black power at the lowest tier of a federal system doesn't amount to much unless the white majorities at all the higher tiers are willing to help.

## ESTONIAN INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, February 24 marked a remembrance of Estonian freedom as that day observed the 55th anniversary of Estonian Independence Day.

The years of national freedom for these brave and determined Estonian citizens brought to them years of great political advancement. Within only 2 years after their proclamation of independence, the Estonian people set up a government based on a democratic constitution. By 1921, this nation joined the League of Nations and was soon recognized by the world powers as a valuable representative of all small countries.

Estonian social and cultural advancements were also well recognized during these progressive years of independence. Through extensive industrial improvement the Estonian economy benefited substantially.

But, as it was for the other Baltic nations, these treasured years of freedom were tragically short-lived. Estonia was forced to accept the establishing of Russian military bases on its land through the years following World War II, and by 1944, suffered total Russian occupancy.

Mr. President, although the people of Estonia are still forced to accept Russian control, those determined and courageous citizens continue the struggle for freedom. It is therefore especially appropriate for all American citizens and all free citizens of the world to pause and pay tribute to Estonian Independence Day.

## SENATOR DOMENICI ADDRESS BEFORE THE NATIONAL SOUNDING ROCKET CONFERENCE

Mr. DOMENICI. Mr. President, I was recently privileged to address the National Sounding Rocket Conference of the American Institute of Aeronautics and Astronautics. The Conference was held in my home State of New Mexico.

I am deeply concerned about the low priority being given to scientific research and technology in our country today. It seems clear that what our country needs is a balanced commitment, one which will support our social action programs but will also keep our technological growth vigorous.

I ask unanimous consent that the text of my remarks be printed in the RECORD.

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

ADDRESS BEFORE THE NATIONAL SOUNDING ROCKET CONFERENCE OF THE AMERICAN INSTITUTE OF AERONAUTICS AND ASTRONAUTICS, MARCH 8, 1973

(By Senator Pete V. Domenici)

New Mexico's contribution to national rocket research began as far back as 1930, when Dr. Robert Goddard began firing his rockets near Roswell.

It went on to include the famous WAC Corporal in 1945, the first living things carried into space in 1951, the first tropical storm photographed from space in 1954 and the first man-made objects in space in 1957.

I consider myself fortunate to represent a state which—with 40,000 civilian, military and contractor personnel involved full time in science—can truly be said to have a great deal in common with the future of America. Because that is so, when I, as a Senator, address such a great and sustaining national concern as the advancement of science, I know that New Mexico has a vital role and a deep interest in the subject.

Today, our nation, as I see it, is dangerously reducing its research and development efforts. If we ignore this critical priority or slight it, it is my firm belief that we will repeat the historical decay of other countries, in other centuries.

It takes vision and courage to maintain a healthy economy, to keep our position in world trade and to continue the growth of our collective productive capacity. It is impossible for me to conceive that we can do these things without committing ourselves to continuous and aggressive advances in the fields of science and technology.

We are now in an era of peace. I pledge to you that I will look at everything we do in this era of peace from a historical point of view. That perspective demonstrates clearly that we have always made our greatest scientific and technological gains in our country during times of war. But if science and technology are sacrificed to peace, that peace will not bring us the abundance we desire and the solutions to our social problems.

It is a simple fact that today's pure science is tomorrow's technology; that is the day after tomorrow's position as a trader with the world and as a solver of our own national problems.

Make no mistake about this: our country's investments in science and technology have always paid off for America. In large measure it is because of them that we rose to a position of world leadership in less than 200 years of history.

But today, some people seem to think that technology has become a dirty word. They shout, "Less money for technology; more money for social purposes."

They don't understand—or they don't want to understand—that technology is not good or bad in and of itself; it is how we *use* technology that is good or bad. After all, technology simply means pursuing and applying knowledge to solve man's problems. How, under any circumstances, can that be intrinsically anti-social?

It seems clear that what our country needs is a balanced commitment, one which will support our social action programs but will also keep our technological growth vigorous. Unless we can manage to combine these two, we cannot retain our position of importance in the world. There is little need to remind scientists of how Galileo was ridiculed and imprisoned, the Wright brothers laughed at, and automobile pioneers met with cries of "Get a horse."

There have always been men who voted against new ideas. Almost all Americans would agree that Daniel Webster was one of history's greatest senators, yet the record shows that when Congress was asked to appropriate funds to explore and settle the western part of the United States, he voted against the idea. After all, as everyone knows, the West has nothing but scrub cactus, deserts, high mountains and uncivilized savages.

Actually, when Congress voted funds to open up the western frontier, it spent ten percent of the gross national product to build railroads through the West. At the present time we devote to opening up the space frontier not even one per cent of our gross national product. Actually, the figure is closer to one-third of one per cent, and it is declining.

It is easy to take positions against things, and most of us are all too comfortable when we are doing so. I would like to read you some language from a commission report on the evaluation of a proposal. I am sure that the approach will sound familiar to you. The report says:

"The committee judged the promises and offers of this mission to be impossible, vain and worthy of rejection; that it was not proper to favor an affair that rested on such weak foundations and which appeared un-

certain and impossible to any educated person, however little learning he might have."

That is an excerpt from the report of the Talavera Commission. It was made in Spain in 1491 after consideration of a proposal by a fellow named Columbus, who wanted some financing for some kind of exploration he had in mind.

History is full of such examples, but it also teaches us that progressive societies have always invested part of their annual profit in their own future. It is axiomatic, it seems to me, that no first-rate country can ever be or continue to be first-rate unless it has first-rate science and technology.

It is equally true that you can't turn science and technology on and off as you do a faucet, depending on the state of our international and domestic crises. Technology's advance must be steady and constant, and the space program must continue to spearhead that progress.

When we stand at the peak of technological leadership, as our country does today, there are certain questions which we must ask ourselves. Have we learned anything from our past? Is it possible for us to stay at this peak? Are we in fact smart enough and capable enough to solve international and national problems and still advance technology?

I am sure that it is no mere accident of speech that leads us to refer to each new attack we mount on social problems as a War—the War on Poverty, the War on Hunger, the War on Disease. We use the word because we are conscious of the fact that it is a war which has led us to most scientific advances and to most scientific answers. Now it is our job to reach those advances and answers in a time of peace.

We can only do that if our forward motion in science and technology is on an all-encompassing base. It is true that we have made progress to stamp out polio, but we would not have done it unless we had previously developed microscopes which made is possible for cures to be discovered. Heart pacers, in our older citizens and even in children, came into being, not so much directly from an impetus to create them as from research which was done in our space program on totally different uses. The same is true of any future solutions to our environmental problems. They will not come solely from focusing our attention upon environment. They will come only if the whole body of scientific advances, so that we can then select from it those technological improvements which will in fact be the solution to these problems.

We are presently in a period of much soul-searching, considerable fear, doubt and trepidation. But these things merely show that we are mortal men, every doubt is excusable.

What is not excusable is a lack of vision and a lack of courage, at a time when greatness can only come from men of vision and of courage. To lack them would be unforgivable. If, at this juncture in our nation's history, we lack vision and courage, future generations will not forgive us—and they will be right to condemn.

## PENSION RIGHTS

Mr. MONDALE. Mr. President, all of us in the Senate are very concerned by the plight of working men and women around the country who often find themselves without the pension rights for which they have worked so hard.

The plight of these men and women is something with which we all are familiar, and it is the reason that hopefully we will soon enact far-reaching pension reform legislation.

A striking example of the need for such reform occurred last year in my own State of Minnesota when the Minneapolis-Moline farm equipment plant closed, leaving more than 500 workers without jobs and the pension benefits they had paid for and earned.

Edward Zuckerman of Ridder Publications' Washington Bureau has spent a great deal of time investigating the shortcoming of private pension plans and the heartbreak endured by thousands of working men and women. As a result of his exhaustive investigations, Mr. Zuckerman has produced an excellent five-part series on the subject.

The series already has prompted one California State senator to call for an investigation in his State.

Because I feel that all my colleagues will derive tremendous benefits from reading Mr. Zuckerman's articles, I ask unanimous consent that they be printed in the RECORD.

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

PRIVATE PENSION SYSTEM NO. 1—RETIREMENT SECURITY OFTEN BASED ON FALSE PROMISES

(By Ed Zuckerman)

WASHINGTON.—"In all too many cases, the pension promise shrinks to this:

"If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money has been prudently managed, then you will get a pension."

That was how Thomas R. Donahue, an assistant secretary of labor during the Johnson administration, described the faults of some private pension programs six years ago.

"The private pension system is the great American rip-off." declared Michael Gordon, advisor to the Republican members of the senate Labor and Public Welfare committee, a few days ago.

By the end of 1970, there were about 35,000 private pension programs in existence around the country. Almost 30 million wage and salary workers were enrolled in the programs which held almost $130 billion in reserve against future demands for retirement benefits.

BENEFITS NOT PROVIDED

Despite accelerated growth in the total number of pension programs in recent decades—and an outward appearance of strong economic health—a small percentage of pension programs fail to provide benefits when they come due. For thousands of working men and women, the discovery that their dreams of retirement security was based on false promises comes too late.

Corporations continue to fall into bankruptcy—dropping out of the economy without leaving sufficient funds to finance pensions for their former employes.

Pension plans continue to bury the technical requirements for eligibility in fine print—leaving workers to satisfy a long list of hazy legalisms before collecting any retirement dollars.

Pension fund trustees continue to manipulate reserve monies for personal or corporate gain—sometimes making bad business judgment and causing a loss or reduction of benefits to pension recipients.

"The way many pension plans are set up, it's an outright bloody gamble," Gordon said. "It's unfair for a program to take advantage of tax law provisions and then fail to deliver on its promises. When a program fails, a worker feels he's been robbed. He sees the money contributed to his pension as money that would otherwise have gone into his pocket."

When the first pension plans were established at the turn of the century, they were basically initiated as a good-will gesture by corporations as a reward for loyal employes who spent a lifetime working for the company.

EASE OUT ELDERLY

Although paternalistic in concept, pensions furnished "a humane and economical way to ease out the no-longer productive older worker, improved the morale of those approaching retirement and were helpful in attracting and holding younger workers," wrote Mrs. Jozetta H. Srb in a study published in 1969 by the New York State School of Industrial and Labor Relations.

"These aims are still considered reasonable objectives for pension plans. Even at the level of business expediency, however, for many years, pensions remained gratuities—given or denied at the discretion of the employer," she continued.

The discretionary reward concept is no longer the rule in the modern development of the private pension system. Federal wage controls imposed during the post-World War II provided the impetus for growth (since monies paid by employers to pension funds were exempt from wage freeze regulations). In 1949, when the supreme court ruled that pension benefits were subject to collective bargaining, the idea that pensions were a reward rather than deferred income was no longer workable.

However, the reward-income argument continues to be fought with companies viewing the benefits as a reward and workers viewing them as deferred income. When pensions fail to deliver benefits, the differing viewpoint is oftentimes the cause.

Despite countless horror stories told over the years to congressional committees by workers who lost their pensions, congress has so far been unable to enact regulations to prevent pension failures and relax the requirements which sometimes thwart workers from satisfying a stringent list of eligibility rules.

FEW SCANT LAWS

There are scant few laws relating to pension plans on the federal statute books now, creating a vacuum-like climate in which pension programs have flourished. One law requires pension fund trustees to make an annual financial disclosure to provide compliance with Internal Revenue Service regulations which permit corporations to deduct pension contributions as a business expense. Under the law, the tax liability is ultimately shifted to the pension recipients whose rates of taxation during retirement years is likely to be less than the tax rates paid during their most productive wage-earning years.

While untaxed, the $130 billion reserve fund flows through the investment market. Comprising the largest bulk of unregulated capital in the U.S., pension fund monies underwrite scores of construction projects (the Marina Towers complex in Chicago is financed by a janitors union pension fund, for example). As well as affecting the rise and fall of the stocks and bonds markets, according to the securities and exchange commission, about half of all equity stocks traded last year were held by pension funds.

Because of its crucial economic role, congress has studied the pension failure problem with caution. Lawmakers are reticent to tamper with a system which, by and large, has served the economy and retired workers well. While its important economic virtues cannot be lightly dismissed, the slim percentage of failures which disillusion thousands of workers could produce a widespread loss of confidence and would ultimately hamper the entire pension system.

What congress seeks to produce in the way of reform, therefore, is legislation that

can cure the disease without killing the patient.

In recent years, each new session of congress has brought a renewed plea for private pension regulation. With each instance of pension failure, the chorus of reform voices has increased in membership.

ROSTER OF REFORM

This year, the roster of reform seekers has reached an all-time high with 52 senate members—a majority that is expected to reach as many as 60 after new members become acquainted with the issue and choose to endorse the cause—now identified as cosponsors of a comprehensive law authored by Sens. Harrison Williams, D-N.J., and Jacob Javits, R-N.Y., who are the chairman and ranking minority member, respectively, of the Senate Labor and Public Welfare Committee.

As proposed, the Williams-Javits measures are designed to eliminate the hazards defined six years ago by Donahue. It would enable workers to collect pensions even if they left a company before reaching retirement age, even if the company went bankrupt, even if the pension reserve had been mismanaged.

Key features of the legislation would establish a 15-year period of employment to qualify for a full pension (with partial pension rights after eight years); a federal insurance program to protect pensions owed to workers by companies which have gone out of business; and, strict standards of conduct for the managers of pension funds.

President Nixon is equally interested in pension reform legislation and has sent his own proposals to congress.

The Nixon reform agenda proposes its own schedule for guaranteeing pension rights and similar rules of conduct. It further seeks to provide tax incentives so all workers can save independently for their retirement utilizing tax provisions currently available to self-employed persons.

"Three groups in our society have a tremendous direct stake in the growth and improvement of private pensions," the president said in 1970 when he sent his legislative package to congress.

NO TAX INCENTIVE

"The first is made up of that 50 per cent of American wage earners who are not in private group plans at the present time and who have no tax incentive for investing in retirement savings as individuals. The second group includes those who are enrolled in group plans which provide benefits for their retirement needs which they regard as insufficient or which do not ensure that the benefits which are accumulating while they work will actually be made available when they retire.

"If we meet the problems of these two groups today, we will also be taking a giant stride toward improving the quality of life tomorrow for an important third segment of our population to which they will eventually belong: the retired Americans whose independence and dignity depend in large measure on the adequate post-retirement income," the President said.

Writing pension legislation—whether proposed by the house, senate or the White House—is an exceedingly difficult task. In addition to the opposition of pension reform enemies (basically composed of the bulk of healthy pension programs), legislation must weave through an obstacle course created by the diverse nature of the issue and the interwoven jurisdictions of the congressional committee system.

CHANGE IN LAW

Comprehensiveness requires changes to tax and labor laws. Therefore, four congressional committees are drawn into the pension reform debate—in effect, doubling the chance for failure. Tax laws are written by the house ways and means committee and the senate finance committee. Labor laws are written by the house education and labor committee and the senate labor and public welfare committee. Then, the full memberships of the house and senate must approve the legislation.

The rocky nature of the legislative course was demonstrated last year. After lengthy hearings and numerous studies, the Senate Labor Panel sent the Williams-Javits measure to the floor for adoption. But, Sen. Russell Long, D-La., questioned the panel's authority to send tax revisions to the floor and the bill was referred to Long's Finance Committee. Meeting in closed session afterwards, the Finance Committee voted to strip all tax-related items from the bill.

"It's paradoxical," Gordon observed. "What Sen. Long and his committee did last year was so crude that it has helped us. It has aroused an enormous sense of indignation which helps explain why we have so many co-sponsoring the Williams-Javits bill this year."

As he has done in the past, Michael Gordon is predicting that 1973 will be the year for pension reform.

"I said there would be pension legislation in 1971 and I repeated it in 1972. I see no reason why I shouldn't make the same prediction this year . . . only I really mean it this time," he said.

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PRIVATE PENSION SYSTEM NO. 2—EVERYONE LOSES WHEN FIRM FOLDS

(By Ed Zuckerman)

WASHINGTON.—When the Studebaker Co. announced it was closing its manufacturing plant in South Bend, Ind., after a century of business, the reaction among many of the more than 4,000 workers who were nearing retirement age was swift and bitter.

Panicked by the loss of their jobs and pension benefits, seven workers committed suicide while countless others seriously considered it in the aftermath of the 1964 announcement.

The tragic consequences of the Studebaker plant closing are neither unique nor rare in the unhappy history of pension program failures.

Testimony before congressional committees and studies compiled by the U.S. Labor Department show that the long-smouldering issue of pension program failure has reached epidemic proportions which endanger thousands of American wage-earners and, ultimately, the stability of the economically vital pension industry itself.

A study compiled several years ago by the Labor Department's Bureau of Labor Statistics counted 4,259 private pension plan failures, affecting 225,000 workers, between 1955 and 1965.

10,600 EMPLOYES

The grim fact was that of 31,000 workers affected by the 492 pension failures recorded in 1964, 10,600 were Studebaker employes.

"The only silver lining in the Studebaker disaster is the fact that it was such a bombshell that it alerted the whole world to the deep injustices of the system," commented Sen. Jacob Javits, R-N.Y., a champion of legislation to regulate the private pension industry.

Javits, in tandem with Sen. Harrison Williams, D-N.J., the chairman of the Senate Labor and Public Welfare Committee, has authored a comprehensive list of legislative measures which—among other aims—would prevent future disasters such as the one which shook the tranquility of South Bend almost nine years ago.

Among reforms outlined in the Williams-Javits Bill is one that would create a federal agency, similar in concept to the Federal Deposit Insurance Corp. which protects bank depositors from loss, to protect workers against pension plan failures.

Under the proposal, every private pension program (there are more than 35,000 in existence today) would pay an insurance premium amounting to two-tenths of one per cent of a pension fund's liabilities which aren't covered by the fund's reserve monies. While the federal insurance concept appears simple, it is actually quite complicated. This is because a fund's total liabilities are based on life expectancy and employment turnover rates which may differ from industry to industry. Equity would demand standardized methods for computing liabilities.

INSUFFICIENT RESERVES

In the Studebaker example, as in most pension failures, reserve funds were insufficient to meet sudden demands for benefits which sprang from the shutdown announcement. After 14 years of contributions by the company, the pension fund contained $25 million. Of that amount, $21.7 million was required to purchase life annuities for 3,600 employes who were already retired or were fully eligible for retirement. The remaining $2.3 million was divided among 4,080 workers who only needed to reach their 60th birthday to completely satisfy the plan's eligibility requirements. They were given lump-sum payments ranging from $197 to $1,757 depending on age and years of service.

No money was left for 2,900 other employes although the company, in accordance with its contract with the United Auto Workers Union, made contributions to the pension fund in their behalf.

For nearly 7,000 Studebaker employes, the promise of a pension simply vanished overnight. Had their union bargained strictly for cash raises—rather than a combination of cash and fringe benefits—the long-run interests of those 7,000 workers would have been better served.

HORROR STORIES

Pension failures produce a litany of horror stories, the worst told by workers who miss sharing in the benefits of a terminated fund by only a few days.

John McGrath of Bloomfield, N.J., and Clay Smith of East St. Louis, Ill., are such victims.

McGrath was just nine days short of completing a 30-year service requirement when the P. Ballantine and Sons Brewing Co. went out of business. Smith was only two days short of his 55th birthday, the age required to qualify for an early retirement pension, when the American Zinc Co. plant was closed.

McGrath, who was 53 years old when the beer plant ceased operations last year, could possibly satisfy the 30-year service requirement since his pension program is administered by a labor union which covers four other breweries. But, seniority rules and slack employment at the other breweries conspire against McGrath's making the work roster at any of them. He finds himself in a situation where his pension program wasn't terminated. What was terminated was his opportunity to continue participating in it. If able to obtain credit for nine more days of work, he will be eligible to collect—beginning when he becomes 65 years old—about $300 per month.

TEMPORARY EMPLOYMENT

McGrath has worked, on a day-to-day basis, at some of the other breweries but temporary employment doesn't count toward his pension.

"In order to make my nine days I would have to work 95 days in the industry on a roster in one barn and as of this time the rosters are closed," McGrath told a Senate hearing when the beer plant closed. "That's what they call partial termination. I don't know who thought up this thing, but to my mind it's totally unfair and should be illegal."

In the American Zinc Co. pension termination, fund assets were insufficient. According to its 1971 financial disclosure, the

fund had $2.3 million in assets and $8.5 million in liabilities.

"I started to work the first day of May, 1941, and my job was terminated June 29, 1971—30 years and one month, almost to the day. I have vested rights in the pension but I had to be 55, while the plant was still in operation, to begin collecting benefits immediately. Two more days and I would have been qualified for retirement," Smith told the same Senate panel.

48-HOUR MISS

Smith has a right to retirement benefits but he can't claim them until he's 65. By that time, there won't be any money in the fund. What he missed by 48 hours, actually, was being in the category for which some money was available.

In both the Ballantine and American Zinc episodes, pension-affecting shutdown came after the companies were merged or acquired by larger firms. An 11-year study by the Bureau of Labor Statistics found that 1,276 of 4,259 pension failures—roughly one-fourth—followed merger or acquisition changes to the corporate structure.

In some instances, pension failures are the result of the conglomerate's ruthless way of life. Sometimes, acquisitions are designed to secure a tax write-off from a failing enterprise. Sometimes, the status of a failing firm's pension fund serves as the bait which attracts a conglomerate's attention.

While most pension failures are caused by underfunding, Sen. Adlai Stevenson, D-Ill., recently demonstrated the risk of overfunding in recounting the experience of Elgin National Industries which appears on the verge of terminating its pension program and keeping a $12 million fund surplus for itself after laying off all but 60 employes.

$30 MILLION

According to a former employe, the Elgin pension fund is worth more than $30 million. The company donated about $12 million before stopping its contributions upon discovering the overfunding in 1954. Employe contributions, which have continued throughout, are close to $15 million.

The watch-making company, which was founded during the Civil War, repeatedly stated in its annual reports that "under no circumstances" were the company contributions returnable to the company. But the present management, which took over during the 1960s, "completely changed the rules and regulations," said 67-year-old Gordon Howard, the former employe.

"When the termination involves an overfunded, rather than underfunded, plan, the surplus may under existing law go not to the employes but to the company," Stevenson said. "What we have, then, is a no-win proposition for the employes and a no-lose proposition for the company.

"If this company can crack this pension fund to the tune of $12 million . . . every overfunded plan will be viewed as fair game by financial manipulators and fast-buck artists."

REFORM MEASURES

Among various reforms proposed in the Williams-Javits Bill, the most important measures, the authors feel, are those which would require adequate funding of pensions and establishment of an insurance mechanism.

"There is a strong case for giving the worker the assurance that, at the end of the road, he will get what he bargained for," Javits says. "I cannot see how you can leave out any provision for funding and insurance . . . and yet expect that we are actually reforming the system."

But it is exactly on the issue of insurance where most industry opposition to the Williams-Javits Bill is found.

Opponents contend that the government cannot create an insurance agency utilizing the model of the Federal Deposit Insurance Corp. (FDIC). The FDIC, they argue, insures assets which are known and exist while, in a pension insurance scheme, what is insured are contributions which have not yet been made and liabilities that cannot be accurately determined.

LETTER ENDORSED

Among numerous statements filed with the Senate Labor and Public Welfare Committee is one written by John Cardon and Herman Biegel, both Washington lawyers. Their statement is significant because, after it was filed, letters of endorsement followed from key officers of some of the nation's largest corporate employers—including Ford Motor Co., Westinghouse, Gulf Oil, Reynolds Aluminum, Kimbrely-Clark, Litton Industries and Phillips Petroleum.

If enacted, the Williams-Javits Bill "would make far-reaching changes in the private program for providing pension and other benefits for employes of corporate employers," Cardon and Biegel said. "Some of the proposals would have only a minimum effect on the private retirement system. Other proposals, particularly the proposal for insuring pension benefits, would have a drastic effect."

They noted that pension failures affect a tiny percentage of the more than 35,000 programs and "the experience of the last 30 years demonstrates that, on the whole, the private retirement system has operated remarkably well."

A federal insurance system, they said, would bring other problems which would spur tight government regulation.

"The existence of an insurance pool to guarantee plan benefits could also lead to pressure for increasing benefits beyond the financial capability of the company to pay for them. The proposal would encourage speculative investment of plan assets . . . The fact that a federal pool would back up any losses would lead to the conclusion that such investments would be attractive to some plan administrators," they said.

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PRIVATE PENSION SYSTEM NO. 3—30 YEARS GOING IN, NOTHING COMING OUT SYNDROME

(By Ed Zuckerman)

WASHINGTON.—Mrs. Iris Kwek of Detroit, Mich., had no idea what "vested pension rights" were when she went to work at age 18 for the Anaconda American Brass Co.

After 30 years of continuous employment, she discovered to her great disillusionment that vested pension rights are crucially important to any wage-earner who dreams of collecting retirement income after completing a long career.

Vested rights is the key that opens the padlock to the pension fund. It is bestowed on a worker after completing the requirements for pension eligibility—usually a combination of age and years of service and, more often than not, a host of other rules.

In Mrs. Kwek's case, she learned that her age—not three decades of service—was the primary factor in her company's plan. In addition to a 20-year work requirement, the plan withheld vesting until an employe had reached his 60th birthday.

Mrs. Kwek was 48 years old when she was told that her job was being eliminated as part of a company-wide economy drive spurred by the seizure of a valuable Anaconda property by Chile's Marxist President Salvador Allende. Qualifying for a pension, which would have yielded about $100 per month upon her retirement, meant remaining on the Anaconda payroll for another 12 years.

NEVER COLLECT

The Detroit woman is among millions of workers who, despite their enrollment in pension programs where contributions are made in their behalf by their employer, never collect benefits. Because of stringent vesting requirements and natural turnover rates, it is believed that only a slim percentage of the nation's 30 million pension plan enrollees will ever see a retirement dollar.

"The majority of private pension plans in this country are established and operated on the basis of three dangerously obsolete assumptions," says Sen. Jacob Javits, R-N.Y., the coauthor of legislation designed to overhaul the private pension system.

"The first is that an employe is going to work for one company all or most of his working career. The second is that the company can and should use the pension plan as a club to prevent the employe from seeking job opportunities elsewhere. The third is that the company will stay in business forever in substantially the same or expanded form as when it installed the pension plan.

"It is these outmoded and unrealistic assumptions which are at the heart of what is wrong with private pension plans today," the liberal New York Republican said.

RELAX REQUIREMENTS

Among reforms advanced by Javits, in legislation he coauthored with Sen. Harrison Williams, D-N.J., is one that would relax vesting requirements.

If enacted, it would guarantee all workers a vested right to a partial pension (30 per cent) after eight years, add 10 per cent more in each subsequent year and achieve full vesting after 15 years. If a worker chose to leave a company after securing a vested right, he would still be able to collect his pension benefit when he retires.

Such legislation would have a great impact on many workers who, like Mrs. Kwek, often thought about leaving their companies but couldn't afford to lose their pensions.

The Anaconda Company pension, she said, was completely paid for by the company "so for anybody who stayed wtih the company any length of years, this was an incentive to stay. . . . It certainly was an incentive on my part to stay, even though I had thought after working 30 years I might like to go into something else or stay home a few years. But I made up my mind that I would stay with the company because of this tremendous pension."

KEY FEATURE

A key feature of the Williams-Javits Bill, which has 52 Senate co-sponsors, is that employment would not have to be continuous to qualify an employee for a vested right.

Using the aggregate total of service—rather than continuous service—would end the types of disappointment faced by workers such as Guy H. Nichols of Cincinnati, Ohio.

Nichols worked a total of 17 years for the General Electric Co. which has steadily improved its vesting requirements over the years and now has one of the most liberal policies of any plan in the nation. When initiated in 1946, the GE pension plan vested after 20 years of service and age 50. It has been systematically reduced to now when all GE employes are fully vested after 10 years of service (more liberal than the Williams-Javits method which would provide 50 percent vesting after the same number of years).

But Nichols, an aerospace engineer, left GE after 9½ years—six months short of satisfying the vesting requirement. "I did it," he said, "because like many young engineers I wasn't really looking forward to a pension plan."

STARTED AGAIN

Nichols returned to GE several years later and started his vesting period over again. Six years later, he was laid off due to a lack of work.

"Even with over 20 years of experience in one industry, working on various programs for the government, I am still without a pension plan," Nichols said, describing a problem that is characteristic among thousands of aerospace engineers.

"In the aerospace industry," he continued, "there appears to be a need for more worker

mobility. People move from location to location because of the needs of government employment. In many cases, people are hired to pick up a peakload and work for maybe two or three years."

"There is no magic in the vesting standards prescribed in the Williams-Javits Bill. In fact, it has already been compromised because an earlier version of the legislation called for vesting to begin after six years of employment with annual 10 percent increases until full vesting is reached after 15 years.

President Nixon supports the concept of enacting legislation to improve vesting standards, too. His proposal seeks a different path to resolve the problem of the unvested worker. It is called the "Rule of 50."

Under the administration-backed plan, a worker would be entitled to 50 percent of his pension right when his age and years of service total 50. Five additional years would bring full vesting. For example, a worker joining a pension plan at age 20 would satisfy the rule of 50 at age 35.

The chief drawback of the administration formula, critics quickly demonstrate, is that finding employment would be virtually impossible for a middle-aged worker who could possibly satisfy the rule of 50 within months after joining a new company.

The Nixon proposal hedges against the built-in discrimination factor by delaying for three years the time when an employe could begin participation in a pension program.

Administration officials contend the "Rule of 50" is most equitable. The short-term vesting standard proposed in the Williams-Javits measures, they say, would raise costs of pension program operations.

REDUCED PAYMENTS

"If these increased costs were excessive or ill-constructed," claimed former Labor Secretary James Hodgson, "vesting could come at the expense of reduced future benefit payments for retirees and could discourage new or improved pension plans."

The purpose of the Rule of 50, Hodgson further explains, is to impose a minimum standard "which would be moderate in cost but which would bring rapid vesting for middle-age and older workers."

While it may be discriminatory against older jobseekers, Hodgson said it would not create any additional burdens which they already endure.

"It is important to bear in mind that it costs a great deal more to include an older employe in a pension plan without any vesting than a younger employe," Hodgson said. "The basic reason for this differential is the short period over which investment income may accumulate for an older employe. Thus, even before vesting standards are considered, there is a deterrent to hiring an older employe today."

LITTLE CONTROVERSY

Of the various legislative proposals being advanced to bring private pension plans under government regulation, setting a minimum vesting standard is among the least controversial. The only disagreement, voiced by labor unions and industrial spokesmen, is whic. of the vesting standards being proposed is the most equitable for both employe and employer.

Douglas Hunter of the American Life Convention and the Life Insurance Association of America—the two groups have a membership of 360 insurance companies which hold 99 percent of the reserves of insured pension plans in the U.S.—argues that vesting standards would be welcomed in any form.

"We believe that a well-designed mandatory minimum vesting requirement for retirement plans would make a valuable contribution towards reducing instances in which the pension expectations of employes are not met," Hunter says.

The approach in the Williams-Javits Bill represents, in our opinion, a reasonable formula for this purpose.

"We would note, however, that there are other reasonable formulas that could be adopted. In this regard . . . the so-called Rule of 50 proposed by the Nixon administration also represents a reasonable mandatory vesting formula," he adds.

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PRIVATE PENSION SYSTEM NO. 4—FIDUCIARY STANDARDS SOUGHT TO FOIL THIEVES

(By Ed Zuckerman)

WASHINGTON.—Of the more than 30 million wage and salary workers enrolled in private pension programs, it is estimated that only three million of them will ever collect pension benefits, according to studies by the Senate Labor and Public Welfare Committee.

Most lose their benefits when they find employment elsewhere. Others lose when they are laid off or are disabled in mid-career. Some lose when their companies go bankrupt forcing termination of their pension plans.

A good many others, surviving the gauntlet by maintaining good health and longevity in a financially secure company, don't learn until they are ready to retire that there are other ways to lose a pension. They are the victims of the "fine print conspiracy."

One such victim is Michael Ulichnie who first entered the coal mines when he was 17 years old and emerged from them 31 years later at age 48, a victim of black lung disease.

Ulichine, now living in retirement in Cleveland, had no reason to doubt that he would be eligible to collect a pension from the United Mine Workers Union upon reaching age 65. He knew that his 31-year record of mining work was more than sufficient to satisfy the pension plan's 20-year work requirement.

RULES ALTERED

He was wrong. During the 17 years he spent outside the coal industry, the pension requirements were altered and he was not informed about the change. The new rule required applicants to substantiate their 20 years of employment during the 30-year period preceding the date they made application for benefits.

In Ulichnie's case, the rule change meant that only his employment during the 30 years preceding his 1967 application for benefits would be counted. Using 1937 to begin tallying his pension credits meant discounting the first 19 years of his 31-year mining career and, therefore, he was denied his pension because he failed to meet the basic 20-year work requirement.

"I was denied just because the United Mine Workers' trustees had the power to go ahead and change their regulations in governing their pensions," the embittered mineworker told a Senate hearing. "I think it's a rotten shame; after putting all that time in the service and then don't get nothing for it."

The "fine print conspiracy" can affect a worker's pension in a myriad of ways. Consider the plight of some typical victims:

NEITHER UNION

A sheet metal worker who, for years, alternated between two union locals because of work availability, found when he reached age 70 he would get a pension from neither union. He did not know that he could not combine his employment under both unions to qualify for a single pension even though both unions were part of the same national labor organization.

A business executive who quit after 18 years, thinking he could draw pension benefits at age 65. He did not know his pension rights would be forfeited if he went to work for a company which competed against the company he left.

A woman who worked 37 years in New York City and was forced out of her job by a shop shutdown and was told to temporarily withdraw from her union. She did not know that she forfeited her pension right by withdrawing from the union.

A sign painter who worked 16 years and maintained his union membership until age 65 to protect his union-sponsored pension. He did not know that he was required to work at least one hour per year in the sign painting industry to prevent forfeiture.

LITTLE EXPLANATION

A common thread in these cases is that workers received pension plan descriptions that glorified the benefits but offered little explanation about the conditions which could cause forfeiture.

"I have books on the pension plan that ain't worth a quarter because I can't understand them," said Raymond Sagendorf of Irvington, N.J., who lost his pension when P. Ballantine and Sons Brewing Company closed down last year.

Sagendorf, who spent 29 years with the beer company, said, "I defy any trustee of our plan to explain it to me. They don't even know themselves."

Added another former Ballantine employe, "You show the plan to three different people and you get three different opinions."

An important provision included in legislative proposals now under consideration by Congress would require "plain language" disclosure of the intricate eligibility rules. It also requires that annual financial information be given to all plan participants, detailing all financial transactions involving the pension reserve fund, listing the names of plan trustees and disclosing all changes in the eligibility requirements.

STANDARD OF CONDUCT

Congress is also considering legislation which would require pension fund trustees to comply with strict standards of conduct in their dealings on behalf of pension enrollees—a restriction that has never been made before.

The need for putting pension trustees under a code of responsibility was highlighted several years ago when the Senate Permanent Investigations Committee uncovered a labor official who had diverted at least $4 million from his union's pension fund to corporations he controlled in Liberia and Puerto Rico.

An astounding revelation came from a Justice Department official who advised that "the manipulations in no way lend themselves to successful prosecution under the present state of the law."

Financial manipulation by pension fund trustees is under constant surveillance by the Internal Revenue Service and the U.S. Justice Department.

Just last week, the Justice Department said it was investigating allegations that agents for a $1 billion Teamsters Union pension fund were paid kickbacks for helping arrange loans.

ANOTHER INVESTIGATION

Another investigation of the Teamsters pension fund has been conducted by the IRS for the last 18 months. The transactions are so complicated, according to reports, that a chart drawn by federal agents to outline the manipulations cover a 6-by-10-foot wall.

The Teamsters pension fund has been the subject of several previous investigations. As a result of a trial stemming from one of those investigations, former Teamsters President Jimmy Hoffa was sent to federal prison on jury-tampering charges.

In a celebrated case involving the United Mine Workers several years ago, it was revealed that the union's officers (who also were trustees of the pension fund) received annual six-figure salaries from the National Bank of Washington which was 75 per cent owned by the union.

An investigation found that the union kept as much as $70 million from its pension and welfare fund in an interest-free checking account. Had the money been properly invested at simple five per cent interest, the pension fund would have been enriched by several million dollars yearly.

A deeper examination of the Mine Workers fund showed that the union purchased large blocks of electric utility stocks and then pressured the management of the utility to purchase union-mined coal.

"While there is nothing wrong with a union promoting the use of union-mined coal," commented Sen. Robert Taft, R-Ohio, "It should not do so with trust funds which must be held solely for the purpose of maximizing security for its beneficiaries. In other words, trust funds should not be used to promote the separate interest of the trustees."

Taft added that "some trustees have been over-eager to milk pension assets through exorbitant fees. In one instance, five trustees administered the pension and profit-sharing plans of a corporation. Three of the five were past or present officers of the corporation. In one year, these five trustees received more than $300,000 in trustees' fees.

"In addition, this pension and profit-sharing plan paid more than $130,000 to a separate corporation, controlled by these same trustees, which was established to administer and invest the funds," Taft said.

Perhaps the most shattering experience, involving shady financial dealings, was the one suffered by the Journeymen Barbers, Hairdressers, Cosmetologists and Proprietor's International Union.

OFFERED SERVICES

Money contributed by the union's 60,000 members, totaling $21 million, were formerly managed by the Indiana National Bank. In 1966. Thomas A. Shaheen sought out the pension fund trustees, offering his services as an investment consultant and promising to promote greater returns than the bank had accomplished. Furthermore, his services would cost the pension fund nothing since his fees would come from those borrowing from the fund, he told them.

Shaheen, who had filed for personal bankruptcy in Chicago several months earlier, took over the fund and sold 60 per cent of its common stock holdings and made $11 million worth of mortgage loans. (Among the loans he approved was $500,000 to the Winthrop Lawrence Co., of which Shaheen was the chief executive and Lamont DuPont Copeland Jr. was the board chairman. Copeland, heir to the DuPont family fortune, filed for bankruptcy in 1970 and listed debts of $60 million and assets of less than $30 million.)

Shaheen told the barbers union that the loans were guaranteed against loss by the Prudence Mutual Casualty Co. of Chicago. But, when the Shaheen-approved loans began to appear delinquent, the Chicago insurance company went into receivership.

After five years of Shaheen's counseling, the union pension had invested in 44 loans with an unpaid balance of $11.8 million. Its assets had shrunk from $21 million to $13.5 million.

In view of such experiences, Sen. Taft has called on the private pension industry to accept a code of conduct "from the standpoint of your own interest."

Responded William Greenough, chairman of the Teachers Insurance and Annuity Association—College Retirement Equities Fund: "There is little doubt that the great majority of employe benefit plans in the U.S. maintain high ethical and business standards. But, from time to time, there have been serious and harmful departures from accepted practice, of conflicts of interest and self-dealing. It is important to establish basic fiduciary standards."

Fiduciary standards have been proposed by President Nixon and in a pension reform proposal authored by Sens. Harrison Williams, D-N.J., and Jacob Javits, R-N.Y.

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PRIVATE PENSION SYSTEM NO. 5—THE NIXON APPROACH: KEOGH TAX SHELTER FOR ALL

(By Ed Zuckerman)

WASHINGTON.—Part of President Nixon's solution for ending the inequities endured by millions of private pension plan enrollees springs from the self-reliance theme of his administration.

His proposal—praised by businessmen and condemned by labor officials—would encourage workers to save independently for their retirement by making it advantageous, from the standpoint of federal taxation, to do so.

Utilizing tax concepts which now provide income shelters for self-employed persons, the President's plan would allow all wage and salaries earners to save up to 20 per cent of their earnings (to a $1,500 maximum) annually and deduct the amount when computing their federal tax liabilities. Taxes on the set-aside money, along with dividends it earns during years of accumulation, would be deferred until withdrawn during retirement.

While providing relief for millions of workers who might be dissatisfied with the pension programs offered by their employers, the administration-backed plan would also provide retirement security for half of the American work force which has no pension program at all.

INCREASED AMOUNT

In conjunction with the proposal, President Nixon also seeks to increase from $2,500 to $7,500 per year the amount self-employed persons may now deduct for retirement purposes.

The tax shelter for self-employed professional persons was adopted by Congress in 1962 under legislation authored by former Rep. Eugene Keogh, D-N.Y. In his original version of the bill, Keogh sought a $7,500 annual limitation. Today, after a decade of operation, there are an estimated 542,000 Keogh Plans in existence.

President Nixon first unveiled his self-savings plan in 1971 as a major component in a legislative package to impose reforms and improvements on the private pension system. Expected to be re-introduced to the new Congress shortly, perhaps in modified form, it will take its place among numerous pension reforms bills under consideration.

One such bill, co-authored by Sens. Harrison Williams, D-N.J., and Jacob Javits, R-N.Y., attests to the popularity of the pension reform issue by virtue of having 52 Senate co-sponsors.

President Nixon, in his previous pension message, said that tax laws favor corporations which may deduct the contributions made on behalf of employes in pension programs as a business expense. But contributions made by employes to those plans are not deductible.

UNFAIR BURDEN

"This inequity discourages individual self-reliance and slows the growth of private retirement savings," President Nixon said. "It places an unfair burden on those employes—especially older workers—who want to establish a pension plan or augment an employer-financed plan."

President Nixon's reasons for increasing the deduction allowed to self-employed persons is partly designed to reduce the number of professional people who create corporations for which no limitations are imposed for deductible savings.

"This distinction in treatment is not based on any difference in reality, since self-employed persons and corporate employes often engage in substantially the same economic activities," the President said. "One result of this distinction has been to create an artificial incentive for the self-employed to incorporate."

President Nixon's formula for securing equity treatment for wage and salary workers—and to upgrade tax shelters for professional workers—faces rough sledding in Congress. The proposals come at a time when tax reform—that is, the effort to eliminate tax preferences which allow rich people and corporations to avoid taxation on certain kinds of earnings—is a priority issue.

"CLASS LEGISLATION"

At the same time, influential labor organizations such as George Meany's AFL–CIO and Leonard Woodcock's United Auto Workers have criticized the Nixon self-reliance plans as "class legislation."

Andrew J. Biemiller, former Democratic House member from Wisconsin and chief lobbyist for the AFL–CIO, labeled the Nixon proposal as "extremely regressive, benefitting all of the rich who wish to take advantage of it and none of the poor . . . The administration is making the rich richer and the poor poorer."

Biemiller, appearing before the House Ways and Means Committee, told the tax-writing panel:

"To determine who will benefit from this proposal, the committee might consider these questions: How many families with an earned income of $5,000 per year can save $1,000? How many families with a $6,000 income can save $1,200? How many families with an annual income of even $10,000 can save $1,500 in this time of sky-high living costs?

"Now ask the same questions for those with annual earnings of $15,000, $20,000, $50,000 and up. Clearly, the percentage of families which will be able to take full advantage of this deduction will rise with income."

EARNED $7,407

Nelson Jack Edwards, vice president of the United Auto Workers, said the average worker in manufacturing earned $7,407 in 1971, according to government statistics.

"Data published by the Bureau of Labor Statistics indicates that in the fall of 1971 a moderate budget for a family of four in the urban United States required at least $10,971. Bare consumption items alone: that is food, housing, transportation, clothing and medical care, cost $8,626.

"With an income of $7,407 and essential consumption of needs of $8,626, how can this worker take advantage of tax sheltered retirement savings?" Edwards asked.

Biemiller said the AFL–CIO opposed enactment of the Keogh legislation and promised to oppose the White House plan to expand it.

"The main beneficiaries of this program have been doctors and lawyers and not proprietors of 'Mom and Pop' groceries or other small businessmen," the former Wisconsin House member said.

Prof. Daniel Halperin of the University of Pennsylvania law school, a former deputy tax legislative counsel in the U.S. Treasury Department, says a personal saving deduction "will produce little in the way of additional savings for retirement and will give the wealthy an unwarranted tax benefit."

Since President Nixon, in his message, says that distinctions between self-employed persons and corporate employees is not based on reality. Halperin wonders why the administration didn't propose either scrapping the Keogh limitations or applying them across-the-board.

"The answer seems obvious," he said. "They were unwilling to further open up the unwarranted tax advantage of an unlimited set-aside for retirement by making it available to the self-employed. Yet, they were not

brave enough to face the complaints of those whose tax benefits would be reduced to similar limits were placed on corporate plans."

Former Rep. Keogh, father of the retirement tax shelter concept, argues that passage of the Nixon bill would implement a "sound basic philosophy."

"It is indisputable," he said, "that an individual who devotes man years gainfully employed should be accorded the right to set up a retirement plan for himself.

"We permit machinery and equipment to have reserves set up against depreciation. The bill in effect, provides that right for the individual against his own depreciation. The bill would, in my opinion, move in that direction and would add to the economic security of the millions of those who elect to practice their professions or to go into business for themselves.

"The maintenance of self-employed professional and business people as individuals rather than as pseudo-corporations, must be encouraged. Their existence marks our country's difference from so many others in the free or other world. It would result in increased economic benefit, generally, and would accrue ultimately, if not sooner, to the long-range benefit of the country," Keogh said.

## THE GENOCIDE CONVENTION AND AMERICAN CREDIBILITY

Mr. PROXMIRE. Mr. President, the Senate has failed to take a consistent position on one of the most crucial questions of the 20th century—human rights—by its refusal to take positive action on the Genocide Convention.

In 1945 the Senate overwhelmingly ratified the United Nations Charter. In doing so our Nation pledged to uphold the dignity and worth of the human person. Since then the United States has accepted numerous international accords which are intended to carry out this pledge. Among the most prominent of these treaties was the international ban on slave trading.

Yet, the United States has not followed through in its commitment to the peoples of the world. Our failure to ratify the U.N. Convention on the Prevention and Punishment of the Crime of Genocide has jeopardized the integrity of the United States. By delaying we have provided our critics in other nations with propaganda and grounds for questioning our commitment to the rights and liberties of mankind.

We must not let ourselves play into the hands of those who seek to show the United States in the worst possible light. In the eyes of our critics, by appearing to pay only lipservice to the universal principles of human rights, the credibility of the United States has been endangered.

We must ask ourselves these questions:

First. Can we continue to assume a position of leadership in the world when we fail to take positive action on such an important international accord as the Genocide Convention?

Second. Can we expect other countries to continue to respect the United States as a world leader if we do not accept this convention?

Third. Can we expect other nations to respect the principles of human rights if the most powerful nation in the world appears to waffle on this issue?

Our consideration of the Genocide Convention, however, must be based on more than the practical consideration of credibility. The principles enumerated in the convention are in concert with the purpose and goals of the United States.

Since 1776, the United States has attempted to carry out the belief that all persons have the right to life, liberty, and the pursuit of happiness. Once again the United States has an opportunity to prove to the world that we are firmly dedicated to these important human rights and liberties.

The Genocide Convention has been approved by the Senate Foreign Relations Committee and will soon come before the full Senate for consideration.

I urge the Senate to approve this convention and restore American credibility by proving our commitment to the rights of mankind.

## POLITICAL REPRESSION IN THE DOMINICAN REPUBLIC

Mr. McGOVERN. Mr. President, I have read the accounts of recent mass arrests and restriction of freedoms in the Dominican Republic with increasing concern.

Only 8 years ago, 20,000 American troops were sent to Santo Domingo to prevent what was then called a Communist threat. Today we hear Dr. Joachin Balaguer, president of the Dominican Republic, raise the same old cries that his country has been threatened by a guerrilla invasion of eight to 10 people from Cuba. It is difficult for me to understand—even if such an invasion took place—how such a small band of men justify the mass arrest of political leaders opposed to President Balaguer, the curtailing of freedom of the press and the closing of all public schools.

It appears evident that Dr. Balaguer may be using this guerrilla threat as a means to destroy the effectiveness of his political opposition—and in particular the Dominican Revolutionary Party. Despite proclamations by the leaders of this party that they have not played any part, nor intend to in guerrilla warfare, Dr. Ballaguer has jailed over 1,000 of their leaders. Of particular concern is the safety of the two principal leaders of the Dominican Revolutionary Party, Prof. Juan Bosch and Dr. Francisco Pena Gomez. Both men are now in hiding for fear of deportation or danger to their lives.

Having intervened in the internal affairs of the Dominican Republic once, we must now be alert to the long-term results of those actions. The final chapter of the 1965 revolution may be written in the next 2 years as we near new presidential elections there in 1974. It is my hope that Dr. Balaguer will guarantee the safety of Professor Bosch and Dr. Pena Gomez and will allow total freedom for all political parties.

## IMPACT OF THE HOUSING FREEZE ON OLDER AMERICANS

Mr. WILLIAMS. Mr. President, on a number of occasions, I have joined with many of my colleagues in expressing my deep concern over the administration's attempts to choke off Federal funds for a wide range of valuable and much-needed social programs. A great deal has already been said on this subject, and much more will be; however, I believe the importance of it justifies continuing examination.

For reasons that I do not comprehend, the President has chosen to swing the budgetary axe heavily on the elderly. More specifically, his actions in the areas of housing and medicare directly threaten the reassuring gains that were made for older Americans last year.

By ordering a freeze on new Federal commitments to subsidize construction of low and middle-income housing, President Nixon has turned a very cold shoulder to the pressing housing needs of the Nation's poor. His action strikes me as an arbitrary and excessive response to a problem that needs careful review, not a slap in the face.

Some $990 million of funds administered by the Department of Housing and Urban Development have been impounded, including $221 million for section 235; $171.5 million for section 236; and $38.9 million for rent supplement.

I do not mean to suggest that there are not serious problems in our national approach to better housing, and I fully agree that efforts must be made by the Senate and the House to examine carefully what changes are needed. However, I am strongly opposed to an abrupt, 18-month moratorium on subsidized housing without some program to replace it.

The timing of this housing freeze has a particularly demoralizing effect on the Nation's elderly; it comes at a time when rent controls have just been lifted and at a time when housing for the elderly is making important breakthroughs in the suburban areas of our country.

Older persons who rely primarily on social security for their economic stability were much encouraged by the 20 percent increase of last year. However, many of them are now telling me that the raise is not effective if it is eaten up by big rent hikes and more costly Medicare.

For years, many areas of our country have rejected any type of subsidized housing. But, in recent months we have noticed a new acceptance of this type of housing in the suburban communities—especially welcome have been housing projects for the elderly. This trend has been very noticeable in my home State of New Jersey, which has a large number of suburban communities.

The effect of the housing freeze in New Jersey has, therefore, been particularly upsetting. The New Jersey Housing Finance Agency is swamped with applications for construction of housing projects specifically designed for the elderly. The need for this type of housing in New Jersey is tremendous, and increasing yearly. Within the past month or so alone, ground was broken for new construction of housing for the elderly in Keyport, West Orange, Wayne, and Roselle.

The 18-month freeze will, at a minimum, threaten the future of 4,000 to 5,000 units of construction for the elderly in New Jersey.

If applications that are currently pending face an 18-month minimum wait

for processing, I am informed by people in the field that it would be at least 3 years before tenants can begin to move in. Such a delay, in my opinion, is intolerable and unjustifiable.

As the administration and the Congress take a new look at Federal housing policy, I strongly feel that this reappraisal should include a careful consideration of the currently frozen section 202 housing program for the elderly, a program that has enthusiastic support from all quarters.

I commend my colleague, Senator PROXMIRE, for his initial examination of housing policies last December, and I join with Senator SPARKMAN in his pledge to reverse the impact of the recently announced freeze. Wholesale suspension of such urgently needed programs is certainly not a responsible course of action.

Mr. President, as an illustration of the impact the housing moratorium will have, I ask permission for an article from the Hackensack Record to 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 Hackensack (N.J.) Record, Dec. 28, 1972]

HOUSING AID BAN WOULD HIT BERGEN HARD

(By Joseph Santangelo)

Several thousand apartments planned for New Jersey senior citizens and low-income families would be scrapped if a proposed federal moratorium on public housing construction is imposed.

Some 290 of these units would be in Bergen County, where the county Housing Authority is reviewing proposals for senior-citizen projects in Palisades Park, Fairview, Little Ferry, and Bogota.

But a 143-unit low-rent project for the elderly, for which the federal government guaranteed a $2.7-million loan three years ago, apparently will be built in East Rutherford next spring as scheduled.

The National Housing Conference, a nonprofit public interest group, has quoted reliable government sources as saying that an 18-month moratorium on federal public housing subsidies may go into effect Jan. 1 as a $3.2-billion economy measure.

George Romney, soon to step down as secretary of Housing and Urban Development has said he feels the federal government should get out of the public housing field altogether and leave subsidization to the states. It is believed his position reflects feelings held elsewhere in the Administration.

The moratorium would cover all new federal commitments for public housing, interest subsidy, urban renewal, and Model Cities funds, according to the conference report.

While the Nixon Administration has made no official announcement of the moratorium state housing officials are expressing hope that the moratorium idea will be dropped.

John P. Renna Jr., director of the New Jersey Housing Finance Agency, says all low-income housing construction would come to a halt in the state if federal interest subsidies were withheld.

"The only thing we could finance," Renna said of his agency, "is some garden apartments. It would stop all building in the cities."

The so-called "236 interest subsidy program" that pays most of a project's mortgage interest is essential to low-income construction, he said yesterday.

ALMOST READY TO GO

"Without those 236 funds," Renna said, "you can't build senior citizen housing." He said rents on the apartments would be raised beyond the tenants' ability to pay.

Several thousand units for which the agency is about to provide mortgage loans, Renna said, would be jeopardized by a moratorium on interest subsidies.

William J. Malone, executive director of the Bergen County Housing Authority, said the developer for the East Rutherford senior-citizens project, James J. Leone, has only to receive HUD approval for increased construction costs due to inflation during a two-year court battle over the project. The project was too far along to be stopped, Malone said.

Malone says five other projects the county authority is considering may be affected, though officials at HUD have not given the official word yet.

The proposed projects are 107 units in Palisades Park, 100 units in Fairview, 48 units in Little Ferry, and 35 units in Bogota—all for the elderly. A low-income project for about 200 families also is being considered tentatively, Malone said, and also would be halted. No community has been chosen for that project, he added.

Rent supplements which the authority pays with federal funds to about 1,000 senior citizens living in private apartments would not be affected. But low-income families attempting to buy homes with federal subsidies would be stymied under the moratorium. Traditional FHA mortgage guarantees would not be affected.

Malone, terming recent news leaks of the proposed moratorium a trial balloon, expressed opposition to the idea.

"It's really too early to speculate, but I hope it doesn't go into effect," he said.

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## BRADFORD MORSE, UNITED NATIONS UNDER SECRETARY GENERAL

Mr. MATHIAS. Mr. President, my old friend and former colleague in the House of Representatives, the Wednesday Group, and Members of Congress for peace through law, Bradford Morse, has left the Congress to join the United Nations. He is doing a magnificent job there as Under Secretary General for Political and General Assembly Affairs.

Both the U.N. itself and the United States are well served by Brad Morse's presence at the Secretariat. He enjoys the trust and respect of the Secretary General and of his international colleagues. I am confident that the effectiveness of the United Nations and its capability for playing a positive role in solving international problems and increasing the peace and security of all nations will be greatly enhanced by the presence there of Bradford Morse.

On February 18, 1973, the Boston Globe carried an article, "Portrait of the Under Secretary General" which calls Brad Morse—

That ambitious and perpetual-motion man from Lowell . . .

He is quoted as saying that:

The General Assembly was not designed to serve as a world parliament. It serves as a place for the harmonization of conflicting points of view. There is no other place in the world where that takes place. In the years ahead I foresee an increasing emphasis on the role of the UN.

I ask unanimous consent that this article be inserted in the RECORD.

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

[From the Boston Globe Sunday Magazine, Feb. 18, 1973]

PORTRAIT OF THE UNDER SECRETARY GENERAL

(By Nina McCain)

It was the last day of the 27th General Assembly of the United Nations and inside the vast domed assembly hall, under the great gold seal of mankind's last, best hope for peace sat Brad Morse from Lowell.

It was the same Bradford Morse who kept a tight grip for 12 years on his Fifth Congressional District seat by such ingenious devices as handing out coffee and doughnuts at the Lexington dump.

What was Brad Morse doing up on the marble podium while the delegate from the Soviet Union droned on about a trade resolution?

He was probably thinking about sneaking off the rostrum for a few quick puffs on a Bel Air. Morse is a non-stop smoker, just as he is a non-stop talker and walker and doer, and one of the penalties of his new job as UN undersecretary-general is that he may not smoke during the endless hours on the podium.

As far as it is possible to tell, it is the only thing about the job that Morse doesn't like. At a time when most of his countrymen seem to have either forgotten about or given up on the UN, Morse may be the last man in America who still believes in its promise. But then, as he says, he is "aggressively optimistic." The UN needs all the aggressive optimism it can get.

Created in 1945 in a spirit of post-war euphoria and dedicated to "save succeeding generations from the scourge of war," the UN almost immediately got caught and mangled in the Cold War crunch between the United States and Russia. Since then it has been a kind of side show to the drama of real world power being played out on other stages in Moscow and Washington and Peking. Even the major issues—Would China be seated?—have had a largely symbolic significance. On the conflicts that have brought the world to the edge of war, most notably Vietnam, the UN has been paralyzed by the decision of the Great Powers to settle them by other means.

This is not to say that the UN is valueless. With its budget of $225 million and its 5000-plus people in New York and around the world, it does good work—feeds children, teaches farmers how to grow better rice, and performs a host of useful functions in international trade and law and refugee work. UN forces and observers play a limited peacekeeping role in places where the major powers find it's useful to have a neutral buffer.

But the UN is clearly not seen as a major force in world affairs by the United States government, the public or the press which tends to bury its actions in the back pages. Recently, when a coalition of Arab, African, Asian and Communist countries blocked an attempt to frame legal action against hijackers and other international terrorists, US Ambassador W. Tappley Bennett Jr. warned that the UN was in danger of going the way of the League of Nations which "grew increasingly unwilling or unable to come to grips with the realities of its day and faded into the mists of history."

Neither the mists of history nor the black billows from Queens smokestacks have yet closed about the towering glass slab by the East River, but the place does have a decidedly Brigadoon-like flavor. There is movement and color and even a kind of international festival gaiety as delegates in brilliant native

costumes swoop down the corridors or chatter in a dozen languages in the elevators. But there is a curious feeling of unreality about debates in the assembly. Delegates move up and down in the aisles and occasionally speak, but there is an unnatural hush as though everything were taking place under water or at some great distance. The delegates from the United States and Upper Volta sit side by side and listen to speeches about the Australian amendment to the Cuban resolution while decisions about war and peace and power are made in Paris or the board rooms of the United Fruit Co.

Through this world of elaborate politeness, protocol and ceremony hurtles the man from Lowell as though he were trailing in a four-way primary and had only a day left to campaign. Morse flings himself at his job as if he had never heard a murmur of disenchantment about the UN. If he has doubts about the organization, he has buried them deep within.

Morse bursts out of his office door to give orders ("Get the Indian ambassador.") or to pacify a visitor kept waiting ("Come on in, pretty girl.") He double times down the long hall to the Secretary General's office to sip champagne at a medal presenting ceremony. He rushes, he hurries, he is always behind schedule. He shakes hands and slaps backs and peppers his conversations with "God love ya's." In a world of slim, cool, well-tailored men who favor elegant black shoes with pointed toes, Morse has a bulging middle, shapeless suits and the kind of thick-soled shoes that cops wear. This genial, folksy, perpetual motion pol is not, however, to be mistaken for the compleat Brad Morse, who is also a shrewd, knowledgeable and ambitious man who found his career blocked in Congress and who, at the age of 50, moved himself and his ambitions to the UN.

Morse's life is one of those classic American political success stories. Son of a working-class Lowell family in which the father died when he was 10, Morse worked in the mills and at a variety of other jobs while he was going to public school and putting himself through Boston University and BU law school. He cut his political teeth serving as an aide to Sen. Leverett Saltonstall (like two other bright young men who went on to bigger things—Secretary of Defense Elliot Richardson and former Presidential aide Charles W. Colson.)

When Rep. Edith Rogers, who with her husband had represented the Fifth District for 46 years, died only two days before the primary in 1960, the state's Republican leaders huddled and decided to throw Morse into the breach. He did not disappoint them. Between 6 p.m. Saturday and the time the polls opened Tuesday, Morse triumphed over time and a hurricane-caused blackout to mount a sticker campaign that won the primary. After that, the Protestant Republican kept right on winning in a district that is largely Catholic and Democratic.

He was a tireless campaigner who, according to one colleague, "shakes hands with hydrants and tips his hat to telephone poles." Taking care of his district with a competent staff (including Paul Cronin who won his boss's old seat in a close contest with anti-war veteran John Kerry), Morse devoted much of his attention to national and international affairs.

Emerging early as one of the leaders of the liberal wing of the Republican party, Morse started the still-active Wednesday Group by inviting "six guys to my office to talk issues over a drink." He won a seat on the House Foreign Affairs Committee and became active in a group called Members of Congress for Peace Through Law. He was one of the first Republican Congressmen to raise questions about the Vietnam war and was the author of a de-escalation plan which, he says, President Johnson adopted without so much as a "Thank you."

In the early 1960's Morse was, he says with a chuckle, a "fairly hot commodity," always being mentioned as a possible candidate for this or that office. Morse made no secret of his yearning to run for the Senate and the chance came in 1966 when Sen. Saltonstall decided to retire. But Ed Brooke announced for the job and that effectively blocked Morse. One member of his staff in those days recalls that it was a painful but unavoidable decision.A race against Brooke, who is black, "would have attracted a lot of the undesirable elements in the party," she said.

After that, Morse had, in effect, no place to go. He was a popular, well-liked congressman but being a member of the minority wing of the minority party was a frustrating exercise for a man with his energy. "He generated more ideas than could possible get translated into action," one newsman who covered him for years remarked. Morse says he knew in 1970 that would be his last campaign for the House. "I had seen people vegetate in Congress. I decided it wouldn't happen to me."

When the late Ralph Bunche's job at the UN became vacant, Morse asked for it and his old friend Elliot Richardson persuaded President Nixon, over the opposition of State Department officials who wanted a career diplomat, to recommend him to UN Secretary-General Kurt Waldheim. Although the position had belonged to Bunche, it was understood when Morse was appointed last March that he would not try to duplicate the trouble-shooting role that the Nobel prize winner had carved out. As undersecretary for political and General Assembly affairs, Morse's job is to make sure the annual assembly runs smoothly and to accept whatever other assignments the Secretary-General entrusts to him.

UN insiders were not immediately overwhelmed by the appointment. One young man on the Secretary-General's staff told a former Morse aide that "when they first found out they were getting a congressman from Massachusetts that no one had ever heard of to take Bunche's place they were a little apprehensive." But the young man went on to say that Morse is "a breath of fresh air. We never believed anyone from the US could be as enthusiastic as he is. He still genuinely believes in the UN ideal."

After his first eight months in office, Morse gets generally good marks from UN watchers. They say he has learned fast and done a good job at overseeing the hundreds of details that go into making the Assembly run without hitches. He has also effectively handled the responsibilities given to him by Waldheim—the delicate task of getting several thousand Asians out of Uganda, the even more delicate task of getting UN medical teams into Burundi after tribal warfare and massacres and, most recently, the coordination of the UN part of the relief effort in earthquake-shattered Managua, Nicaragua.

According to one newsman who covers the UN, Morse has handled himself well in the internecine warfare that is an unofficial but very real part of life in the secretariat where big jobs are carefully divided up among the big powers. "A lot of people here are incompetent," the newsman said. "He's not one of them. He'll do well by comparison."

The only two reservations about Morse so far seem to be that his hyperactive style may put off diplomats used to a more restrained manner and that he relies too heavily on the US mission for advice. The latter problem may resolve itself as he gains more confidence and experience on his own.

One of Morse's strengths now, as in his Congressional days, is that he seems to be able to command prodigious amounts of loyalty and hard work from his staff. His chief aide, Tim Rothermel, a neatly barbered young man who came with him from Washington, describes Morse as "just about the niftiest guy I've ever known." Rothermel says the UN job is "just his cup of tea. He hasn't had an unhappy moment since he took the job."

Morse himself says about his job, "In a word, I've loved it." What about the frustrations? "I haven't found any."

Doesn't he worry about the fact that the UN seems to be unable to deal with serious conflicts?

"The General Assembly was not designed to serve as a world parliament," Morse says. "It serves as a place for the harmonization of conflicting points of view. There is no other place in the world where that takes place. In the years ahead I foresee an increasing emphasis on the role of the UN . . ."

Morse says the UN was founded during a brief period when there was essential agreement among the major powers and the fact that it survived at all when that agreement eroded is a "miracle."

"If the understanding among the major powers can be restored, the UN can play a much more significant role," Morse says.

In other words, the UN can't make peace, but in a peaceful world it can function.

"The UN can't do anything the member states don't want it to do. It is an assembly of sovereign states."

Does he harbor any lingering political ambitions, a secret desire to come home and run for the Senate if one of the state's two incumbents should feel a call to national office?

"At the moment, I don't. I've accepted a three-year contract here and if I enjoy what I'm doing a third as much as I do now, I won't change."

Morse devotes almost his entire waking life to the UN job. His wife, from whom he is "amicably separated," and their two children continue to live in Washington. His only apparent avocation is music. An amateur pianist, given to late night renditions of Irish ditties, he has completed the score for what he hopes will be a musical based on the life of Simon Bolivar. So far, he hasn't found anyone to write the words.

But mostly Morse works. As a visitor left late in the evening when most of the rest of the "UN family" had long since vanished into the mists, he bounded out of his office and rushed up to a small man who had been waiting.

"Colonel, come in. God love ya. How are ya?"

## FARM CREDIT PROGRESS

Mr. BELLMON. Mr. President, earlier this month, the Committee on Agriculture and Forestry heard the Governor and officers of the Farm Credit Administration give a progress and status report on the work of the cooperative farm credit system.

There are several points worth noting in this report. Frst, it was an historic one, since it was the first made by the agency as prescribed by the Farm Credit Act of 1971. More importantly, it provided the committee with a highlight review of the implementation of this charter act designed to permit the farmer-owned farm credit system to be of greater service to the Nation's farmers and to rural America.

I was personally interested, particularly in what had been done in the area of gaining broader participation of and greater breadth of service for the U.S. farmers. These were points which I raised with the Farm Credit Administration and farm credit system officials during hearings on the act on Monday, May 17, 1971.

During consideration of that legislation, I was interested in making certain

that the Government-chartered institutions—such as are the production credit associations and the Federal land bank associations—were carrying out their function of making credit available to all responsible farmers and ranchers who have a reasonably good chance of repayment.

I felt that steps should be taken that would enable farmers of every phase of agriculture to have access to credit if they were adequately qualified. I believed then and now that sufficient, dependable credit at reasonable cost is one of agriculture's greatest needs. Without it many of our best younger farmers would be faced with the prospect of having to leave agriculture with serious damage to the nation's social and economic structure.

Mr. President, I pointed out at those legislative hearings and I still contend that in the governing bodies of the credit institutions, there should be broad representation of the agriculture of the area. Also it is extremely important that more should be done to improve the democratic processes in the selection and operation of those governing bodies.

As a result of the discussion in the committee at that time when the legislation was under consideration, several amendments were incorporated in the bill to insure this fair and equal credit availability to all borrowers.

Now, in the light of this background, I was most interested in the report we received when the governor and the board's officers appeared before the committee recently. The committee utilized the opportunity to interrogate the officials of the Farm Credit Administration in order to determine how these various provisions are working. Specifically, questions were asked regarding the procedures for insuring democratic control by the owners. Are there choices in the nomination process? Are all the cooperative members allowed to vote? Is the Farm Credit Administration, and are the banks, carrying out their supervisory roles?

An effort was made to determine whether or not the changes made in the Farm Credit Act of 1971 are helping to insure that all borrowers, large and small, crop and livestock, are better able to be served by this system as a result of those changes.

Mr. President, the response to this examination, I am happy to report, was positive and hopeful. Progress has already been made in the directions that Congress had indicated when it drafted the new act. The broadened authorities and responsibilities provided in the new act are serving as the basis for more comprehensive credit assistance to all segments of the farm community.

Mr. Jonathan Davis, a farmer from Sterling Junction, Mass., and vice chairman of the Federal Farm Credit Board, described steps being taken to achieve the objectives we had set forth in connection with the new act.

He told us that the broadening of the farmer control is being carried forward on these fronts:

First, in the election of directors who play such an important part in the farmer control mechanism, it is required that nominating committees be set up to make nominations for presentation to the membership.

Second, more than one name per elective office must be nominated. This, of course, is designed to give the members a meaningful choice in picking their boards of directors.

Third, steps are being taken to insure wider participation in the elections of directors.

Fourth, the Federal Farm Credit Board has taken action to preclude individuals from serving on more than one farm credit board simultaneously. This means control rests in more hands—more farmers participate in the control of the system.

This last point, incidentally, serves also to protect the system against possible conflicts of interest as the regulatory and supervisory responsibilities are being decentralized and assigned in larger degree to district boards. This would appear to be a positive action in meeting the question: Can an individual conscientiously and objectively be at the same time both the supervisor and the supervised? Obviously, he cannot.

Mr. President, those in Congress who worked hard on the development and passage of the Farm Credit Act of 1971 can be pleased with the progress reported in meeting difficult problems. The action taken is in the right direction. The farm credit system and American agriculture will be the stronger for it. American consumers will be better served.

These are, indeed, encouraging reports of a great program that has served agriculture well for more than half a century. However the job is not finished. I feel the Congress will expect further progress in the report next year.

The future of our independent family farm structure of agriculture relies increasingly on adequate, dependable, individualized credit available at reasonable cost. As a major supplier of that credit, the farm credit institutions have a great opportunity and responsibility, not only to agriculture, but to the consumers agriculture serves. I know other members of the Committee on Agriculture and Forestry and other Senators were pleased, as I was, to receive the first annual report under the new Farm Credit Act and to note the significant progress made by this great institution.

## THE RSVP IDEA KEEPS GROWING

Mr. WILLIAMS. Mr. President, several years ago I became very interested in senior service corps projects sponsored by the National Council of Jewish Women.

About 12 such projects, in cities in New Jersey and elsewhere, clearly demonstrated that elderly volunteers could perform important services on behalf of others in their communities.

With their example very much in mind, I sponsored legislation which would have established two kinds of senior service corps: One in which participants would receive a modest salary for a specified number of hours of service each week, and one in which unpaid volunteers would simply be compensated for any out-of-pocket expenses they incurred while serving.

Unfortunately the proposal for a paid senior service corps has not yet been enacted; it was part of the older American legislation pocket vetoed by the President after Congress adjourned last October. I am pleased that this measure has cleared the Senate and will be acted upon this week by the House.

My other proposal—calling for out-of-pocket expenses for unpaid volunteers—did become law as the retired senior volunteer program—RSVP—in 1969, and some progress has been made along the lines originally indicated by the National Council of Jewish Women and by another volunteer project, SERVE, which had been developed by a New Jersey resident, Mrs. Janet Sainer, for the community service society of New York City. SERVE had already been at work before RSVP became a working program; it served as a model and later conducted training for RSVP.

An article in the January 1973 RSVP–SERVE newsletter describes how the SERVE idea continues to grow, and I ask unanimous consent to have that article printed in the RECORD in hopes of encouraging similar action elsewhere. I believe that the heartwarming, effective work of the volunteers should be known to everyone.

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

BROOKLYN STARTS ITS FIRST RSVP

The first RSVP program in Brooklyn was launched in December at the Brooklyn State Hospital for the mentally ill. It offers an excellent demonstration of the vital roles played by a senior adult group and by a volunteer station in initiating such a program.

The Council Center for Senior Citizens, a project of the Brooklyn Section of the National Council of Jewish Women, has taken the lead in the new venture. The staff of Brooklyn State Hospital has enthusiastically welcomed the RSVP volunteers and is doing everything possible to make the program work. The result is a program with great potential which is already benefitting all concerned.

Twenty RSVP volunteers recruited through the Council Center are now serving every Tuesday morning at Brooklyn State Hospital. Most of the women are working directly with patients—doing friendly visiting and conducting sing-alongs in the geriatric and other wards. Others assist staff in occupational therapy; sew and mend for the patients; take the magazine-book cart through the wards; sort, fold and label clothes. Three men are doing clerical work.

On their first day of service, volunteers assigned to working with patients learned that the patients went to lunch at 11:30, which left them with a spare hour till their own lunch at 12:30. They offered to help feed geriatric patients who are physically disabled as well as mentally ill and have been doing this ever since.

These volunteers, recruited through the Council Center for Senior Citizens, are an alert, intelligent, community-minded group, some with broad experience in volunteer work. They have joined RSVP because they find it fulfilling and gratifying to know that they are meeting a real unmet need.

THE HOSPITAL'S ROLE

Much of the credit for the new RSVP program goes to Jake Savage, coordinator of volunteer services at Brooklyn State Hospital, and to Dr. Morton Wallach, the director.

Both men were present at a recruitment meeting held by the Council Center for Senior Citizens in cooperation with RSVP staff

and Dr. Wallach himself described the hospital's need for volunteers and the assignments open to them.

Much preparatory work was done by Mr. Savage before the volunteers were recruited. The RSVP program was discussed at several staff meetings and Mr. Savage then met individually with each of the hospital's division chiefs to work out possible volunteer assignments that would be interesting and suitable for older volunteers and valuable to the hospital.

Mr. Savage commented that all of the staff members selected were receptive to having a group of older volunteers and that he would not send volunteers into a department unless the staff there wanted them. "We tried to work out all details in advance," he said. "If this were not done, a new volunteer could easily become discouraged and feel he was not needed."

Mr. Savage himself greets the volunteers when they arrive and accompanies them to the wards where they are assigned. In time, he said, they will know their way around but initially this helps them feel welcome. He subsequently picks up each small group of volunteers and takes them via the hospital's minibus to the cafeteria for lunch. The hospital provides lunch. RSVP-in-New York City is providing bus transportation for the group from the Council Center for Senior Citizens to the hospital and back.

Mr. Savage has also arranged to have various staff members speak to the RSVP volunteers at the informal meetings which they hold after lunch. For instance, a staff psychiatrist has spoken to them about mental illness. The Business Officer has explained how a state hospital is funded and the effect of budget cuts on services.

"We could use a group of RSVP volunteers each day of the week," said Mr. Savage. "Older volunteers have a greater sense of dedication than other age groups. Usually when they decide to volunteer, they stick to it."

Dr. Wallach was equally enthusiastic about the value of older volunteers. He stated: "These are people with skills. They may or may not have employment skills, but they have lived their lives successfully and they have skills of communication. And inability to communicate is the problem of so many of our patients.

"Also the volunteers are serving without financial remuneration and this gets a message across to the patients. They realize that here are people who care and want to help them.

"All this is above and beyond the actual delivery of services. The services themselves are very important, whether they consist of feeding patients or involvement in patient activity."

Dr. Wallach said he hoped that "the senior volunteers will spread the word that mentally ill patients are patients with an illness like any other illness, that they will help remove the stigma now attached to mental illness. The community should maintain its interest in the mentally ill and not be afraid of them. Patients should feel that they still belong and are not shut out from the lives of the community. Older volunteers can help change the community attitude."

THE COUNCIL'S ROLE

Harry Berke, executive director of the Council Center for Senior Citizens, and Mrs. Henrietta Frank, a board member and chairman of senior volunteers for the Brooklyn Section of the National Council of Jewish Women, have taken the lead in developing the new RSVP and in helping to recruit volunteers for it.

Mrs. Frank spoke at the recruitment meeting held at the Center in early December. Mr. Berke has publicized the program in the Council's Newsletter, *News and Views*, which is distributed not only to members but to other persons in the community.

Mr. Berke explained that, "Basically we are interested in RSVP because it offers senior citizens a group volunteer opportunity on a permanent basis. We have done volunteer work in the past, but this work was done primarily in the center or involved temporary assignments outside. RSVP is also a means by which our senior citizens can demonstrate to the community that they are valuable and have unique skills which make them desirable volunteers."

Mrs. Frank, who is the liaison between RSVP-in-New York City and the Center, pointed out that the National Council of Jewish Women throughout the United States has had a history over the past 75 years of sponsoring programs to serve senior adults. Some ten years ago the National Council initiated the Senior Service Corps in various communities. The Brooklyn section conducted one of these pilot projects.

"We have a continuing tradition of developing and promoting centers and programs for senior adults and of finding new and innovative ways for senior citizens to reestablish themselves as active members of the community. RSVP-in-New York City represents one of these ways."

With so much going for it—a fine group of dedicated volunteers, outstanding leadership from the Council Center for Senior Citizens and from Brooklyn State Hospital—the first RSVP program in Brooklyn is sure to set a model for others to follow.

## FORMER GOVERNOR McKELDIN OF MARYLAND SPEAKS ON ISRAEL'S 25TH ANNIVERSARY

Mr. MATHIAS. Mr. President, on February 25, 1973, former Maryland Gov. Theodore R. McKeldin, addressed Temple B'nai Israel in Toledo, Ohio, on the occasion of the 25th anniversary year of Israel. Governor McKeldin has visited Israel five times over the last 25 years. He has a keen historical sense of how Israel has evolved as well as a revealing insight into the future of this unique state. I highly recommend his reflections on Israel's silver anniversary and ask unanimous consent that his remarks be printed in the RECORD.

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

ADDRESS OF THEODORE McKELDIN

Twenty-five years is a meaningful period of time, the time span we call a generation, and the passage of twenty-five years means that Israel has not only come to survive as a new nation, but has come to grow and mature from one generation to another.

These twenty-five years have also provided the world with a progress and success story unparalleled in history. I have been to Israel five times since it was founded in May of 1948 and each time I arrived I found a newer, more vibrant country than before. Just contrast this with the first twenty-five years in the life of America when she was born in 1776. While America grew and expanded and came alive as a free and independent nation, her progress at her first twenty-fifth anniversary was no more impressive than Israel's. Indeed, if one speaks of proportions, if Israel had the natural resources, the land area, the population and the peace that America had in her first twenty-five years, the Israelis may very well have improved measurably on the early American success story.

But, of course, this is all hypothetical. Historians may like to conjecture across the span of centuries, but politicians deal in realities here today, and one need not look beyond today's realities to see, to be impressed by, to be emotionally moved by Israel's successes during her first twenty-five years.

Indeed, on my trips to Israel, I have been impressed by many things—especially by the sheer diversity of the country itself. There seems not to be one Israel, but many Israels.

There is, for instance, the Israel of Jerusalem—so steeped in history and religion that the mind can get intoxicated on the city and its past. There is the Israel of Eilat, the struggling frontier town where Israelis staunchly face not the past, but the future. There is the Israel of Tel Aviv, alive and bustling, but looking so much like an Americanized city that one blinks in disbelief that venerable Jerusalem is only a forty-minute drive away.

There is the Israel of Mea Shearim, where the religious zealots live, and the Israel of the Sabra, the tough, native-born Israeli who in many cases has the modern age's indifference, if not hostility, to religion. There is the Israel of the kibbutz and the Israel of the diamond exchanges. There is the Israel of the farms and the cornfields and the orange groves and the Israel of the Phantom jets and the potash works. There is the Israel of the long ago—a sycamore tree 1000 years old still flowers in Ashkelon, 2000 year old Roman markers still sit along a road to Jerusalem—and there is the Israel of the next century—a golden-domed nuclear reactor rises up out of the desert near Beersheba.

The land itself is as diverse as the people and their pursuits. Israel has three deserts within its borders. Israel has mountains, some often capped with snow, and valleys so deep that the lowest point on Earth is within Israel. Israel has two seas wholly within the country (the Dead Sea and the Sea of Galilee), touches two other seas (the Red Sea and the Mediterranean Sea), and yet has serious water problems. Lush fertile fields are only miles from the arid sands of the deserts. Rainfall within tiny Israel can run from virtually none all year (at Eilat) to over 2000 millimeters (the Upper Galilee). It is a country of 164 miles of continuous beaches (all seemingly in constant use), 300 days of sunshine a year and dozens of political parties to cloud the air.

The many Israels to be found in today's Promised Land has a productive side to it, however. For it is this diversity that permits a country somewhere between the size of Rhode Island and New Jersey to be so nearly self-sufficient. Even the modern tour buses in Israel are, except for their motors, entirely made in Israel—and this includes the giant 16-ply tires, with the brand name of Samson. Israel is rapidly approaching self-sufficiency in the weapons area, too. Not only is she making and exporting the best sub-machine gun in the world, the Uzi (the U.S. Secret Service buys them to protect the President), but she is also now selling a sea-to-sea missile—the Gabriel. The United States buys this weapon, too—the only missile the United States buys from a foreign government.

The general impression created by all this diversity and striving for self-sufficiency is that of a hard-working country. The Israelis work six days a week and their days begin at 8 a.m. Everywhere you go there are buildings going up and construction projects underway. Some of the already completed ones are fantastic displays of engineering. On the Dead Sea has been built a $260 million dollar dam to speed up the evaporation of the water and thereby the processing of the Dead Sea's chemicals and minerals. On the Upper Galilee has been built a massive water-carrying project to irrigate the Negev that dwarfs the TVA project in America. The new construction consists of apartment houses in every city; hotels everywhere you look, including Eilat and even Sodom; luxury apartments in Jerusalem that cost astronomical sums; roads; office buildings; even train tracks. But you don't see much

tearing down of old buildings for the new construction. And this is mainly because there is so much land there and so much new that needs developing. While America rebuilds its old to renew itself, the Israelis are literally returning to a land that hasn't lived in modern times. You can see this by looking at the earth of Israel. Around Jerusalem especially, the land is studded with rocks. A thin strip of soil may peek through, even separate the rocky terrain at points, but the general impression is of a bonehard land whose softening, enriching graces of soil have been washed away. The ground is so rocky in many places it is as though the flesh of the earth had been ripped away and its bones of stone exposed.

Indeed, much of the land of Israel shows the signs of centuries of neglect and outright plunder. The Land of Israel over the last two thousand years has either been left unattended or consciously abused. The Turks, for instance, one of the periodic rulers who came and went since the days of the Temple, ravaged the land, cutting down much of the land's trees for wood for locomotives. Arab farmers who came to Israel (the first Arabs did not settle in Israel until the Seventh Century) knew little about crop rotation or irrigation and they planted their crops until the land was depleted and then moved on.

Today, while part of Israel is engaged in constructing buildings and homes, another part is busy restoring the land, planting it and harvesting it. If the modern Israel is writing the story of the Jew as fighter and warrior, then modern Israel is rewriting the story of the Jew as farmer. In the early 1950's, the farming picture in Israel was so weak that the population could hardly get such staples as eggs and tomatoes. Today, Israelis have more eggs and tomatoes than they can use. One of the reasons: Israel has set up 37 agriculture schools to train farmers. So successful have these schools been and so important are they to the life of Israel that many of Israel's generals have studied at these agriculture schools. Among those generals are Rabin, Bar-Lev and Moshe Dayan.

Using modern farming techniques and some new techniques they themselves are developing, the Israelis are slowly bringing the land back to life. Swamps are being drained—deserts are being irrigated with water brought hundreds of miles—trees are being planted on bare limestone mountains to break up the limestone and convert it to topsoil—elephant grass is being planted around orange groves to protect the trees from wind and sand—whole towns are being built on the Mediterranean coastline to stop, for the first time in centuries, the washing up of sand on Israel's shores by undercurrents fed by Egypt's Nile River.

Thus, if Irsael has been a success story during her first twenty-five years, it is because she has the energy, the tenacity, the will and the sheer brilliance to overcome the many problems she has faced.

Let us, for instance, take a look at one such problem—the water problem. We all know Israel's struggle with her Arab neighbors is her number one struggle, but I consider her water problem as her "other major struggle." In fact, next to war, it is water that must worry Israel the most.

If you have been to Israel, you know that the sound of modern Israel is the soft, steady sput-sput of the water sprinkler. Hundreds of thousands of these water sprinklers can be seen throughout Israel. They look like those sprinklers we use in America to water our lawns and our golf courses. But while the water sprinklers used in America are engaged in an act of luxury, the water sprinklers in Israel are that country's most important weapon in a fight for life and livable land.

With water so essential in the Mideast, the State of Israel must live with a glaring fact of life. The water available to Israel comes from only two sources—natural springs and the Jordan River. There are only sixty-five days a year when rain can fall. The heat of the Mideast evaporates the water, dries out the land, increases thereby the need for water to irrigate fields for farming. Climatically, 60 percent of Israel is desert. Thus, for Israel, water is critical for her future. The truth is—the real key to development in the Middle East is water, not oil.

The United States, too, has long realized the importance of water to this entire region. In 1953, the United States tried to work out with the Israelis and the Arabs a comprehensive Jordan Valley development plan that would have provided for the irrigation of some 225,000 acres. After two years of discussion, Arab technical experts from Jordan, Lebanon and Syria agreed with Israeli experts on every important detail. But in October, 1955, the plan was rejected at a meeting of the Arab Legion because it would have benefited Israel as well as the Arab countries. In the years that followed, a billion cubic meters of water a year continued to roll down the ancient stream into the Dead Sea, wasted.

Even without the Jordan Valley development plan, Israel was able, by the end of her first decade of existence, to produce remarkable results, mainly through modern irrigation techniques and the use of every available drop of water. By 1958, she had more than doubled her cultivated area and quadrupled irrigated land.

But if Israel was to continue with its program of agricultural expansion and especially if she was to develop the Negev, she needed to tap her share of the waters of the Jordan as called for in the original Jordan Valley development plan.

And so Israel began building a massive project called the National Water Carrier, one of the largest of its kind in the world. By using giant 60,000 horsepower engines, Israel could tap the Jordan River north of Lake Tiberias and pump 360,000,000 cubic meters of water each year hundreds of miles down to the Negev. There, a string of newly established kibbutzim could begin the work of making the desert bloom.

When Israel completed the National Water Carrier project in 1964, Syrian engineers, with the help of the Russians, began building tunnels across the mountains of the Golan Heights to divert the waters of the Jordan River away from Israel and out across Lebanon into the Mediterranean Sea. Today, the tourist of the Golan Heights can see the ugly red scar that runs across the Golan Heights where the underground tunnels were being constructed.

Ironically, it was out of this fight over water that the Six-Day War eventually exploded. Israel threatened to take action against any diversion of the Jordan River; Syria eventually claimed that Israel was massing troops on its borders for an invasion; Nasser, in a show of support, massed Egyptian troops in the Sinai Desert and then followed that with the blockade of the port of Elat. Again, water was involved: Israel needed the oil imported through Elat to run the giant engines of the National Water Carrier. Too long a stoppage of the engines and the constantly watered fields of the newly fertile Negev would have burned. And so began the Six-Day War.

Today, the National Water Carrier's main pumping station, referred to by Israelis as the "iron heart of Israel," is one of the most heavily guarded sites in Egypt. The National Water Carrier, however, provides only part of what Israel needs to solve her water problem. Although she has been able to cultivate 20 percent of her desert lands, another 40 percent of Israel is still desert. And water is needed for an ever-growing population (kibbutz youth are told by doctors to combat the loss of body water in the Mideast heat by drinking 30 glasses of water a day) and for an ever-expanding economy (paper, the product of trees and water, is still in short supply and paper goods from napkins to toilet tissue are thin and hardly usable).

Israel is therefore turning to other methods. In Dimona and Elat, treated sewage water is used to irrigate crops for animal feed. While other countries use water to make electricity, Israel uses electricity to make water—the process for desalinization.

Israel's ultimate hope is to use nuclear energy to make the process of desalinization economical enough on a broad scale. But for now, desalinization does not seem to be the most practical source of water. Israel's Agriculture Minister recently told Israeli farmers that desalinization technology has not developed as Israel had hoped and that the country would have to start purifying sewage on a large scale to meet irrigation requirements during the next ten years. Israel has already submitted plans to the World Bank for an $80 million loan to finance construction of sewage treatment plants near the country's major urban centers.

Water, then, must rank with war as among Israel's major problems. But while war is a social, human problem that could conceivably be resolved in the near future, water, a physical problem, may well defy complete solution for years to come. The Israelis, however, are working strenuously to devise solutions. Witnesses to that struggle are those hundreds of thousands of water sprinklers you can see throughout Israel.

Thus, Israel still has her problems as she enters her 25th year. She can look back, however, on a very successful first 25 years. But the most important thing now is the future, and if past performance is any judge, Israel has definitely showed the world she has the vitality and the vigor to make the next 25 years equally successful. She will continue to have her problems—all nations do, though not with the crushing consequences that Israel faces. But problems come from the very act of living. For those of us who are lovers of Israel, this is the most joyous fact of all on Israel's Silver Anniversary—the fact that Israel exists, that Israel lives!

## GUY M. GILLETTE

Mr. WILLIAMS. Mr. President, I join my colleagues today in mourning the passing of former Senator Guy M. Gillette of Iowa.

Guy Gillette served a total of 18 years in the Congress, 14 of them in this body. I recall that he was still a Member of the Senate when I first was elected to the House in 1953, although he was defeated when he sought reelection the following year. It was a measure of the man that he was 75 years old when he campaigned in 1954, and that his campaign that year is remembered as a dynamic one, in which he upheld his reputation as an outstanding public speaker.

Mr. President, although Guy Gillette loved the soil and farming, he devoted most of his entire adult life to public service. He entered politics almost as soon as he graduated from law school in 1900, and won election as an Iowa State senator 12 years later, by a margin of just one vote. Although he was a Democrat in a heavily Republican area, Guy Gillette rolled up a 10,000 vote plurality when he first sought election to the House in 1932; 2 years later he was reelected by more than twice that margin.

In the House, he distinguished himself by his advocacy of legislation to

protect the interests of his farmer-constituents, a record he continued when he was elected to the Senate near the end of his second term. Senator Gillette, although at first an outspoken isolationist, came to believe firmly in the need for international organization. In 1943 he sponsored a resolution supporting the principles of the Atlantic Charter, and he was subsequently selected as one of the Members of the Senate who helped draft the Charter of the United Nations.

Defeated for reelection in 1944, Guy Gillette served as Chairman of the Surplus Property Board and then as president of the American League for a Free Palestine. He regained a Senate seat in 1948, and served until 1955. During that term, Senator Gillette became well-known for his efforts to curb the rise of consumer food prices, and for his criticisms of the manner in which contributed funds were handled by the late Senator Joseph R. McCarthy.

Mr. President, I know we were all saddened to learn of Guy Gillette's death on March 3, at the age of 94. I wish to extend my sincerest condolences to his surviving family and friends.

## SECRETARY MORTON ADDRESSES ANNUAL MEETING OF DOWNTOWN PROGRESS

Mr. MATHIAS. Mr. President, on February 14, the Honorable Rogers C. B. Morton, Secretary of the Interior, delivered an address before the annual meeting of Downtown Progress in Washington, D.C.

Unfortunately, a conflict in my schedule prevented me from attending this meeting. Mr. Knox Banner, executive director of the National Capital Downtown Committee, was kind enough to provide me with a copy of Secretary Morton's splendid address.

I ask unanimous consent to insert these remarks in the RECORD to inform my colleagues and the public of the achievements of civic organizations such as Downtown Progress.

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

REMARKS OF HON. ROGERS C. B. MORTON

Nothing is closer to the vision and spirit of our people than our cities. And Washington more than any other city is for millions of Americans the first city of the land. It is unique, both as a world capital and as an American city. It remains today one of the most well planned and landscaped cities in America—yet it isn't without its problems.

Washington is one of the few cities in America that has a heritage of planning: Jefferson, Washington, L'Enfant, Hoban—and Boss Shepard in his way—all exercised a major role in seeking to establish bounds and dimensions of this our Federal city. It is fitting today as we approach the Bicentennial that Downtown Progress is moving with full effort to carry out the "Living City" theme by 1976. Downtown Progress is very much a part of Washington's heritage for city planning.

Your organization reflects the President's philosophy that local initiative is critical to effective local change. Your efforts have contributed immeasurably to revitalizing downtown Washington.

In the last few decades the viewpoint that the Federal Government can solve all problems and resolve all conflicts with massive programs has been widespread. I can remember Ambassador John Kenneth Galbraith's remark that New York City had no problem that another few billion dollars couldn't solve. In the few years since that statement was made New York City has been able to find another three or four billion dollars to spend each year—in spite of this its problems continue to grow.

I don't want to dismiss the importance of money in dealing with urban problems; but Washington, as much as any city in America, is proof that money alone *cannot* and *will not* solve urban problems in the absence of local initiative, sound analysis and—most important—local leadership.

There has often been a temptation on the part of Washingtonians to assume that the Federal Government will provide all funding, all planning, and management for the District's needs. I oppose this view, not only because it would be paternalistic, but because the image of a city should be a product of its residents. Civil pride cannot be legislated or dictated—for the appearance of a city, its landscaping and its planning are expression of the people who live there and reflects their pride in themselves as a community.

In the 13 years since Downtown Progress began its efforts nearly 50 commercial and residential buildings have been constructed in the downtown area. More important, however, the quality of building has resulted in a rich and broad effort to revitalize the city without destroying its historic character. We have only to walk the streets outside this building to find the evidence of good planning. Look at Jackson Square . . . look at the AIA Building near Octagon House . . . or the restoration of Ford's Theatre.

In the meantime Washington's architectural variety continues to flourish: the Martin Luther King Library designed by Ludwig Mies Van deRohe is easily one of the most graceful buildings of the decade . . . the landscaping on New York Avenue and planned improvements like the "F" Street Mall have added a dimension of charm to downtown Washington.

Your planning for the future can more than build on the promise and achievement of the last few years—it can lead us to a new sense of urban well being. The preliminary master plan for the new Federal City College north of Mt. Vernon Square has been approved . . . the future development of the Eisenhower Memorial Civic Center south of this area has been approved. And I know Mayor Washington is devoting full effort to completing this project by the Bicentennial.

In still other areas, Washington is leading the way with new transportation systems and new street planning that will make our avenues and our city more than a great roadway or parking lot. The mini-bus, the downtown midi-bus and the new Metro subway system point the way to an integrated transportation system that is dynamic and, most important, serves the needs of the people.

In the meantime there are projects underway to revitalize the Chinese community in the center city, and there is a continuing possibility of further development with international themes in other areas.

The Department of the Interior, as you know, is moving full force to develop a plan to repair the flood-ravaged C&O Canal by 1976, especially the canal banks along Georgetown.

All of these programs, all of these actions, these achievements and this planning are the result of a dynamic spirit of leadership within Washington by people who say, "Washington is my home."

At the same time, however, I believe it is the result of a unique partnership—imbued with the spirit of cooperation—between local government and the Federal Government. I believe that we at the Department of the Interior have a special share in Washington's future.

During my first year as Secretary of the Interior I named Miss Shirley Kyle as my Special Assistant for District Affairs to provide an open channel of dialogue between the District and my office. As you know Miss Kyle is the first person to serve in this capacity, and has done an absolutely magnificent job.

Over the years Interior has maintained more than 750 properties here, almost half of which are being transferred to the District. National Capital Parks provide a fabulous array of recreational, cultural, and educational opportunities to hundreds and thousands of District residents and visitors. The Park Police provides a critical portion of the law enforcement services to the District and works closely with Federal and District offices.

I know that each one of you share my personal pride in the efforts of National Capital Parks under Russ Dickenson's spirited leadership. I expect to see this operation continue at a high standard, adequately funded to carry out the task in making Washington the most beautiful city in the world.

Looking towards the Bicentennial, the National Park Service has started an ambitious program of improvements of existing facilities and activities for both out-of-town visitors and local residents. Approximately $20 million is included in the President's budget for fiscal '74 for this program. Also included are funds to supplement moneys pledged by the railroads to start construction of the long-needed National Visitors Center.

As we look at future improvement and at opportunities to enhance and preserve existing resources, it is difficult not to be optimistic.

The 92nd Congress established the Pennsylvania Development Corporation to plan and develop the 111-acre area north of Pennsylvania Avenue. One million dollars has been appropriated for initial planning and an additional $50 million in borrowing authority has been provided to implement the plan. The Department of the Interior will play a critical part in meeting those goals and we intend to open our processes up to the whole community. I frankly seek your advice and full participation to insure that this program results in a city that exists not just for itself or for the planners—but for the people.

As Chairman of the National Visitor Center Advisory Commission, the project that I'm most concerned with today it the completion of the National Visitor Center at Union Station. As you know, Downtown Progress made the initial proposal concept over a decade ago in its ACTION PLAN for downtown Washington. The leaders of Downtown Progress and the persistence of Congressman Kenneth Gray and others have contributed to bringing the Center to the brink of reality. Our goal as you know, is to have the Center in operation before the Bicentennial in 1976.

As we move towards the Bicentennial, Washington and its people are embarking on a task that is challenging as it is exciting. We are moving toward a new era . . . a new century that will combine the city's rich cultural legacy of the past, with its spirit of innovation for the future. We have the inspiration and energy of Lady Bird Johnson's beautification program to guide our hand in the years ahead.

The time has passed when we could shift the burden and accountability for Washington onto the federal government, the district government, or civic organizations like Downtown Progress. The fact remains—we are all in this together.

The next few years will be critical to Washington's future, and are filled with challenge and opportunity. Let us work together then, in a spirit of cooperation and commitment to seize the opportunities and challenge for a new era.

## CAMPAIGN FINANCING REFORM

Mr. McGOVERN. Mr. President, the Senate Subcommittee on Communications of the Committee on Commerce, chaired by the distinguished Senator from Rhode Island, Mr. PASTORE, opened hearings last week on an issue which bears directly and heavily on the way democracy works in this country.

The bill under consideration, S. 372, would repeal section 315 of the Communications Act to open the way for televised debates between presidential candidates. Beyond that, it makes a real effort to cope with the question of spiraling spending in presidential and congressional elections. While I have raised some concerns about the specific approach of the bill, the objective of limiting campaign outlays is one I think we can all endorse.

Mr. President, I ask unanimous consent that my testimony at the hearings be printed at this point in the RECORD.

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

CAMPAIGN FINANCING REFORM

(Statement by Senator GEORGE MCGOVERN)

Mr. Chairman, I welcome the opportunity to testify on your proposed legislation, S. 372, to amend the Campaign Communications Reform Act. The issues related to this bill have a great deal to do with whether democracy itself can continue to function in an age of modern communications and big money.

I support wholeheartedly the first part of the bill, which would amend the equal time requirement of Section 315 of the Communications Act. Permanent suspension of that provision with respect to presidential and vice presidential candidates, coupled with the networks' promise to provide substantial amounts of free time, would assure a much better flow of significant information to the electorate. It would help reduce the massive cost of buying broadcast time. And it would free the broadcasters from an archaic provision of communications law which has not insured fairness at all, but instead has served only to prevent intelligent election programming. I remain convinced that face to face debate is by far the best way for the American people to compare the candidates and their programs, and I consider it a tragedy that Section 315 is still used to deny them that opportunity.

I also endorse some form of comprehensive spending limitation, to hold down spiraling campaign costs. The present limitation on media spending is a step in the right direction. But we must build on that beginning least we soon reach the point where a candidate's ability to raise a big campaign war chest is more important than his capability to hold office. We are dangerously close to that point now.

At the same time, Mr. Chairman, I have some doubts about the solution provided by the legislation you are presently considering.

It is important to keep in mind that our main goal should be to reduce the political influence of money, not to retard political campaigns. I do not see the objective of this legislation as limiting the people's exposure to political candidates or vice versa; on the contrary, if they are properly used, new forms of communication can make our system work better. Yet in many cases the twenty-five cent per voter limitation in the bill as it stands now could sharply restrict the ability of candidates to make their views known.

In presidential elections, that twenty-five cent figure would work out to a limit of approximately $32 million. Certainly that is an adequate figure, particularly if the networks come through on their pledge of free time. No presidential campaign need cost more than that.

In the case of senate and congressional campaigns, however, the twenty-five cent limit could have some unhealthy effects, growing out of differences among the states. It would have little effect on states with larger populations, but a decidedly restrictive effect on states with fewer people.

Senatorial campaigns in New York and California, for example, would be limited to a figure somewhere between $3 and $4 million. That should certainly be an adequate if not overly generous figure; as far as I know it is well above what have come to be the usual expenditures in campaigns in those states.

But under the bill as drafted the limit on total spending for a Senate campaign in Wyoming, for example, would be only $50,000—the same figure the 1971 act allows as a minimum for telephone and media costs alone. The same figure would apply in Alaska. In Montana the limit would be about $117,000; in Idaho it would be $110,000; in South Dakota, $126,000. That would be the maximum permissible expenditure for all campaign activities.

All of these are states with widely scattered, rural populations and sizable geographic areas. As a result, the fixed costs of campaigning are comparatively much greater than for states where most of the population is concentrated in urban centers. For a comparable dialogue with the public, items such as travel, office expenses, organization, and mail take a much larger investment per eligible voter than in bigger states.

By way of illustration, I have seen no indication that the ten cent limitation on media has brought about any drastic reductions in what would have been spent otherwise in rural states, even though media time, too, costs more per voter when the population density is low. But in the most recent Senate campaign in South Dakota, media and telephone spending accounted for only about twelve to fifteen per cent of total spending. Candidates for both parties found it necessary to spend six or seven times as much on other expenses.

So in the case of sparsely populated states, the overall twenty-five cent limit would produce a sharp cutback from customary campaign activities, to about a third or less of what has been deemed necessary for an effective campaign in recent years. It would curtail campaigns in those states far more than in urban centers. In the process it would tend to greatly strengthen the inherent advantage of the incumbent by denying the challenger an opportunity to give his views and qualifications exposure on a par with the news coverage an incumbent receives simply by virtue of holding office.

As I have said, the twenty-five cent limit does seem reasonable in the case of presidential campaigns. But in the case of senate and congressional races, we should look for alternatives which will serve the same objective without creating vast disparities among the states.

One workable method might be to establish a base in the range of $400,000, similar to the $50,000 telephone and media base in the 1971 act, and then set twenty-five cent limitation on all spending beyond that level. I hope the Committee will consider an approach of that kind.

A solution of this kind would deal adequately with the question of campaign costs. But it would deal only indirectly with another concern which I regard as still more serious—the continuing ability of big contributors to buy favorable attention from public officials.

There have probably been enough revelations about big contributions under questionable circumstances in this last presidential campaign to convince many voters that you get exactly the kind of government you pay for—if you can afford to invest large sums through campaign treasuries. I am convinced, moreover, that existing disclosure requirements are not enough to have much effect on either the way funds are raised or the way public officials treat big donors. The policy *quo* can often escape exposure even if the campaign *quid* is disclosed. And the entire system works against the best interests of the ordinary voter and taxpayer.

Therefore, I would like to see a flat and enforceable limit of no more than $3,000 on the amount any one individual can contribute to a political campaign, whether for the White House or the Congress.

We may have left many points unproved to the voters in the presidential campaign last year, Mr. Chairman. But one thing we did demonstrate is that it is possible to finance even a campaign of that kind almost entirely from small contributions. Roughly 80 per cent of our funds were raised from direct mail solicitations, with average contributions of about $30. While we do not have the figures broken down that way, I would estimate that a far greater proportion of the total funds came from supporters who gave $3,000 or less.

Based on that experience, there is no longer the slightest question in my mind that both parties could finance their campaigns adequately under a limit of this kind, on nationwide, statewide or district levels. And I am just as sure that we would have a healthier, more responsive and more democratic government as a result.

The limit must be firm and enforceable, so that efforts to raise small contributions will not be passed over lightly because they are cushioned by backdoor romances with bigger money. If we expect the people to depend on their representatives, then it is time we required representatives to depend on the people as well.

It is also relevant in this context to raise the question of public financing of campaign costs. The best method presently available is the $1 checkoff system initiated in the last session of the Congress. However, just as our distinguished colleague, Senator Humphrey, predicted, the system has produced disappointing results this year because of the way the Internal Revenue Services separated the checkoff from the main form. The *Washington Post* recently reported that the only four per cent of the returns being processed include the checkoff. If that rate prevails for all taxpayers, the system will fall far short of expectations and even farther short of legitimate campaign needs.

Senator Mondale has sponsored legislation, S. 1109, to require that the checkoff be included on the front page of the tax return, and to require that the Internal Revenue Service publicize the advantages—including the fact that using the checkoff adds nothing whatsoever to the individual's tax bill. I have cosponsored that proposal. In the meantime, I hope all of us can draw attention to this option in the days remaining before April 15, and I hope the Internal Revenue Service will do what it can on its own motion toward that end.

Let me reiterate, Mr. Chairman, that the issues under consideration by this Committee go to the heart of our political process.

Some months ago I saw a study done under the auspices of the University of Connecticut which surveyed public confidence in various groups of people. Out of twenty groups, politicians came in nineteenth, behind professors, business leaders, dentists, doctors, judges, and a long list of others.

I am convinced that money has a great deal to do with that serious measure of cynicism and distrust toward political leaders. We can rekindle the confidence of

the people only if we finally resolve, in a truly credible way, this whole question of financing campaigns.

That will not be accomplished by spending limits which have the effect of restricting contact between candidates and voters. But it can be done through face to face debates between candidates, through a flat limit on individual contributions, and through a system which will enable candidates to finance their campaigns without depending on those who seek to buy personal shares in the public trust.

## A BRICK IN YOUR TANK

Mr. WILLIAMS. Mr. President, many of us are realizing that the resources we rely on for a comfortable standard of living are finite and that too frequently our use of those resources is inefficient or unnecessary.

A considerable amount of dramatic publicity which has been directed toward energy shortages has attempted to raise our consciousness on the issue of conserving energy. Fortunately, this publicity has been supplemented by the actions of a few power companies who have taken the responsible position of outlining simple steps which conserve energy or increase the efficiency of its use.

Besides energy shortages, New Jersey, the most densely populated State in the Union, has difficulties securing an adequate supply of drinking water. I was pleased to note that a woman from Cherry Hill, N.J., convinced the city council that millions of gallons of water could be saved each year by merely placing a brick in every toilet tank in the city.

In a recent article in Parade magazine, Mrs. Tilly Spetgang discussed her successful campaign and explained how Cherry Hill is now saving approximately 34 million gallons of water annually after instituting the "brick in the tank" approach to water conservation.

I commend this clever proposal to my colleagues and ask unanimous consent that the artice be printed at this point in the RECORD.

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

A BRICK IN YOUR TANK

(By Tilly Spetgang)

CHERRY HILL, N.J.—A few months ago, I placed a brick in my toilet tank to help my town save water. Ever since, the idea has been making waves.

Of course, some people still think it's a goofy thing to do. When I walked into the City Council of my home town, Cherry Hill, N.J., carrying a brick, some of the councilmen ducked under their desks. They thought I was going to throw it. But all I wanted was for them to put one into every toilet tank in town.

Today Cherry Hill, which has 17,000 homes, has adopted the idea. We figure that we're saving about 34 million gallons of drinkable water a year. And all that at a cost of $2000 which the council laid out for the bricks! How's that for low-cost conservation?

MORE THAN NEEDED

The logic behind the plan is simple. The standard toilet tank holds up to 8 gallons of water—far more than is needed for flushing. True, newer models are being built with a smaller cubic capacity—some only 3½ gallons—but in the average town enough water is being wasted to float a battleship. So by putting an ordinary hard clay brick, which measures 2 by 4 by 8 inches and displaces over a quart of water, into each toilet tank, an enormous saving can be effected.

In a city like Seattle, for example, according to the Seattle Post-Intelligencer, the savings could be 1,495,428,350 gallons of water a year, from 409,679 bricks. The benefits would be felt in an enormous increase in water reserves, and an easing of the burden on overloaded water and sewer systems.

In Cherry Hill, we enlisted the whole town in our campaign. Once the Conservation Advisory Board, of which I'm a member, convinced the City Council to invest in the bricks, all sort of people lent their support.

We figured on two bricks for each of our community's households. Who has a one-toilet home these days? So that meant 34,000 bricks, which, in case you never thought about it, add up to 68 tons.

FOOD FOR WORKERS

An amazing assortment of volunteers turned out to assist in the door-to-door delivery—students and engineers, bankers and teachers, carpenters and dentists, housewives and physicians, teen-agers and senior citizens. People brought fried chicken, hamburgers, coffee and malteds to the "brick depots" where the volunteers were loading cars and trucks. One woman showed up as a driver with a two-month-old infant asleep on the front seat. An elderly couple drove up in their own pickup truck to help out. Civil Defense used its two-way radio to link up our several depots.

Most enthusiastic of all were the young people. They pinned an ecology flag on the rear of a garbage truck loaded with bricks, they wore working outfits decorated with slogans and patches dealing with conservation and pollution, they organized themselves like an army, practically saluting each other. For many, it was their first chance to work alongside adults as equals, and they made the most of it.

Soon everybody around was talking about our "Put a Brick in Your Tank" caper. My husband Irwin, who is a business manager with RCA, found it the main topic at his office. Our youngest daughter, Valeri, 13, took quite a ribbing at school. Our eldest, Wendy, who is married and lives near Princeton, called on us to say: "What's going on with these bricks? My phone hasn't stopped ringing!" We were so busy with the distribution that we'd forgotten to tell her.

But what was really amazing was the reaction—both pro and con—from people across the United States, and even abroad, who had heard about the Cherry Hill brick equipment through newspaper articles and radio and TV reports.

CAN'T PLEASE EVERYBODY

Some people astonished us by waxing indignant over the idea. One protester in Meadville, Pa., speculated that maybe my husband or somebody on the City Council was in the brick business. Alas, there wasn't a brick seller in sight. Another complaint came from a householder who tried to force a brick into his tank, pushed too hard, and broke a valve fitting. Well, we'd warned every one to be careful—bricks are bricks. More ingenious was an engineer who, when he found his brick too bulky, simply broke it in two and used the pieces separately.

Most virulent of all was a comment from Puyallup, Wash.: "The incredible ignorance and stupidity displayed by Mrs. Spetgang—if there really is such a name—and the concurring city officials, is shattering to those of us of reasonable intelligence. Is there no one there who knows that by the simple act of bending the arm of the float you can save water?"

Well, my answer to my friend in Puyallup, Wash.—if there really is such a place—is that we've all known that old trick of bending the float-rod for years. One problem is that bending the float lowers water pressure, which might cause a problem. But the main trouble is that people simply won't do it. They're afraid of damaging the mechanism. And they *will* put a brick in their tanks—that we've proved.

LONDON CALLING

Most of the reaction to our idea was favorable and even ecstatic. The British Broadcasting Corporation called me from London for a telephone interview, and the announcer said in his clipped English accent: "Oh, I understand, you put the brick in the toilet." To which I shrieked: "Lord no, you put it in the *tank*. If you put it in the toilet you're in big trouble."

Judging by the extent of the interest aroused, people are about ready to get personally involved in the job of preserving our resources. Putting a brick in the toilet tank may seem like a prosaic, even a kind of silly way to start. But when it's done on a town-wide, or city-wide scale, it really works. Any enduring structure is built brick by brick. Why not attack our conservation problems the same way?

## HELP FOR THE ELDERLY

Mr. MATHIAS. Mr. President, as ranking Republican on the Subcommittee on Aging, my able colleague from Maryland, Senator BEALL, has made significant contributions to recent Senate efforts to improve and expand programs that serve the elderly. Senator BEALL has demonstrated time and again his understanding of the complex problems confronting older Americans. In that regard, I am pleased to call to the attention of my colleagues a recent editorial in the News American commending Senator BEALL for his impressive record on behalf of the elderly. I ask unanimous consent that the editorial be printed in the RECORD.

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

HELP FOR THE ELDERLY

Sen. J. Glenn Beall Jr. is gradually building a solid record of legislative prominence.

As ranking Republican member of the Senate Subcommittee on Aging, Sen. Beall has introduced legislation to expand and extend the Older Americans Act. The proposal would strengthen the Administration on Aging (AOA) by upgrading it to independent status within the Office of the Secretary of Health, Education and Welfare. Besides that, the bill also significantly expands the authority and funding level of AOA.

The bill includes provisions to expand and improve senior citizen centers, to expand the volunteer programs for the elderly which are administered by the agency, to train personnel to meet the needs of older Americans, and to support various research and demonstration projects involving problems of the aging.

Increasingly, more Americans are older Americans. The problems of the aging have been brought sharply to the attention of the public and to the government. So far, many of those problems remain unresolved. We are glad to see Sen. Beall moving forward with legislation which, if passed and signed into law by President Nixon, should do much to alleviate the plight of our senior citizens.

## BUDGET INFORMATION

Mr. MUSKIE. Mr. President, I would like to bring to the attention of the Senate an excellent research article prepared at my request by Mr. John Braden,

an economic analyst for the Library of Congress Congressional Research Service. The article provides a most revealing background and analysis of the Budget and Accounting Act of 1921 as it pertains to executive confidentiality and its relationship to S. 676. S. 676, which I introduced on January 31, contains the same objectives as S. 1214 which Senator ERVIN and I introduced today as a substitute for S. 676.

Among numerous items of interest in the article is the statement:

The provisions of Section 206 (Budget and Accounting Act of 1921) make it impossible to presume that any authority rests with anyone in the executive branch of the government to withhold preparatory budget information should either house of Congress wish to review such documents.

S. 676 and S. 1214 both go one step further and provide, without request, that estimates or requests for appropriations be submitted to the Congress at the same time it is submitted to the Executive. Certainly, if the Congress is going to perform its constitutional role in setting spending ceilings and determining program priorities it must have available the basic information from which the Executive determines its budget priorities.

As I stated when introducing S. 1214 without such timely and complete information the Congress will have a very difficult time in implementing the thoughtful reform proposals for a responsible legislative role in the budget making process outlined by the Joint Study Committee on Budget Control in their recent recommendations.

I ask unanimous consent that the analysis be printed in the RECORD.

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

THE BUDGET AND ACCOUNTING ACT OF 1921: BACKGROUND AND ANALYSIS OF EXECUTIVE CONFIDENTIALITY IN RELATIONSHIP TO S. 676

BACKGROUND

The Budget and Accounting Act of 1921 [1] was an outgrowth of the financial problems facing the U.S. Government after World War I. The War forced the Federal budget into a position of continuing deficit imbalance as war expenditures inflated government spending far beyond Federal revenues. A sharp increase in the National debt continued for several years after the War's close as a result of accumulated government obligations. This escalation of public indebtedness caused substantial concern among Congressmen who, in times of peace, had become accustomed to a balanced or surplus budget status. Raising taxes was considered an undesirable alternative to reconciling the budget by most legislators, and as a result, the favored direction of Congressional action was toward a reduction of Federal expenditures.

The Federal budget process at this time was decentralized and disorganized. Individual proposals were submitted annually to Congress by each Federal department and agency without any centralized attempt to coordinate the requests or to compose an aggregate budget statement. Many Congressmen recognized the difficulty of reducing the level of spending without some system by which budget priorities might be set in a unified manner. In 1919, both the House and the Senate formed select committees on the budget which were charged with the task of suggesting ways in which the Federal budget procedure might be improved. The House Select Committee was more vigorous and comprehensive in its response to its charge, and in late 1919, it proposed legislation designed to institute a centralized budget bureau in the executive branch. The Committee also proposed the formulation of a separate agency to carry on the auditing and accounting of Federal finances. The report of the House Select Committee was the forerunner of the Budget and Accounting Act passed a year and a half later.

One major issue emerged as the budget reform measure made its way through Congress: The House and the Senate disagreed with respect to the proper hierarchical placement of the proposed budget bureau. The Senate preferred the bureau to be within the baliwick of, and responsible to, the Secretary of the Treasury. The House wanted a bureau tied directly to the President. In its final form, as it was reported out of joint conference committee, the bill placed the bureau structurally beneath the Secretary of the Treasury while making its work, the formulation of a centralized budget, the responsibility of the President.

The Budget and Accounting Act was vetoed by President Wilson in 1920 because of a technicality involving the President's ability to appoint or remove the director of the proposed Government Accounting Office. The measure was again introduced into Congress in 1921, passed easily, and was signed into law by President Harding who found Congressional control over the directorship of the G.A.O. to be less objectionable.

The Budget and Accounting Act of 1921 had the following fundamental features:

The direction given to the President annually to prepare and submit to Congress a document to be know as the Budget, which should give complete information regarding the condition of the treasury, revenues, and expenditures in the past and his program in respect to the provision that should be made for expenditures in the future and the manner in which such expenditures should be financed; the prohibition of any other officer of the government to request the grant of funds except when called upon to do so by Congress; the provision of a new service to be known as the Bureau of the Budget, which should act as the agency of the President for the preparation of the budget; and the creation of the new service, the General Accounting Office, with a Comptroller General at its head, which should be an independent establishment and take over all the duties formerly vested in the Comptroller of the Treasury and the six Auditors for the departments, which offices were abolished. The character of these provisions and their significance will be fully set forth in the pages that follow.[2]

The Budget and Accounting Act represented the first effort of Congress to deal with a comprehensively formulated budget, and was considered a great improvement on the previously existing, decentralized budget procedure. One of the most significant effects of the act was to place responsibility for the establishment of budget priorities directly on the President.

THE BUREAU OF THE BUDGET [3] AND THE PRESIDENT

The hierarchical position of the Bureau of the Budget remained ambiguous until 1939, at which time it was incorporated into the Executive Office of the President. In practice, however, its position has remained consistent and identifiable: The Bureau serves as the locus at which Presidential priorities with respect to existing Federal programs and new initiatives are expressed in terms of dollars. The Bureau collects estimates from all agencies and departments in the executive branch and molds them into a comprehensive outline of Federal action for the coming fiscal year.

Because it has this function of composing an annual outline of the executive program, a close relationship between the Bureau of the Budget and the President is understandably important. Under Title II of the Budget and Accounting Act of 1921, the President is made fully responsible for the formulation of the budget:

Sec. 201. The President shall transmit to Congress on the first day of each regular session, the Budget, which shall set forth in summary and in detail:

(a) Estimates of the expenditures and appropriations necessary in his judgment for the support of the Government for the ensuing fiscal year . . .

(b) His estimates of the receipts of the Government during the ensuing fiscal year . . .

Sec. 206. No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress.

Sec. 207. The Bureau [of the Budget], under such rules and regulations as the President may prescribe, shall prepare for him the Budget, the alternative Budget, and any supplemental or deficiency estimates, and to this end shall have authority to assemble, correlate, revise, reduce, or increase the estimates of the several departments or establishments.[4]

Section 207 describes a very close working relationship between the President and the Bureau of the Budget. This relationship has gone virtually unchallenged by Congress until the very recent decision on the part of the Senate to require confirmation of the Director and Assistant Director of the Office of Management and Budget. It appears that the only definite ramification on the functioning of the O.M.B. of this new development in the Senate will be to require that the Director and Assistant Director submit to questioning by the appropriate Senate committee preceding confirmation. Otherwise, the functioning of the budget bureau as an agent of the President does not appear to be altered.

CONGRESSIONAL ACCESS TO PREPARATORY BUDGET INFORMATION

The above passages, quoted from the Statutes at Large, describe a budget process in which departmental and agency needs are made known to the Bureau of the Budget, at which point they are coordinated, adjusted according to Presidential priorities, and submitted for the President's approval. After complete executive review, the refined aggregate budget is finally released for Congressional consideration. Section 206, Title II, of the Budget and Accounting Act, clearly states that preliminary facts and figures used to formulate the final comprehensive budget should not be submitted to Congress unless specifically requested to do so by either or both houses. Two reasons stand behind this provision. First, Congress believed that it would be needlessly confusing to receive preparatory data as well as final data when all Congressional decisions depended only on the final budget statement. Second, Section 206 served to emphasize the President's new role as chief budget officer, and to underscore Congress' determination that the President should make his program priorities known through his budget recommendations. The law is clearly intended to reduce the fragmentation of budget data and simplify the job which Congress faces in acting on the budget. However, the provisions of Section 206 make it impossible to presume that any authority rests with anyone in the executive branch of the government to withhold preparatory budget in-

Footnotes at end of article.

formation should either house of Congress wish to review such documents.

The confidentiality of preliminary budget data and reports has been the subject of numerous Budget Circulars [5] since the Budget and Accounting Act came into law in 1921. Circular number A–10, issued January 18, 1964, is the currently effective statement of Bureau policy with respect to the availability of preparatory budget information:

3. *Restrictions on disclosure of agency estimates.* All budget estimates and supporting materials submitted to the Bureau of the Budget are privileged communications. Their confidential nature must be maintained, since they are the basic data and worksheets in the process by which the President resolves budget problems and arrives at conclusions with respect to his recommendations to the Congress. The head of each agency is responsible for preventing disclosure of information contained in such estimates and materials except on request in formal appropriation hearings and when requested by Members of the Congress in connection with their consideration of the budget after its transmittal.

4. *Restrictions on premature disclosure of Presidential recommendations.* The decisions of the President as to his budget recommendations and estimates are administratively confidential until made public by the President. The head of each agency is responsible for preventing premature disclosure of information as to such recommendations and estimates. This rule does not apply, however, to the presentation of data on the President's budget to the Appropriations Committees, pursuant to arrangements made in specific instances by the Bureau of the Budget, in connection with any formal hearings on the budget which may be held prior to the actual transmittal of the recommendations of the President.

5. *References to supplemental appropriation requirements.* Paragraphs 3 and 4 relating to restrictions on disclosure of agency estimates and Presidential recommendations apply to supplemental as well as to annual estimates. However, if a supplemental request is being considered but has not yet been recommended by the President, a witness may appropriately mention the fact, but should not state the amount which he thinks is needed, unless this information is explicitly requested.[6]

Paragraph 3 of the 1964 Circular appears to challenge the open-ended provisions of the Budget and Accounting Act with respect to Congress's ability to receive budget information. Confidentiality is upheld except ". . . on request in formal appropriations hearings . . . in connection with their consideration of the budget *after* its transmittal." (My emphases). This paragraph, then, imposes temporal and situational qualifications on excessive responsiveness to Congressional requests. These qualifications are extremely questionable in view of Section 206 of the Budget and Accounting Act which provides no justification for such limitations on Congress' rights to budget data. *It would appear that this assertion of administrative restraint is without statutory defense.*

Paragraph 4 is similarly confining with respect to the release of budget information to Congress. However, this paragraph applies to Presidential recommendations rather than to agency reports and estimates, and does provide for discussion about such recommendations prior to the transmittal of the budget. The section which deals with ". . . presentation of data on the President's budget to the Appropriations Committees . . ." is the one dubious restriction in paragraph 4. If it is interpreted to restrict the disclosure of information to Congressional bodies other than the Appropriations Committees, this provision would stand in violation of the Budget and Accounting Act.

Budget Circular A–10 does, therefore, appear to express an opinion, on the part of the executive, that revelation of preliminary budget documents to Congress should be liimted to specific circumstances. However, there is no statutory justification for such restrictions. The provisions of section 206 of the 1921 Act prevail over policy statements issued in Budget Circulars, and must be regarded as warranting Congressional review of preparatory budget information.

Title 5, Section 552 of the U.S. Code, regulates the issuance of information by Federal departments and agencies. Except under specific circumstances delineated by Section 552, this Federal regulation calls for the general issuance of documents and data produced by Federal agencies and departments. Part c of Section 552 states:

"This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress." [7]

Part b of the same section states, in part, that among those documents which are permitted to receive confidential treatment are those "required by Executive order to be kept secret in the interest of the national defense or foreign policy." [8] This is the only provision in that public law which can be construed as permitting the withholding of preparatory budget reports. The use of this provision as justification for confidential handling of such information is clearly tenuous. However, in practice, the exceptions to public revelation of governmental documents have been extended to encompass information deemed by the President to be critical to the national welfare or to the confidential relationships existing between executive personnel. Congress has been unwilling to formally challenge the assertion of "executive privilege", when it has been invoked in deference to the national welfare or executive relationships, because of its awareness that secrecy may at times be desirable for reasons of expediency, efficiency, or timing.

Recent testimony by Roy L. Ash, current Director of the Office of Management and Budget, before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, serves to shed additional light on the present attitude on the part of the administration toward the status accorded preparatory budget documents.[9] In response to a question by Senator Edmund Muskie as to whether Mr. Ash would assert executive privilege as the rationale for the withholding of such documents, Mr. Ash flatly responded in the negative. He also stated that, though it is the feeling of the administration that budgetary efficiency would be hindered rather than helped by the release of such information, ". . . it is not up to us [the executive] to determine how best to run the Congress." [10] Mr. Ash did mention the possibility that preliminary documents might be considered as being Presidential "working papers", but was not permitted to deduce the impact of such a designation on their status.

The conclusion to be drawn from Mr. Ash's testimony is that there is strong feeling on the part of the administration that the release of unrefined budget reports is an undesirable prospect even though there is awareness among administrators that legal precedent establishes the right of Congress to receive such information. Withholding preparatory documents by the invocation of executive privilege or the inclusion of such information in the secret "working papers" of the President would raise serious questions with respect to the ability of administrators to declare confidentiality without the consent of Congress. Such a declaration would stand in direct opposition to the stipulations of the Budget and Accounting Act of 1921.

CONFIDENTIALITY AND THE PROVISIONS OF S. 676

Briefly stated, S. 676 provides for the routine transmittal of preliminary budget information to Congress and to the public, as well as to the Office of Management and Budget. We have seen that the Budget and Accounting Act of 1921 specifically requires that this sort of information be made available to Congress upon the request of either house. We have also concluded that subsequent policy statements issued by directors of the Bureau of the Budget have been consistent in taking account of this provision, though they appear to have initiated several compromises on the Congress' access to preparatory documents. Nevertheless, the principle of Congressional authority to request budget information from the executive branch remains statutorily intact. Hesitance on the part of administrative officials to provide information dealing with original budget requests would contravene legal precedence. Nothing appears to compromise Congress' right to statutorily assert that such information should be made available to Congress by executive departments and agencies annually.

The legal justication for S. 676 seems beyond question. However, passage of S. 676 runs the risk of irritating the sensitivity existing among administrators to the confidentiality which protects their interrelationships. It is precisely this ability to function outside of the range of public scrutiny, and ability considered essential by most administrators, that is threatened most seriously by S. 676. Careful evaluation of the advantages and disadvantages of administrative confidentiality, specifically as it may have importance in budget matters, should be an important element in the discussion of that bill.

FOOTNOTES

[1] See reprint in the Appendix. For the amended version of the law, see 31 U.S.C. 1–24. No significant alterations have been made in the law with respect to Congressional access to preliminary budget data.

[2] Willoughby, W. F., *The National Budget System*, Johns Hopkins Press, Baltimore, 1927, p. 33.

[3] "Bureau of the Budget" will be used interchangeably with "Office of Management and Budget" in this report.

[4] *The Statutes at Large of the United States of America*, Volume 42, 1923, p. 20–27. Sections 201 and 207 have been amended since 1923, but there has been no change in the intent or purpose of these provisions. See 31 U.S.C. 1–24.

[5] Budget Circulars are policy directives issued by the director of the Bureau of the Budget. See the Appendix for reprints of selected previous policy statements regarding confidentiality.

[6] "Budget Circular No. A–10, Revised," Executive Office of the President, January 18, 1964, p. 1–2. See Appendix for full text.

[7] *United States Code Congressional and Administrative News*, 90th Congress 1st Session, volume 1, p. 59.

[8] Ibid, p. 58–59.

[9] "Executive Impoundment of Appropriated Funds and S. 373," testimony given by Roy L. Ash before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, February 7, 1973.

[10] Ibid, p. 841.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Without objection, morning business is closed.

## FEDERAL AID HIGHWAY ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The bill will be read by title.

The legislative clerk read the bill (S. 502) by title, as follows:

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.

SHORT TITLE

The Senate proceeded to consider the bill, which had been reported from the Committee on Public Works, with an amendment to strike out all after the enacting clause and insert:

SEC. 101. This Act may be cited as the "Federal-Aid Highway Act of 1973".

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976." and inserting in lieu thereof the following: "the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1976."

AUTHORIZATION OF USE OF COST ESTIMATE FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion for fiscal years 1974, 1975, and 1976 the sums authorized to be appropriated for such years for expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5, House Committee Print Numbered 92–29.

SEC. 104. Section 104(b)(5) of title 23, United States Code, is amended by striking "1974" from the sentence preceding the next to the last sentence and inserting in lieu thereof "1975", and by striking the next to the last sentence.

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, out of the Highway Trust Fund, $650,000,000 for the fiscal year ending June 30, 1974, $650,000,000 for the fiscal year ending June 30, 1975, and $650,000,000 for the fiscal year ending June 30, 1976. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $350,000,000 for the fiscal year ending June 30, 1974, $350,000,000 for the fiscal year ending June 30, 1975, and $350,000,000 for the fiscal year ending June 30, 1976.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $850,000,000 for the fiscal year ending June 30, 1974, $850,000,000 for the fiscal year ending June 30, 1975, and $850,000,000 for the fiscal year ending June 30, 1976. For the extension of the Federal-aid primary and secondary systems in urban areas, out of the Highway Trust Fund, $350,000,000 for the fiscal year ending June 30, 1974, $350,000,000 for the fiscal year ending June 30, 1975, and $350,000,000 for fiscal year ending June 30, 1976.

(3) For forest highways out of the Highway Trust Fund, $33,000,000 for the fiscal year ending June 30, 1974, $33,000,000 for the fiscal year ending June 30, 1975, and $33,000,000 for the fiscal year ending June 30, 1976.

(4) For public lands highways, out of the Highway Trust Fund, $16,000,000 for the fiscal year ending June 30, 1974, $16,000,000 for the fiscal year ending June 30, 1975, and $16,000,000 for the fiscal year ending June 30, 1976.

(5) For forest development roads and trails, $75,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976.

(6) For public lands development roads and trails, $10,000,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $10,000,000 for the fiscal year ending June 30, 1976.

(7) For park roads and trails, $3,000,000 for the year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976.

(8) For parkways, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976.

(9) For Indian reservation roads and bridges, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976.

(10) For carrying out section 319(b) of title 23, United States Code (relating to landscaping and scenic enhancement), out of the Highway Trust Fund, $15,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976.

(11) For necessary administrative expenses in carrying out section 131, section 136 and section 319(b) of title 23, United States Code, $1,500,000 for the fiscal year ending June 30, 1974, $1,500,000 for the fiscal year ending June 30, 1975, and $1,500,000 for the fiscal year ending June 30, 1976.

(12) For carrying out section 215(a) of title 23, United States Code (relating to territorial highway development program), out of the sums in the Treasury not otherwise appropriated:

(A) for the Virgin Islands not to exceed $2,500,000 for the fiscal year ending June 30, 1974, not to exceed $2,500,000 for the fiscal year ending June 30, 1975, and not to exceed $2,500,000 for the fiscal year ending June 30, 1976;

(B) for Guam not to exceed $2,000,000 for the fiscal year ending June 30, 1974, not to exceed $2,000,000 for the fiscal year ending June 30, 1975, and not to exceed $2,000,000 for the fiscal year ending June 30, 1976; and

(C) for American Samoa not to exceed $500,000 for the fiscal year ending June 30, 1974, not to exceed $500,000 for the fiscal year ending June 30, 1975, and not to exceed $500,000 for the fiscal year ending June 30, 1976.

(b) For each of the fiscal years 1974, 1975, and 1976, no State shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under paragraph (5) of subsection (b) of section 104 of title 23, United States Code. Whenever such amounts made available for the Interstate System in any State exceed the cost of completing that State's portion of the Interstate System, the excess amount shall be transferred to and added to the amounts apportioned to such State under paragraphs (1), (2), (3), and (6) of subsection (b) of section 104 of title 23, United States Code, in the ratio which these respective amounts bear to each other in that State. For the purpose of carrying out this subsection, there are authorized to be appropriated out of the Highway Trust Fund not to exceed 50,000,000 for the fiscal year ending June 30, 1974, $50,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976.

DEFINITIONS

SEC. 106. (a) The definition of "construction" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce), acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas."

(b) The definition of "Indian reservation roads and bridges" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'Indian reservation roads and bridges' means roads and bridges that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government on which Indians reside, or Indian and Alaska native villages, groups or communities in which Indians and Alaska natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians."

(c) The definition of "urbanized area" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area designated by the Bureau of the Census."

(d) The definition of "urban area" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'urban area' means an urbanized area, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census."

DECLARATION OF POLICY

SEC. 107. Subsection (b) of section 101 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"It is further declared to be in the national interest and to be the intent of Congress that in the administration of the Federal-aid highway program the Secretary shall carry out the program in such a manner as to give the highest priority in all instances, to highway safety and the saving of human lives."

MINIMIZATION OF REDTAPE

SEC. 108. Section 101 of title 23 of the United States Code is amended by adding at the end thereof the following new subsection:

"(e) It is the national policy that to the maximum extent possible the procedures to be utilized by the Secretary and all other affected heads of Federal departments, agencies, and instrumentalities for carrying out this title and any other provision of law relating to the Federal highway programs shall encourage the minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so

as to prevent needless duplication and unnecessary delays at all levels of government."

FEDERAL-AID SYSTEMS REALIGNMENT

SEC. 109. (a) Section 103(b) of title 23, United States Code, is renumbered as section 103(b)(1) and a new section 103(b)(2) is added to read as follows:

"(2) After June 30, 1975, the Federal-aid primary system shall consist of an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section."

(b) Section 103(c) of title 23, United States Code, is renumbered as section 103(c)(1) and a new subsection 103(c)(2) is added to read as follows:

"(2) After June 30, 1975, the Federal-aid secondary system shall consist of rural major collector routes. The Federal-aid secondary system shall be designated by each State through its State highway department and appropriate local officials in cooperation with each other, subject to the approval of the Secretary as provided in subsection (f) of this section."

(c) Section 103(d) of title 23, United States Code, is renumbered as section 103(d)(1) and a new subsection 103(d)(2) is added to read as follows:

"(2) After June 30, 1975, the Federal-aid urban system shall be located in urban areas and shall consist of arterial routes and collector routes exclusive of urban extensions of the Federal-aid primary system. The routes on the Federal-aid urban system shall be designated by appropriate local officials, subject to the approval of the Secretary as provided in subsection (f) of this section, and in the case of urbanized areas shall be in accordance with the planning process required pursuant to the provisions of section 134 of this title."

(d) Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980 or a planned connected system.

(e) In addition to the foregoing amendments, the second sentence of section 103(c)(1) of title 23, United States Code, is amended to insert, after the words "local rural roads," the phrase, "access roads to airports,".

FEDERAL-AID URBAN SYSTEM

SEC. 110. (a) Subsection (d)(1) of section 103 of title 23, United States Code, is amended by striking the first, second, third, fourth, and fifth sentences and inserting in lieu thereof the following:

"The Federal-aid urban system shall be established in each urban area. The system shall be so located as to serve the major centers of activity, and shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system to the extent feasible shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, after consultation with the State highway departments, and, in urbanized areas, in accordance with the planning process under section 134 of this title. Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section."

(b) Subsection (d) of section 105 of title 23, United States Code, is amended to read as follows:

"(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials after consultation with the State highway department and, in urbanized areas, in accordance with the planning process required pursuant to section 134 of this title."

TRANSFER OF INTERSTATE SYSTEM MILEAGE WITHIN A STATE

SEC. 111. (a) The fourth sentence of subsection (e)(2) of section 103 of title 23, United States Code, is amended to read:

"The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph; such costs shall be that as of the date of the withdrawal."

(b) Paragraph (2) of subsection (e) of section 103 of title 23 of the United States Code is amended by adding at the end thereof the following:

"The authority granted by this paragraph shall expire on the date of enactment of the Federal-Aid Highway Act of 1973. However, the amendment contained in section 111 (a) of the Federal-Aid Highway Act of 1973 shall be retroactive."

(c) Subsection (e) of section 103 of title 23, United States Code, is amended by adding the following:

"(4) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title prior to the enactment of this paragraph, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System or will no longer be essential by reason of the application of this paragraph and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of such interstate route or portions thereof within that State as provided in this subsection necessary to provide the essential connection of the Interstate System in such State in lieu of the route or portions thereof which were withdrawn. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph. Such costs shall be the costs of the withdrawn route. Whenever the Secretary determines that such routes or portions thereof are not essential or whenever the amounts necessary for the completion of the substitute essential routes or portions thereof are less than the cost of the withdrawn route or portions thereof, the amounts remaining or the difference shall be transferred to and added to the amounts apportioned to such State for use in accordance with paragraph (6) of subsection (b) of section 104 of title 23, United States Code, for the account of the urbanized area from which the withdrawal of the routes or portions thereof was made in such urbanized areas. In considering routes or portions thereof to be added to the Interstate System under the second and third sentences of this paragraph, the Secretary shall, in consultation with the States and local governments concerned, assure (A) that such routes or portions thereof will provide a unified and connected Interstate System, and (B) the extension of routes which terminate within municipalities served by a single interstate route, so as to provide traffic service entirely through such municipalities. Any mileage from a route or portion thereof which is withdrawn under the second sentence of this paragraph and not replaced by a substitute essential route or portion thereof may be redesignated as part of the Interstate System by the Secretary in accordance with paragraph (1) of this subsection."

REMOVAL OF DESIGNATED SEGMENTS OF THE INTERSTATE SYSTEM

SEC. 112. Section 103(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not necessary for continuity of traffic flows between cities. Nothing shall prohibit the consideration for substitution prior to July 1, 1975, of alternative segments of the Interstate System which will meet the requirements of this title. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest."

APPORTIONMENT

SEC. 113. (a) Paragraphs (1) and (2) of subsection (b) of section 104 of title 23, United States Code, is amended by striking the words "star routes" each time they appear and inserting in lieu thereof "intercity mail routes where service is performed by motor vehicles.".

(b) Paragraph (6) of subsection (b) of section 104 of title 23, United States Code, is amended by striking the word "urbanized" wherever it appears and inserting in lieu thereof "urban", and by adding at the end thereof the following: "No State shall receive less than one-half of 1 per centum of each year's apportionment."

(c) Subsection (c) of section 104 of title 23, United States Code, is amended by striking out "20 per centum" in each of the two places it appears and inserting in lieu thereof in each such place the following: "30 per centum" and by striking out "paragraph (1), (2), or (3)" and inserting in lieu thereof "paragraph (1) or (2)".

(d) Subsection (d) of section 104 of title 23, United States Code, is amended to read as follows:

"(d)(1) Not more than 30 per centum of the amount apportioned in any fiscal year to each State in accordance with paragraph

(3) of subsection (b) of this section may be transferred from that apportionment to the apportionment under paragraph (6) of subsection (b) of this section if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. The total of such transfers shall not increase the original apportionment under such paragraph by more than 30 per centum.

"(2) In the case of a State for which the Administrator of the Environmental Protection Agency has certified or otherwise stated that one or more air quality regions within such State will fail to achieve, by July 1, 1975, levels of air quality necessary for attainment of the primary ambient air quality standard specified for carbon monoxide, oxides of nitrogen, or photochemical oxidents (hydrocarbons) in accordance with section 109 of the Clean Air Act (42 U.S.C. 1857 et seq.), the Secretary may require such State to transfer all sums apportioned to such State under paragraph (3) of subsection (b) of this section to the sums apportioned to such State under paragraph (6) of subsection (b) of this section, for the account of the urbanized area within the air quality region designated by the Secretary to receive emergency assistance for transportation system improvements."

(e) The last sentence of subsection (c) of section 104 of title 23, United States Code, is hereby repealed.

APPORTIONMENT OF PLANNING FUNDS

SEC. 114. Subsection (f) of section 104 of title 23, United States Code, is amended to read as follows:

"(f)(1) On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title.

"(2) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

"(3) The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

"(4) The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metropolitan area transportation needs."

ADVANCE ACQUISITION

SEC. 115. (a) Section 108(a) of title 23, United States Code, is amended by striking out "seven years" in the last sentence and inserting in lieu thereof "ten years".

(b) Section 108(c)(3) of title 23, United States Code, is amended by striking out "seven years" in the first sentence and inserting in lieu thereof "ten years".

STANDARDS

SEC. 116. (a) Subsection (1) of section 109 of title 23, United States Code, is amended by adding at the end thereof the following: "The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisititon of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title."

(b) Subsection (j) of section 109 of title 23, United States Code, is amended by inserting "(1)" after "(j)" and adding a new paragraph (2) as follows:

"(2) After June 30, 1973, no highway program or project submitted to the Secretary in accordance with this title shall be approved by the Secretary unless it is in conformity with guidelines established by the Secretary under this subsection and, in the case of a highway program or project proposed for an air quality control region which the Administrator of the Environmental Protection Agency has determined will require the imposition of transportation controls to attain primary ambient air quality standards, is consistent with the implementation plan approved or promulgated for such region under section 110 of the Clean Air Act (42 U.S.C. 1857 et seq.).".

SIGNS ON PROJECT SITE

SEC. 117. Subsection (a) of section 114 of title 23, United States Code, is amended by striking out the last sentence thereof and inserting in lieu thereof the following:

"After June 30, 1973, the State highway department shall not erect on any project where actual construction is in progress and visible to highway users, any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation."

CERTIFICATION ACCEPTANCE

SEC. 118. (a) Section 117 of title 23, United States Code, is amended to read as follows:

"§ 117. Certification acceptance

"(a) The Secretary may discharge any of his responsibilities under this title relative to projects on the Federal-aid systems, except the Interstate System, upon the request of any State, by accepting a certification of its capability to perform such responsibilities, if he finds that such projects will be carried out in accordance with State laws, regulations, directives, and standards establishing requirements at least equivalent to those contained in, or issued pursuant to, this title.

"(b) The Secretary shall make a final inspection of each such project upon its completion and shall require an adequate report of the estimated and actual cost of construction as well as such other information as he determines necessary.

"(c) The procedure authorized by this section shall be an alternative to that otherwise prescribed in this title. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

"(d) Acceptance by the Secretary of a State's certification under this section may be rescinded by the Secretary within his discretion.

"(e) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et seq.), title VIII of the Act of April 11, 1968 (Public Law 90-284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), other than this title."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking out

"117. Secondary road responsibilities."

and inserting in lieu thereof the following:

"117. Certification acceptance."

MATERIALS AT OFF-SITE LOCATIONS

SEC. 119. Section 121(a) of title 23, United States Code, is amended by inserting after the period of the end thereof the following: "Such payments may also be made in the case of any such materials not in the vicinity of such construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity."

PAYMENT TO STATES FOR BOND RETIREMENT

SEC. 120. The first sentence of section 122 of title 23, United States Code, is amended by inserting the following after "maturity": "and in the case of the Interstate System principal and interest of such bonds,".

PUBLIC HEARINGS

SEC. 121. Subsection (a) of section 128 of title 23, United States Code, is amended by adding the following at the end thereof:

"The Secretary shall also require with the submission of plans for a Federal-aid project an assurance from the State highway department that it has taken all steps required pursuant to guidelines issued by the Secretary to insure and foster public participation in the development of such project before and after the public hearings required by this subsection."

TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES

SEC. 122. After the second sentence of section 129(b) of title 23, United States Code, insert the following:

"When any such toll road which the Secretary has approved as a part of the Interstate System is made a toll-free facility, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System."

FERRY OPERATIONS

SEC. 123. The last subsection of section 129 of title 23, United States Code, is redesignated as subsection (g) and paragraph (5) of that subsection is amended to read as follows:

"(5) Such ferry may be operated only within the State (including among the islands which comprise the State of Hawaii) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii and operations between the States of Alaska and Washington or between any two points within the State of Alaska, no part of such a ferry operation shall be in any foreign or international waters."

CONTROL OF OUTDOOR ADVERTISING

SEC. 124. (a) The first sentence of subsection (b) of section 131 of title 23, United States Code, is amended by inserting after "main traveled way of the system," the following: "and Federal-aid highway funds apportioned on or after January 1, 1974, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the

Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way,".

(b) Subsection (c) of section 131 of title 23, United States Code, is amended to read as follows:

"(c) Effective control means that such, signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1974, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, and (3) signs, displays, and devices advertising activities conducted on the property on which they are located."

(c) Subsection (d) of section 131 of title 23, United States Code, is amended by striking out the first sentence thereof and inserting the following in lieu thereof:

"In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary."

(d) Subsection (e) of section 131 of title 23, United States Code, is amended to read as follows:

"(e) Any nonconforming sign under State law enacted to comply with this section shall be removed no later than the end of the fifth year after it becomes nonconforming, except as determined by the Secretary."

(e) Subsection (f) of section 131 of title 23, United States Code, is amended by inserting the following after the first sentence: "The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained."

(f) Subsection (g) of section 131 of title 23, United States Code, is amended by striking out the first sentence and inserting the following in lieu thereof:

"Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law prior to the date of enactment of the Federal-Aid Highway Act of 1973."

(g) Subsection (m) of section 131 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be apportioned to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $2,000,000 for the fiscal year 1970, not to exceed $27,000,000 for the fiscal year 1971, not to exceed $20,500,000 for the fiscal year 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, $50,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

TRANSPORTATION PLANNING IN CERTAIN URBAN AREAS

SEC. 125. Subsection (a) of section 134, of title 23, United States Code, is amended by striking the next to the last sentence and inserting in lieu thereof the following:

"The Secretary shall not approve under section 105 of this title any program for projects in any urbanized area unless he finds (1) that such projects are in accordance with a continuing comprehensive transportation planning process carried on cooperatively by the State and local communities in conformance with the objectives stated in this section, and (2) that all reasonable measures to permit, encourage, and assist public participation in such continuing comprehensive transportation planning process have been taken. The Secretary, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes, which shall include hearings, held at least annually, at which there would be a review of the transportation planning process, plans and programs, and opportunity provided for the consideration of alternative modes of transportation."

AVAILABILITY OF URBAN SYSTEM FUNDS

SEC. 126. (a) Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Availability of urban system funds.

"(a) Funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title which are attributable to urbanized areas having a population of 400,000 or more shall be allocated among such urbanized areas, or parts thereof, within any such State in the ratio that the population within each such urbanized area, or part thereof, bears to the population of all urban areas, or parts thereof, within such State.

"(b) Funds allocated in accordance with subsection (a) of this section shall be available for expenditure within any such urbanized area for projects on the urban system, including those authorized by section 142 of this title, which shall be planned in accordance with the planning process required by section 134 of this title.

"(c) Funds allocated to any urbanized area under subsection (a) of this section shall be available for expenditure in another urbanized area within such State only where the responsible public officials in both such urbanized areas agree to such availability.

"(d) Where the Secretary finds that any incorporated municipality having a population of 400,000 or more, or a combination of municipalities, at least one of which has a population of 400,000 or more, has sufficient authority under State law to develop and implement a plan for expenditure of funds attributed to such municipality or municipalities pursuant to this section and has adequate powers under State law and is suitably equipped and organized to carry out projects on the urban system, funds allocated to an urbanized area under subsection (a) of this section which are attributable to such municipality or municipalities shall be available to such municipality or municipalities for projects on the urban system, including those authorized by section 142 of this title, which shall be planned in accordance with the planning process required by section 134 of this title."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by striking

"135. Urban area traffic operations improvement programs."

and inserting in lieu thereof:

"135. Availability of urban system funds.".

CONTROL OF JUNKYARDS

SEC. 127. (a) Subsection (j) of section 136 of title 23, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following:

"(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully in existence at the effective date of State legislation enacted to comply with this section."

(b) Subsection (m) of section 136 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $3,000,000 for each of fiscal years 1970, 1971, and 1972, not to exceed $5,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

FRINGE AND CORRIDOR PARKING FACILITIES

SEC. 128. Subsection (a) of section 137 of title 23, United States Code, is amended to read as follows:

"(a) The Secretary may approve as a project on the Federal-aid urban system the acquisition of land adjacent to the right-of-way inside or outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area. Such parking facility to the extent feasible, suitable, and practicable, shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility) and liquidation of bonds or other obligations incurred in financing the local share of such facilities."

PRESERVATION OF PARKLANDS

SEC. 129. Section 138 of title 23, United States Code, is amended (1) by striking out "lands" in the first sentence and inserting in lieu thereof "areas (including water)", and (2) by striking out "lands" and "land" wherever thereafter appearing therein and inserting in lieu thereof "areas" and "area", respectively.

TRAINING PROGRAMS

SEC. 130. Subsection (b) of section 140 of title 23, United States Code, is amended by striking out in the second sentence "and 1973," and inserting in lieu thereof ", 1973, 1974, 1975, and 1976".

URBAN HIGHWAY PUBLIC TRANSPORTATION

SEC. 131. Section 142 of title 23, United States Code, is amended to read as follows:

"§ 142. Urban highway public transportation

"(a) To encourage the development, improvement, and use of public mass transportation systems operating vehicles on highways, other than on rails, for the transportation of passengers within urban areas,

"(1) sums apportioned in accordance with paragraphs (3) and (6) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within urban areas, for the construction of exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail; and

"(2) sums apportioned in accordance with paragraph (5) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the cost of projects on the Interstate System, for the construction of exclusive or preferential bus lanes, highway traffic control devices, and passenger loading areas and facilities, including shelters and fringe and transportation corridor parking facilities to serve bus and other public mas transportation passengers. Projects financed under this paragraph may also include exclusive or preferential bus, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the third sentence of section 109(b) of this title.

"(b) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of title 23, United States Code.

"(c) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(d) No project authorized by this section shall be approved unless the Secretary of Transportation is satisfied that public mass transportation systems will have adequate capability to utilize fully the proposed project and to maintain and operate properly any equipment acquired under this section.

"(e) No equipment which is acquired with financial assistance provided by this section shall be available for use in charter, leased, sightseeing, or other service in any area other than the area for which it was acquired.

"(f) In the acquisition of equipment pursuant to subsection (a) of this section, the Secretary shall require that such equipment meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act, as amended, and under section 6 of the Noise Control Act of 1972 (86 Stat. 1234), and shall authorize the acquisition, wherever practicable, of equipment which meets the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, as amended, and for low-noise-emission products set forth in section 15 of the Noise Control Act of 1972 (86 Stat. 1234).

"(g) The Secretary shall assure that the provisions of subsection (a) of section 16 of the Urban Mass Transportation Act of 1964, as amended, requiring the planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped (as defined in subsection (d) thereof), shall be implemented in projects under this section.

"(h) Funds available for expenditure to carry out the purposes of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(i) The provisions of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out the provisions of this section dealing with the purchase of equipment and its use within urban areas, to the extent such provisions are not inconsistent with, or in conflict with, the provisions of chapters 1, 3, and 5, of this title.

"(j) In any case where sufficient land exists within the publicly acquired rights-of-way of any Federal-aid highway to accommodate needed rail or nonhighway public mass transit facilities and where this can be accomplished without impairing highway safety or future highway improvements, the Secretary may authorize a State to make such lands and rights-of-way available without charge to a publicly owned mass transit authority for such purposes wherever he may deem that the public interest will be served thereby."

BICYCLE TRANSPORTATION, PEDESTRIAN WALKWAYS, AND EQUESTRIAN TRAILS

SEC. 132. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 145. Bicycle transportation, pedestrian walkways, and equestrian trails

"(a) To encourage the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways and equestrian trails on or in conjunction with highway rights-of-way, the States may, on projects carried out with sums apportioned in accordance with subsection (b) of section 104 of this title, include to the extent practicable, suitable, and feasible, the construction of separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles, pedestrian walkways, and equestrian trails in conjunction or connection with Federal-aid highways. Projects authorized under this section shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(c) Funds authorized and appropriated for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of bicycle and pedestrian routes in conjunction wtih such trails, roads, highways, and parkways.

"(d) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by inserting at the end thereof the following:

"145. Bicycle transportation, pedestrian walkways, and equestrian trails."

TOLL ROAD REIMBURSEMENT PROGRAM

SEC. 133. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 146. Toll road reimbursement program

"(a) Whenever a State has received its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, the Secretary may permit, notwithstanding the provisions of subsection (b) of section 129 of this title, reimbursement of the Federal share of the actual cost of construction of new toll highways or improvements to existing toll highways, construction of which highways or improvement is begun after July 1, 1973, but not including the cost of toll collection and service facilities, on the same basis and in the same manner as in the construction of free highways under this chapter upon compliance with the conditions contained in this section.

"(b) The Secretary may permit reimbursement of the Federal share of the costs of construction as applicable to a project under section 120(a) of this title from funds apportioned to such State pursuant to paragraph (1) subsection (b) of section 104 of this title whenever the State enters into an agreement with the Secretary whereby it undertakes performance of the following obligations:

"(1) to provide for the construction of such highway in accordance with standards approved by the Secretary;

"(2) all tolls received from the operation of such highway, less the actual cost of such operation and maintenance, shall be applied by the State to the repayment of the actual costs of construction, except for an amount equal to the Federal share payable of such actual costs of a project; and

"(3) no tolls shall be charged for the use of such highway after the Federal share has been paid and the highway shall be maintained and operated as a free highway.

Such agreements may be entered into between the Secretary and a State upon enactment of this section. Reimbursements shall not be made until after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System.

"(c) When such highway becomes toll free in accordance with the aforementioned agreement, such highway shall become a part of the primary system notwithstanding the mileage limitations in subsection (b) of section 103 of this title.

"(d) The Federal share payable of such actual cost of the project shall be made in not more than fifteen equal annual installments, from the funds apportioned to the State pursuant to paragraph (1) of subsection (b) of section 104 of this title, with the first installment being made one year after the project agreement has been entered into between the Secretary and the State highway departments or one year after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, whichever is last to occur. Such payment shall be applied against the outstanding obligations of the project."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"146. Toll road reimbursement program."

SPECIAL URBAN HIGH DENSITY TRAFFIC PROGRAM

SEC. 134. (a) Chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 147. Special urban high density traffic program

"(a) There is hereby authorized to be appropriated out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975, for the construction of highways connected to the Interstate System in portions of urbanized areas with high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for this purpose which include the following criteria:

"(1) Routes designated by the Secretary shall not be longer than ten miles.

"(2) Routes designated shall serve areas of concentrated population and heavy traffic congestion.

"(3) Routes designated shall serve the urgent needs of commercial, industrial, airport, or national defense installations.

"(4) Any routes shall connect with existing routes on the Interstate System.

"(5) Routes designated under this section shall have been approved through the planning process required under section 134 of this title and determined to be essential by responsible local officials.

"(6) A route shall be designated under this section only where the Secretary determines that no feasible or practicable alternative mode of transportation which could meet the needs of the area to be served is now available or could become available in the foreseeable future.

"(7) The designation of routes under this section shall comply with section 138 of this title, and no route shall be designated which substantially damages or infringes upon any residential area.

"(8) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(9) No more than one route in any one State shall be designated by the Secretary.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 90 per centum of the cost of construction of such project."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"147. Special urban high density traffic program."

ACCESS HIGHWAYS, TO PUBLIC RECREATIONAL AREAS ON FEDERAL LAKES

SEC. 135. (a) Chapter 1 of tilte 23 of the United States Code is further amended by adding at the end thereof the following new section:

"§ 148. Access highways to public recreation areas on Federal lakes

"(a) There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated $15,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976, for the construction or reconstruction of access highways to public recreation areas on Federal lakes in order to accommodate present and future high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

"(1) Routes designated by the Secretary shall not extend beyond 35 miles from the recreation area.

"(2) Such routes shall connect with a highway in the Federal-aid system.

"(3) The designation of routes under this section shall comply with section 138 of this title.

"(4) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 70 per centum of the cost of construction or reconstruction of such project.

"(c) Any highway not part of the Federal-aid system when constructed or reconstructed pursuant to this section shall thereafter be part of the Federal-aid secondary system except as otherwise provided pursuant to this section.

"(d) For the purpose of this section the term 'Federal lake' means a lake constructed by the Corps of Engineers, Department of the Army, or the Tennessee Valley Authority, or the Bureau of Reclamation, Department of the Interior, or a multipurpose lake constructed with the assistance of the Soil Conservation Service, Department of Agriculture. This section shall apply to lakes constructed or authorized for construction prior to the date of enactment of the Federal-Aid Highway Act of 1973."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"148. Access highways to public recreation areas on Federal lakes.".

PUBLIC TRANSPORTATION IN NATIONAL FORESTS AND PARKS

SEC. 136. (a) Subsection (f) of section 204 of title 23, United States Code, is amended to read as follows:

"(f) Funds available for forest highways shall be available for adjacent vehicular parking areas, for sanitary, water, and fire control facilities, and for passenger loading areas and facilities and the purchase of buses to provide interpretive or shuttle transportation services as an alternative means of transportation."

(b) Section 206 of title 23, United States Code, is amended by adding the following new subsection:

"(c) Funds available for park roads and trails shall be available for adjacent vehicular parking areas and for passenger loading areas and facilities and the purchase of buses to provide interpretive or shuttle transportation services as an alternative means of transportation."

PARKWAYS

SEC. 137. (a) Subsection (a) of section 207 of title 23, United States Code, is amended to read as follows:

"(a) Funds available for parkways shall be used to pay for the cost of construction and improvement thereof, including the acquisition of rights-of-way and related scenic easements."

(b) Section 207 of title 23, United States Code, is further amended by adding the following subsection:

"(d) The provisions of section 106(a) of this title, relating to the obligation of funds, shall apply to funds available for parkways."

HIGHLAND SCENIC HIGHWAY

SEC. 138. (a) The Secretary of the Interior, in cooperation with the Secretary of Agriculture (acting through the Forest Service), is authorized to develop and construct as a parkway the Highland Scenic Highway from West Virginia State Route 39 to U.S. 250 near Barton Knob.

(b) The route from Richwood, West Virginia, to U.S. 250 near Barton Knob, via West Virginia State Route 39 and he parkway authorized by subsection (a) of this section, shall be designated as the Highland Scenic Highway.

(c) Such Secretaries are authorized to acquire rights-of-way, lands containing such rights-of-way, and interests in land, including scenic easements, necessary to carry out the purpose of a scenic highway.

(d) Funds available for parkways shall be available for signs on interstate highways, Appalachian highways and other appropriate highways at natural points of access to such geographic area, indicating the direction and distance to the Highland Scenic Highway and to Richwood as "Gateway to the Highland Scenic Highway".

(e) Funds available for parkways shall be available for upgrading that portion of West Virginia State Route 39 designated as the Highland Scenic Highway to appropriate standards for a scenic and recreational highway, including the construction of vistas and other scenic improvements.

(f) Upon construction of the Highland Scenic Highway as authorized by subsection (a) of this section, such road and all associated lands and rights-of-way shall be transferred to the Forest Service and managed as part of the Monongahela National Forest, solely for scenic and recreational use and passenger car travel.

(g) Any parkway authorized in the future to proceed southward in such area shall begin in the immediate vicinity of Richwood, West Virginia.

CUMBERLAND GAP NATIONAL HISTORICAL PARK

SEC. 139. (a) Notwithstanding the definition of parkways in subsection (a) of section 101, funds available for parkways shall be available to finance the cost of reconstruction and relocation of Route 25E through the Cumberland Gap National Historical Park, including construction of a tunnel and the approaches thereto, so as to permit restoration of the Gap and provide adequate traffic capacity.

(b) Upon construction, such highway and tunnel and all associated lands and rights-of-way shall be transferred to the National Park Service and managed as part of the Cumberland Gap National Historical Park.

ALASKA HIGHWAY

SEC. 140. (a)(1) Chapter 2 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 217. Alaska Highway

"(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highway until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

"(1) will provide, without participation of funds authorized under this title all necessary right-of-way for the reconstruction of such highways, which right-of-way shall forever be held inviolate as a part of such highways for public use;

"(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

"(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons of Canada;

"(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

"(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

"(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary."

(2) The analysis of chapter 2 of title 23 of the United States Code is amended by adding at the end thereof the following:

"217. Alaska Highway."

(b) For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of $58,670,000 to be expended in accordance with the provisions of section 217 of title 23 of the United States Code.

RESEARCH AND PLANNING

SEC. 141. Subsection (c)(1) of section 307 of title 23, United States Code, is amended to read as follows:

"(c)(1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year beginning with fiscal year 1974 to any State under section 104 of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public transportation systems and for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning, design, construction, and maintenance of highways and highway systems, and the regulation and taxation of their use."

BRIDGES ON FEDERAL DAMS

SEC. 142. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$16,761,000" and inserting in lieu thereof "$25,261,000".

(b) All sums appropriated under authority of the increased authorization of $8,500,000 established by the amendment made by subsection (a) of this section shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered 13 on the Arkansas River near Fort Smith, Arkansas, in the amount of not to exceed $2,100,000 and in connection with the reconstruction of a bridge across Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of not to exceed $6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project and the State of Tennessee for the Chattanooga project.

TECHNICAL AMENDMENTS

SEC. 143. Title 23, United States Code, is amended as follows:

(a) Section 101(a) is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Transportation".

(b) Section 109(g) is amended by striking out "Rct" and inserting in lieu thereof "Act".

(c) Sections 126(a) and 310 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

(d) The heading of section 303 is amended to read:

*"Administration organization."*

(e) Sections 308(b), 312, and 314 are amended by striking out "Bureau of Public Roads" each place it appears and inserting in lieu thereof "Federal Highway Administration".

(f) Section 309 is amended by striking out "Bureau of Public Roads" and inserting in lieu thereof "Department of Transportation".

(g) Sections 312 and 314 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

ALASKAN ASSISTANCE

SEC. 144. Subsection (b) of section 7 of the Federal-Aid Highway Act of 1966 is amended by striking at the end of the last sentence "June 30, 1972, and June 30, 1973." and substituting "June 30, 1972, June 30, 1973, June 30, 1974, June 30, 1975, and June 30, 1976."

INCREASED FEDERAL SHARE—EFFECTIVE DATE

SEC. 145. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1970 is amended to read as follows:

"(b) The amendments made by subsection (a) of this section shall take effect with respect to all obligations incurred after June 30, 1973, except for projects on which Federal funds were obligated on or before that date."

FEASIBILITY STUDIES

SEC. 146. The Secretary shall report to Congress by January 1, 1975, on the feasibility and necessity for constructing to appropriate standards proposed highways along the following routes for the purpose of including such highways in the National System of Interstate and Defense Highways:

(a) A route from Brunswick, Georgia, or its vicinity, to Kansas City, Missouri, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof: Columbus, Georgia; Birmingham, Alabama; Tupelo, Mississippi; Memphis, Tennesee; Batesville or Jonesboro, Arkansas; and Springfield, Missouri.

(b) Extension of Interstate Highway 70 from Cove Fort, Utah, or its vicinity, in a westerly direction, so aligned to serve the intermediate locations of Ely and Carson City, Nevada, or their vicinities.

(c) A route from Amarillo, Texas or its vicinity, to Las Cruces, New Mexico, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof: Herford, Texas; Clovis, New Mexico; Portales, New Mexico; Roswell, New Mexico; Ruidoso, New Mexico; Tularosa, New Mexico; and Alamogordo, New Mexico.

(d) A route from Kansas City, Missouri, or its vicinity, to Baton Rouge, Louisiana, or its vicinity so aligned to serve one or both of the following intermediate locations or vicinities thereof: Fayetteville, Fort Smith, and Texarkana, Arkansas; or Little Rock, Arkansas, or any other route through the State of Arkansas determined feasible by such State and the Secretary.

(e) A route from Interstate Highway 380 from Waterloo, Iowa, via Dubuque, Iowa, to Interstate Highway 90 at Rockford, Illinois; and an extension of Interstate Highway 74 from the Davenport, Iowa-Moline, Illinois, area through Dubuque, Iowa, to Interstate 90 at LaCrosse, Wisconsin.

(f) A route from Kansas City, Missouri, or its vicinity, to Chicago, Illinois, or its vicinity, so aligned to cross the Mississippi River in the vicinity of Hannibal, Missouri, and Quincy, Illinois.

(g) Extension of Interstate Highway 27 from Lubbock, Texas, or its vicinity in a southerly direction to intersect with Interstate 20 and, proceeding further, to intersect with Interstate 10.

STUDY OF TOLL BRIDGE AUTHORITY

SEC. 147. The Secretary of Transportation is authorized and directed to undertake a full and complete investigation and study of existing Federal statutes and regulations governing toll bridges over the navigable waters of the United States for the purpose of determining what action can and should be taken to assure just and reasonable tolls nationwide. The Secretary shall submit a report of the findings of such study and investigation to the Congress not later than July 1, 1974, together with his recommendations for modifications or additions to existing laws, regulations, and policies as will achieve a system of tolls which will best serve the public interest. During the period in which such study is being conducted, the Secretary is authorized to suspend any increases in tolls which may be proposed or imposed for toll bridges over the navigable waters of the United States.

TERMINATION OF FEDERAL-AID RELATIONSHIP

SEC. 148. (a) Notwithstanding any other provisions of Federal law or any court decision to the contrary, the contractual relationship between the Federal and State Governments shall be ended with respect to all portions of the San Antonio North Expressway between Interstate Highway 35 and Interstate Loop 410, and the expressway shall cease to be a Federal-aid project.

(b) The amount of all Federal-aid highway funds paid on account of sections of the San Antonio North Expressway in Bexar County, Texas (Federal-aid projects numbered U 244 (7), U 244(10), UG 244(9), U 244(8), and U 244(11)), shall be repaid to the Treasurer of the United States and the amount so repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highways (Trust Fund)". At the time of such repayment the Federal-aid projects with respect to which funds have been repaid and any other Federal-aid projects located on such expressway and programed for expenditure on such project, if any, shall be canceled and withdrawn from the Federal-aid highway program. Any amount so repaid, together with the unpaid balance of any amount programed for expenditure on any such project shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to the States, respectively. The amount so credited shall be available for expenditure in accordance with the provisions of title 23, United States Code, as amended.

RAILROAD RELOCATION DEMONSTRATIONS

SEC. 149. (a) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishments; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class 1 railroads in Lincoln, Nebraska, and the two class 1 railroads in Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

(b) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Brownsville, Texas, and Matamoros, Mexico, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the Brownsville Navigation District, providing for the construction of an international bridge and for the elimination of a substantial number of existing railway-road conflict points within the cities.

(c) The Federal share payable on account of such projects shall be that provided in section 120 of this title.

(d) The Secretary shall make annual reports and a final report to the President and the Congress with respect to his activities pursuant to this section.

(e) There is authorized to be appropriated not to exceed $1,000,000 in the case of Lincoln, Nebraska, $1,400,000 in the case of Elko, Nevada, and $2,150,000 in the case of Brownsville, Texas, from the Highway Trust Fund, and not to exceed $2,000,000 in the case of Lincoln, Nebraska, $2,800,000 in the case of Elko, Nevada, and $4,300,000 in the case of Brownsville, Texas, from money in the Treasury not otherwise appropriated, for carrying out the provisions of this section.

(f) The Secretary, in cooperation with State highway departments and local officials, shall conduct a full and complete investigation and study of the problem of providing increased highway safety by the relocation of railroad lines from the central area of cities

on a nationwide basis, and report to the Congress his recommendations resulting from such investigation and study not later than July 1, 1975, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this subsection.

METRO ACCESSIBILITY TO THE HANDICAPPED

SEC. 150. The Secretary of Transportation is authorized to make payments to the Washington Metropolitan Area Transit Authority in amounts sufficient to finance the cost of providing such facilities for the subway and rapid rail transit system authorized in the National Capital Transportation Act of 1969 (83 Stat. 320) as may be necessary to make such subway and system accessible by the handicapped through implementation of Public Laws 90-480 and 91-205. There is authorized to be appropriated, to carry out this section, not to exceed $65,000,000.

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROGRAM

SEC. 151. (a) To encourage the development, improvement, and use of public mass transportation systems operating vehicles on highways for transportation of passengers within rural areas, in order to enhance access of rural populations to employment, health care, retail centers, education, and public services, there are authorized to be appropriated $30,000,000 for the two-fiscal-year period ending June 30, 1975, of which $20,000,000 shall be out of the Highway Trust Fund, to the Secretary of Transportation to carry out demonstration projects for public mass transportation on highways in rural areas. Projects eligible for Federal funds under this section shall include highway traffic control devices, the construction of passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and the purchase of passenger equipment other than rolling stock for fixed rail.

(b) In the acquisition of passenger equipment pursuant to this section, the Secretary shall require that such equipment meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act, as amended, and under section 6 of the Noise Control Act of 1972 (86 Stat. 1234), and shall authorize the acquisition, wherever practicable, of equipment which meets the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, as amended, and for low-noise-emission products set forth in section 15 of the Noise Control Act of 1972 (86 Stat. 1234).

(c) The Secretary shall assure that the provisions of subsection (a) of section 16 of the Urban Mass Transportation Act of 1964, as amended, requiring the planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped (as defined in subsection (d) thereof), shall be implemented in demonstration projects under this section.

INTERSTATE ROUTE NUMBERED 66

SEC. 152. The Secretary of Transportation shall—

(1) by October 1, 1973—

(A) complete the draft environmental impact statement pursuant to section 102(2)(c) of the National Environmental Policy Act, and his determination under section 4(f) of the Department of Transportation Act and section 138 of title 23 of the United States Code, on the project for Interstate Route Numbered 66 in the State of Virginia from the National Capital Beltway to the Potomac River, which project is described in the 1972 estimate of the cost of completing the National System of Interstate and Defense Highways as estimate section termini E 10.4.2 at the Beltway to E 10.11.1 in Rosslyn,

(B) circulate such statement to all interested Federal, State, and local agencies and to the public for comment within forty-five days, and

(C) insure that notice of a public hearing on the design and location of such project is issued;

(2) insure that a public hearing is held within forty-five days after issuance of the notice pursuant to paragraph (1)(C) of this section;

(3) not later than December 31, 1973, complete consideration of the information received at the hearing, review any comments on the statement received within the forty-five-day notice period referred to in paragraph (1)(B) of this section and any other information received by the end of such forty-five-day period and file the final version of such statement on the basis of such comments and information, together with any other final determination which he is required by law to make in order to permit the construction of such project to proceed. The determination of the Secretary shall be conclusive with respect to all issues of fact.

HIGH-SPEED TRANSPORTATION DEMONSTRATION

SEC. 153. The Secretary is authorized to undertake a demonstration program for high-speed bus service from collection points in the Washington, District of Columbia area to Dulles International Airport, Virginia. Such demonstration shall utilize exclusive bus transportation lanes between points of origin and termination of such service, and include, where necessary, the construction of such exclusive bus transportation lanes as well as terminal and parking facilities. Such demonstration shall also include the purchase of high-speed buses and a portion of the operating expenses, if necessary, of such buses for a period of five years following the initiation of such service. As necessary to implement this section, the Secretary shall undertake research into the development of buses designed to maintain high-speed, safe transportation. There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $10,000,000 for the purpose of carrying out this section.

HIGHWAY LITTER STUDY

SEC. 154. The Secretary is directed to undertake a study of litter accumulation within the rights-of-way of the Federal-aid highway systems, outside of urban areas, and recommend improved procedures to be used by the several States to prevent and clean up such highway litter on a regular basis. The Secretary shall report his findings and recommendations to the Congress by December 31, 1973.

For the purposes of this section, the term "litter" means beverage and food containers, food wastes, paper products, smoking materials or packaging, and any other materials which the Secretary finds are commonly used and discarded by the traveling public and which, when discarded along highway rights-of-way, cause an unsightly appearance, a danger to public health or safety, or an unreasonable expenditure of public funds. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this section.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, in view of the fact that an informal agreement was reached not to start on the pending business until the hour of 2 o'clock, I ask unanimous consent that the time between now and 2 o'clock be used for the purpose of making speeches or other matters that may come before the Senate prior to that time.

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

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## INVITATION BY COMMITTEE ON THE JUDICIARY TO MR. JOHN W. DEAN TO ANSWER QUESTIONS

Mr. ROBERT C. BYRD. Mr. President, the Judiciary Committee voted unanimously yesterday to invite Mr. John W. Dean III, legal counsel to the President, to appear before the committee and answer questions before the committee regarding the qualifications of L. Patrick Gray III to be Director of the Federal Bureau of Investigation. The White House has today released a letter addressed by Mr. Dean to Mr. EASTLAND, chairman of the Judiciary Committee, in which Mr. Dean has declined the invitation of the committee to formally appear and testify, basing his declination upon the President's statement of March 12, 1973, on executive privilege.

Mr. Dean states that he will be pleased to respond, consistent with the President's statement, if the committee wishes to submit questions to him that have a bearing on the nomination of Mr. Gray.

Mr. President, I ask unanimous consent to insert the full text of Mr. Dean's letter to Mr. EASTLAND in the RECORD at this point.

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

THE WHITE HOUSE,
*Washington, March 14, 1973.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I am writing to acknowledge receipt of your letter of March 13, 1973, and the enclosed invitation to appear and testify before the Senate Committee on Judiciary on matters relating to the qualifications of L. Patrick Gray, III to be Director of the FBI. As a member of the personal staff of the President, and consistent with the President's statement of March 12, 1973, on Executive Privilege, I must respectfully decline the invitation of the Committee to formally appear and testify.

However, as the President has stated, it is the policy of this Administration to provide all necessary and relevant information to the Congress and that members of the President's personal staff will provide such information in a manner that preserves intact the Constitutional separation of the branches. Accordingly, if the Senate Committee on Judiciary believes that I can be of assistance in providing relevant information and wishes to submit questions to me that have a bearing on the nomination of Mr. Gray, I will be pleased to respond consistent with the President's statement.

Respectfully yours,

JOHN W. DEAN III,
*Counsel to the President.*

Mr. ROBERT C. BYRD. Mr. President, I believe that the Judiciary Committee and the Senate ought to stand by the committee's invitation of yesterday to Mr. Dean to formally appear before that committee and personally respond to questions.

Answers in writing by Mr. Dean would, of course, be consistent with the President's statement on executive privilege, but there would obviously be many areas that the Judiciary Committee feels is vital to the hearings that would not be responded to, since the President's view of executive privilege apparently differs widely from the views of many members of the committee.

Mr. Dean would also then be free to answer only those questions that he wished to answer, and only to the extent that he desired to respond. This would lead to an endless round of written questions and written answers. There is no substitute for an appearance of a witness, because written statements cannot be cross-examined. Only under live questioning can lines of questioning be developed, because it is only when the witness responds that the next question may be properly framed.

Furthermore, written responses can be drawn as narrowly as one wishes and, thus, implications of a question can be ignored in a written response.

For these reasons, Mr. Dean's offer is meaningless and should be rejected. Only his personal appearance before the committee can provide the full information required by the committee and the Senate to reach a judgment on the nomination.

I shall cite a few of the reasons why I believe the committee was justified in inviting Mr. Dean to appear.

First. The real question as to Mr. Gray's conduct of the Watergate investigation by the FBI grew out of his reliance upon what he termed the "presumption of regularity" in dealing with the White House. Because of this presumption, leads were not followed which should have been pursued, and questions were not answered which should have been asked. The committee on the other hand, would not be inhibited by any such "presumption of regularity" in its questioning of Mr. Dean.

Second. Mr. Dean conducted the White House's own investigation of possible involvement of White House personnel in the Watergate breakin, according to Mr. Gray. This very role would appear to me to make it unwise for Mr. Dean to have been the recipient of FBI reports and raw files on the progress of the investigation. Yet, on July 21, Mr. Gray responded to Mr. Dean's request for a letterhead memorandum on the FBI's progress in the case, a copy of which I ask unanimous consent to have printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr ROBERT C. BYRD. Mr. President, following the submission of the letterhead memorandum to Mr. Dean, Mr. Gray then submitted 82 investigative files to Mr. Dean.

Third. According to an affidavit given by Mr. Lawrence Young, Mr. Donald Segretti told Mr. Young that a Presidential aide had shown him the FBI interview with Segretti before he was to testify as a witness in the Watergate case. The extent of Mr. Gray's investigation of this reported leak of FBI information, was that he called Mr. Dean and asked him if he had shown the FBI reports to Segretti, whereupon Mr. Dean replied, "No, I did not have any FBI reports with me at Miami." Mr. Gray replied "all right, that is good enough for me, John." As to why Mr. Gray had called Mr. John Dean to inquire about the "leak," Mr. Gray said, "Because he is the only person over there who had custody of these reports." Mr. Gray did not ask Mr. Dean the questions that the Judiciary Committee would ask because, as I have already stated, the committee would not be straitjacketed by any so-called "presumption of regularity."

Fourth. Mr. Gray told the committee that Mr. Dean sat in on all interviews with White House personnel conducted by the FBI concerning the Watergate breakin. Mr. Gray indicated that Mr. Dean was acting in his official capacity as Counsel to the President in these interviews. Mr. Gray indicated to the committee that it would have been his preference not to have had Mr. Dean present during those interviews. But he left the impression that if Mr. Dean had not been allowed to sit in, the FBI would not have been allowed to interview White House personnel at all. Yet, Mr. Ehrlichman, in a White House press conference on March 9, was asked the following question: "Did you request that John Dean be present when you were interviewed by the FBI?" Mr. Ehrlichman answered, "Yes," and went on to state why, as follows:

> Well, as a lawyer, I have always felt it appropriate to have counsel present at an interview of that kind, and I just felt more comfortable having someone there who was an attorney, not answering the questions, but on whom I could call for advice or an opinion in the event that a question arose in my mind as to the propriety of a question.

Therefore, Mr. President, the question occurs as to whether Mr. Dean sat in on the interview with Mr. Ehrlichman as attorney for Mr. Ehrlichman or as legal counsel to the President, or both, and, if so, was there a conflict of interest?

The question also arises as to how strong a protest Mr. Gray made against the presence of Mr. Dean during the interviews of White House personnel. I think, as most people would probably agree, that Mr. Dean's presence could have had an intimidating effect upon the interviewees.

Fifth. The committee knows, from the July 21 letterhead memorandum supplied by Mr. Gray to Mr. Dean, that personnel of the Committee for the Reelection of the President also were interviewed by the FBI and that the CRP had insisted upon an attorney being present at such interviews. The July 21 memorandum sent to Mr. Dean by Mr. Gray indicated that CRP personnel had felt inhibited by the presence of the CRP attorney at the interviews, which, again, according to Mr. Gray's testimony, was the only condition under which CRP would allow the FBI to interview their personnel. The letterhead memorandum stated that some CRP personnel subsequently requested and received private FBI interviews out of the presence of CRP attorneys. It is shocking to note, however, that even these subsequent private interviews were supplied to Mr. Dean by Mr. Gray, thus destroying the sure safeguard of FBI confidentiality for any would-be future informants. Why should Mr. Gray have compromised the CRP personnel who requested private interviews by supplying reports of such interviews to Mr. Dean? Was this not a betrayal of their trust? If confidentiality can no longer be assured to persons who wish to give information to the FBI, has not the effectiveness of that law enforcement agency been seriously impaired?

The Washington Post of Tuesday, March 13, 1973, carried a newsstory stating:

> Within 48 hours of a supposedly confidential interview with the FBI in its Watergate investigation, an employee of the Committee for the Re-election of the President was summoned by Nixon's campaign officials to explain her actions according to her own sworn affidavit.
>
> The employee, who originally was interviewed by the FBI at Nixon's campaign headquarters, was one of three persons there who asked to be interviewed again in secret, away from the presence of officials of the committee.

In view of Mr. Gray's indication that interview reports were supplied to Mr. Dean, one can only surmise that Mr. Dean, in turn, compromised the confidentiality of the FBI investigation by turning over such FBI information to top campaign officials. Perhaps Mr. Dean could shed some light on this matter if he appeared before the committee.

Sixth. The very fact of Mr. Dean's relationship to one of the persons convicted in the Watergate break-in should have made Mr. Dean suspect to the FBI insofar as supplying him with FBI investigative reports was concerned. According to the testimony of Mr. Jeb McGruder, deputy campaign manager of the Committee to Reelect the President, given at the Watergate trial, John Dean brought Gordon Liddy to CRP headquarters in December 1971, in response to Mr. McGruder's request for a lawyer to do several jobs for the committee. Mr. McGruder testified that Liddy, Dean, and McGruder talked about Liddy's FBI background and the potential opportunities for CRP's use of Mr. Liddy for intelligence gathering problems. Following that meeting, Mr. Liddy was hired for the position. Mr. Liddy, as everyone knows, was one of those persons involved in the Watergate break-in.

Seventh. On the night of June 19, 1972, 2 days after the Watergate break-in, John Dean sent Bruce Kehrli, Staff Secretary to the President, to Howard Hunt's office in the Executive Office Building, where Mr. Kehrli and Mr. Dean's assistant, Fred Fielding, had Mr. Hunt's safe

opened, and they removed Hunt's property, storing it that night in Mr. Kehrli's office. The next day, June 20, the property was taken to Mr. Dean's office where Mr. Dean kept it until June 26, when he turned the property over to the FBI. Mr. Hunt, Senators will recall, was one of those persons who pleaded guilty in the Watergate case. In Mr. Hunt's motion for the return of property taken by the Government, he stated that a "Hermes" notebook and a "name finder" notebook were missing.

When questioned about the propriety and the reasons for Mr. Dean's actions, Mr. Gray appeared to indicate that the FBI saw nothing unusual in either the late night break-in of Hunt's safe or in the keeping of Hunt's belongings for 6 days in Mr. Dean's office before they were turned over to the FBI—even though Mr. Dean knew the FBI was investigating the case and that Mr. Hunt was one of those involved in the Watergate break-in. The committee should be able to ask Mr. Dean the obvious questions that the FBI apparently did not ask.

Eighth. Mr. Dean should be questioned by the Judiciary Committee as to his working relationship in the White House to Mr. Charles Colson, who, at the time of the Watergate break-in, was Special Counsel to the President. It would be helpful for the committee to know this, inasmuch as it was Mr. Colson who had recommended another one of those convicted for the Watergate break-in, Mr. Howard Hunt. According to Mr. Colson's deposition in the Watergate trial, he had recommended that Hunt be brought into the White House as a consultant in 1971. It was Mr. Colson that Mr. Ehrlichman called on June 17 in an effort to find Mr. Hunt when Mr. Ehrlichman had learned that Hunt might have been involved in the Watergate break-in. And it was Mr. Dean who, as I have already stated, had Mr. Hunt's possessions forcibly removed from Mr. Hunt's office on the night of June 19 and who retained such properties in his own office for 6 days before turning them over to the FBI.

Interestingly enough, during the hearings on the nomination of Mr. Kleindienst to be Attorney General last year, the same figure emerged in a strangely coincidental pattern. When Mr. Gray was acting in an official capacity at the Justice Department for the handling of documents to and from the Judiciary Committee, the famous Dita Beard memorandum was sent down to the FBI to determine its authenticity, under orders that such memorandum was not to leave the custody of the Bureau. Yet, Mr. Dean requested, and received, the Beard memorandum from Mr. Gray on March 10, 1972, or soon thereafter. Within days, Mr. Colson dispatched Mr. Hunt, under an alias, to Denver to talk with Dita Beard about the ITT case. The authenticity of the Beard memorandum was openly challenged by Mrs. Beard's attorney and others on March 17.

The committee ought to find out from Mr. Dean what happened, since Mr. Gray was unable to inform the committee. It stretches the imagination to believe that Mr. Gray really saw no connection and did not even inquire about any connections between Mr. Dean and Mr. Colson involving the Dita Beard memorandum which Gray supplied to Mr. Dean.

Mr. President, in my opinion, Mr. Dean's testimony before the Judiciary Committee is vital to any considered collective committee judgment of the proper conduct of the FBI investigation of the Watergate breakin and Mr. Gray's fitness to be Director of the Bureau. Without the testimony of Mr. Dean relating to these and many other unresolved questions, the Judiciary Committee has before it a record that is incomplete, the missing links of which, in view of the denial of the committee's invitation to Mr. Dean to appear, can only be answered by the findings of Senator Ervin's Select Committee on Presidential Campaign Activities. The Judiciary Committee and the Senate should not act favorably on Mr. Gray's confirmation unless and until the record of hearings is complete, because full and complete hearings on the nomination are crucial to the integrity of the advice-and-consent role of the Senate.

This is the first time the Judiciary Committee and the Senate will have acted under the 1968 statute giving the Senate advice-and-consent power over the nomination of the Director of the FBI. Having now been denied the information it needs with which to reach a collective judgment based on a complete record, the Senate should not now confirm this nomination. If the President is going to invoke the doctrine of executive privilege in such a questionable area as this—and by so doing, close the door on information needed by the Senate—the Senate ought to refuse to give its consent to the nomination. To do otherwise, the Senate would be forfeiting its rights; it would be derelict in its duty; and it would seriously compromise its claim to equal status in a system of checks and balances.

The Senate cannot legislate in the dark, and it ought not act to confirm any questionable nomination in the dark. The Senate, therefore, should either reject the Gray nomination now or, failing this, the Senate should take no action on the confirmation until the results of the Ervin Select Committee's investigation are in.

Mr. Gray has impressed me in the hearings as being an honorable man. I think he has tried his utmost to be cooperative. For the most part, I think he has tried to be forthright. Yet, try as he may or as anyone else may, Mr. Gray cannot successfully avoid charges concerning political activity during the tenure of his acting directorship. Nor has he thus far been able to successfully refute the charge that the FBI did not thoroughly prosecute its investigation of the Watergate break-in. The evidence thus far would seem to indicate that his loyalty to the President has been a loyalty that bespoke subservience — a subservience that prevented him, in dealing with the people at the White House, from assuming the position of resoluteness and firmness so necessary for an objective and thorough investigation.

As a usual thing, I go along with the idea that the President should have his own man in most offices. But the director of the FBI should not be any President's man, whether the President be a Democrat or a Republican. This really is not a partisan issue. It is not a question of confirming the nominee of a Republican President. In the case of filling cabinet positions, or even in regard to nominations to Federal judgeships, I am not troubled by previous partisan political activity on the part of the nominee. But if the constitutional rights of all Americans are to be adequately protected, the head of the greatest law enforcement agency and the most effective intelligence activity in the free world cannot be a political animal, nor can he be the President's own man.

Politicization of the Bureau would make it a political arm of the party in power in the White House at any given time, and the effectiveness and proficiency and professionalism of the Bureau as the Nation's top law enforcement agency would be destroyed.

I therefore hope, Mr. President, that the Committee on the Judiciary and the Senate will stand by the committee's invitation on yesterday for Mr. Dean to formally appear before the Judiciary Committee and answer questions bearing on the nomination of L. Patrick Gray III to the office of Director of the Federal Bureau of Investigation.

Mr. President, I thank the Senate for permitting me to speak out of order.

Mr. President, I ask that the following documents be inserted in the RECORD concerning the nomination of L. Patrick Gray to be Director of the Federal Bureau of Investigation:

First. The July 21 memorandum prepared by the FBI and sent by Mr. Gray to Mr. John Dean concerning the progress of the Watergate investigation.

Second. A speech made by Mr. Gray before the Rotary Club in Butte, Mont., September 7, 1972, entitled "A Nation That Cares."

Third. The memorandum sent to Mr. Gray by Mr. Patrick O'Donnell, a White House Assistant requesting Mr. Gray to speak before the City Club in Cleveland, Ohio; an FBI memorandum from Mr. Jones to Mr. Bishop concerning Mr. Gray's appearance before the City Club; an FBI memorandum from Mr. Bishop to Mr. Felt concerning Mr. Gray's appearance before the City Club; a copy of Mr. Gray's insertion to the hearing record listing the recipients of the O'Donnell memorandum requesting their appearance to speak before the Cleveland City Club; and a copy of the speech given at the Cleveland City Club, by Mr. Gray.

Fourth. A memorandum to Mr. Patrick Gray from Ralph Erickson, Deputy Attorney General, requesting campaign support for the President, and a memorandum from Mr. Geoff Shepard, the White House, to the Deputy Attorney General requesting such support with a list of 15 States; an FBI teletype from the Acting Director to the Special Agents in charge of 21 FBI field offices.

Fifth. A speech given by Mr. Gray when he was Executive Assistant to the

Secretary of Health, Education, and Welfare on July 25, 1969.

Sixth. The March 9, 1973, White House Press Conference during which Mr. Ehrlichman stated that he requested Mr. John Dean to sit in as his attorney on the interviews by the FBI concerning the Watergate investigation.

Seventh. The opinion of the Comptroller General of the United States on February 22, 1973, in response to a request from Senator Proxmire ruling that Mr. Gray is illegally acting as Acting Director of the FBI under title V, United States Code, section 3348.

Eighth. A speech by Mr. Gray on March 24, 1972, before the Wage Price Control Workshop in Washington attacking the positions taken by Mr. George Meany, President of the AFL–CIO.

Ninth. An interview with Mr. Gray on Thursday, November 7, 1968, carried in The Day newspaper, New London, Conn., entitled "Nixon Will Create Unity in the Nation, Aide Says."

Tenth. A speech by Mr. Gray when he was Assistant Attorney General, Civil Division, delivered at a meeting of the Orange County Bar Association, Santa Ana, Calif., on April 28, 1972, entitled "The Other Side of the Coin," when Mr. Gray addressed himself to the question of freedom of the press.

The PRESIDING OFFICER. Without objection, the several requests will be granted.

FEDERAL BUREAU OF INVESTIGATION,
*Washington, D.C., July 21, 1972.*

James Walter McCord, Jr., and others, burglary of the Democratic party National Headquarters, Washington, D.C., June 17, 1972, interception of communications.

There follows a summary of pertinent investigation conducted of the captioned matter through July 20, 1972:

*Burglary and Arrest:* At approximately 2:30 a.m., June 17, 1972, officers of the Metropolitan Police Department (MPD) apprehended five individuals in an executive conference room of the Democratic Party National Headquarters located on the 6th floor of the Watergate Apartments, 2600 Virginia Avenue, N.W., Washington, D.C. At the time of arrest the subjects had in their possession burglary tools, electronic and photographic equipment and were wearing surgical-type plastic gloves.

Those arrested were identified as James Walter McCord, Jr., using the alias Edward Warren; Bernard L. Barker, using the alias Frank Carter; Eugenio Rolando Martinez y Creaga, using the alias Gene Valdes; Frank Anthony Sturgis, also known as Frank Anthony Fiorini, using the aliases Joseph Di Alberto and Edward Hamilton; and Virgirlo Gonzales, using the alias Raoul Godoy.

All subjects refused to be interviewed, refused to state for whom they were working, from where they came or their purpose for being in the building. They were all charged with Burglary, Section 1801, Title 22, District of Columbia Code, and were held on $50,000 bond except for McCord, a Rockville, Maryland, resident, whose bond was set at $30,000. All but Sturgis have since been released from District of Columbia Jail on bond.

McCord, who appears to have been the leader of this group, retired from the Central Intelligence Agency (CIA) on August 31, 1970, and at the time of his arrest he was Chief of Security for the Committee to Reelect the President. The remaining subjects are all known to have Cuban backgrounds and either worked with or participated in CIA activities against the Castro Government.

*Involvement of Everette Howard Hunt, Jr.:* After the arrests of the subjects in the Democratic Party National Headquarters, pursuant to an authorized search warrant, a search was made of the rooms rented by the subjects, using aliases, at the Watergate Hotel. Among the items located was an envelope containing a check of E. Howard Hunt in the amount of $6.39 in payment for a bill from Lakewood Country Club, Rockville, Maryland, to Hunt in care of a publications firm in New York City. Hunt, when contacted, admitted the check was his but refused to discuss the matter before consulting his attorney. Also located in the subjects' rooms were personal telephone directories which contained names, telephone numbers and addresses of numerous persons in Miami, New York and Washington, D.C. One of the names contained in the telephone book of subject Martinez is "Hunt (W. House)," together with the telephone number of Hunt's office at the White House.

Investigation developed that Hunt was employed by the CIA from November 8, 1949, to April 30, 1970, when he retired. On May 1, 1970, he became employed by Robert R. Mullen Company, 1700 Pennsylvania Avenue, N.W., Washington, D.C., a public relations and fund raising organization. Beginning July 6, 1971, Hunt was employed on a consultant basis by the White House staff, working with Mr. David R. Young and Mr. Charles W. Colson. He is reported to have been used as a consultant on declassification of the Pentagon Papers. His services were last utilized in this capacity on March 29, 1972. Information was developed that on the recommendation of a member of Mr. Colson's staff, Hunt was terminated as a consultant effective April 1, 1972, and was to be hired immediately thereafter by "1701" (1701 Pennsylvania Avenue, N.W., is the address of the Committee to Reelect the President).

Investigation developed that between January 1, 1972, and June 20, 1972, Hunt was in frequent and regular contact with the office and residence of Bernard L. Barker, Miami, Florida. Investigation further developed that Hunt, frequently utilizing the alias Ed J. Hamilton, together with George Gordon Liddy, who frequently used the alias George Leonard or G. Leonard, traveled extensively around the United States contacting former CIA employees for the purpose of setting up a security organization for the Republican Party dealing with "political espionage."

*Involvement of Michael Douglas Caddy:* Michael Douglas Caddy, also known as Douglas Caddy, is an Attorney at Law having offices at 1250 Connecticut Avenue, N.W., Washington, D.C., and is associated with the law firm Gall, Lane, Powell, and Kilcullen. Caddy gratuitously appeared at the Metropolitan Police Department where subjects were taken after being arrested and claimed to represent them. Prior to Caddy's arrival, none of the subjects made any phone calls which might have precipitated his appearance. Investigation disclosed telephone calls were made during the early morning hours of June 17, 1972, from the telephone of Everette Howard Hunt at the Robert R. Mullen and Company to the Barker residence in Miami, Florida, and from Barker's residence to the residence of Caddy.

Upon Caddy's appearance before the Federal grand jury at Washington, D.C., he was held in contempt of court for failing to answer questions on the basis he had an attorney-client relationship with Hunt. Contempt action was upheld by the U.S. Court of Appeals on July 19, 1972. Caddy subsequently testified he reecived a telephone call from Hunt at around 3:00 a.m., on June 17, 1972.

*Involvement of George Gordon Liddy:* As is set forth elsewhere in this memorandum, Everette Howard Hunt traveled extensively endeavoring to recruit former CIA employees for security work for the Republican Party in late 1971 and early 1972. Investigation has developed that Liddy accompanied Hunt on a number of these trips. Liddy, a former FBI Agent, was employed from April, 1969, to July, 1971, by the U.S. Treasury Department in the office of Law Enforcement. When he resigned from the Treasury Department, Liddy accepted a position on the White House staff and in December, 1971, resigned therefrom to work for the Committee for the Reelection of the President.

The telephone notebook of Martinez which was recovered when the rooms of the subject were searched at the Watergate Hotel contained a notation "George" with the telephone number of 202–333–6575. The telephone notebook of Bernard L. Barker, located in the above mentioned search, contained a notation "George" with the telephone number WDC 333–0362. Investigation developed that both of these numbers were at the office of the Committee for the Reelection of the President, 1701 Pennsylvania Avenue, N.W., Washington, D.C.

It is noted that Mr. Maurice Stans, Chairman of the Finance Committee for the Committee to Reelect the President, advising that the $25,000 cashier's check payable to Kenneth H. Dahlberg, dated April 10, 1972, was turned over to Liddy, counsel for the Finance Committee, for a legal opinion as to how it would be best to handle the receipt and recording of this check as the funds allegedly, had been contributed prior to April 7, 1972, although the check was dated April 10, 1972, after the effective date of new disclosure and reporting law. The check was cashed by subject Bernard L. Barker at his bank in Miami, Florida, but Mr. Stans had no idea how Barker obtained the check. (See write-up elsewhere in this memorandum concerning the tracing of funds and the write-up concerning the Howard Johnson Motel wherein it is shown that Liddy was observed giving a large sum of money in cash to subject McCord.) Liddy is reported to have been discharged by the Committee to Reelect the President because Liddy declined to be interviewed by FBI Agents concerning this case.

*Howard Johnson Motel Lookout:* Investigation developed that James Walter McCord, Jr., rented Room 419 at the Howard Johnson Motel, 2601 Virginia Avenue, N.W., Washington, D.C., from May 5, 1972, to May 28, 1972, and Room 723 from May 29, 1972, until June 17, 1972. Room 723 was found vacant by motel employees the evening of June 17, 1972. This motel is located directly across the street from the Watergate Apartments and Room 723 faces the suite occupied by the Democratic Party National Headquarters at the Watergate Apartments.

Alfred Carleton Baldwin, III, a former FBI Agent, has been identified as the individual who occupied Rooms 419 and 723 from about May 11, 1972, to June 17, 1972. Baldwin advised that during a period of this time he monitored through the use of electronic equipment set up by McCord, telephone conversations of Spencer Oliver, a Democratic Party official. McCord told Baldwin that four extensions of Oliver's were being monitored.

Baldwin stated that while he was occupying Room 723 on one occasion, the specific date which he cannot determine, George Gordon Liddy and Everette Howard Hunt came to the room and had a conversation with McCord. On this occasion Liddy took an envelope from his suit jacket and counted out about $16,000 to $18,000 in $100 bills, which he gave to McCord. McCord pocketed the money and all three individuals left the room.

On the evening of June 16, 1972, McCord came to Room 723 and requested Baldwin to purchase six batteries and some "speaker

wire." Baldwin obtained the batteries but did not buy the wire and McCord subsequently departed to locate some wire. He returned about 11:00 p.m. to 11:30 p.m., carrying the wire and various other electronic components appearing to have come from Lafayette Radio.

About 12:00 a.m. to 12:30 a.m., June 17, 1972, McCord received a telephone call and told Baldwin that "we're going across the street," pointing to the Democratic Headquarters. McCord told Baldwin to watch and if anything unusual occurred to contact McCord by walkie-talkie.

About 2:15 a.m., June 17, 1972, Baldwin noticed lights going on in the Watergate Apartments and subsequently police beginning to arrive. He attempted to utilize the walkie-talkie to alert McCord and received a response in a whisper, "We hear you, they got us." About this time Baldwin noticed two men leaving the alley on the east side of the Watergate and identified them as Hunt and Liddy. Hunt came to Room 723 and used the phone to contact an attorney. Hunt told Baldwin to telephone Mrs. McCord and advise her that her husband had been arrested. He also told Baldwin to pack up the electronic gear and deliver it to Mrs. McCord in McCord's panel truck which was parked in the basement of the Howard Johnson Motel. He further told Baldwin to pack up his own belongings and go home. Baldwin delivered the electronic equipment together with McCord's wallet which had been left in the room to Mrs. McCord at about 4:00 a.m., June 17, 1972. She drove him back to his own car and he thereupon drove to his home in Connecticut.

TRAVEL MIAMI-WASHINGTON, D.C.

*Travel June 16, 1972*

Investigation at Tamiami Tours, Miami, Florida, identified subjects Bernard L. Barker and Eugenio R. Martinez as individuals who on June 12, 1972, purchased four round trip tickets from Miami to Washington, D.C., on Eastern Airlines flight 190 for June 16, 1972. These tickets, which were found on the subjects at the time of their arrest, were purchased in the names of G. Valdes (alias of subject Eugenio Martinez), F. Carter (alias of subject Bernard L. Barker), J. DiAlberto (alias of subject Frank Fiorini) and R. Godoy (alias of subject Virgirlo Gonzales).

At time of their arrest June 17, 1972, the subjects, except for McCord were determined to be registered at the Watergate Hotel, Washington, D.C., under the aliases shown on the foregoing airline tickets.

*Travel May 22–30, 1972*

Subject Eugene Martinez has been identified as the individual who on May 17, 1972, bought six one-way tickets at Tamiami Tours for travel from Miami to Washington, D.C., on National Airlines flight 100 departing May 22, 1972. These tickets were purchased by Martinez in the names of Frank Carter (alias of Barker), J. Granada (believed to be Reinaldo Pico, presently in South America on business), Joseph Di Alberto (alias of Fiorini) Raoul Godoy (alias of Gonzales), Jose Piedra (alias of Felipe De Diego) and G. Valdes (alias of Martinez).

Investigation has determined that the foregoing individuals under the aliases shown were registered at the Hamilton Hotel, Washington, D.C., from May 22, 1972, to May 26, 1972, at which time they moved to the Watergate Hotel, Washington, D.C., where they stayed until May 30, 1972.

Investigation further discloses these individuals were joined at the Watergate Hotel by two additional persons using the names of George Leonard (believed to be George Gordon Liddy) from Kansas City, Kansas, and Edward Warren (believed to be Everette Howard Hunt) from New York City. Warren paid the Watergate Hotel bill for these individuals, totaling a little over $1,000 in cash.

Felipe De Diego, an employee of Barker's real estate firm, has been interviewed and admits being with the subjects during the period May 22–30, 1972, in Washington, D. C. According to De Diego, he was requested by Barker to make this trip but he does not know the purpose of the trip and during his stay in Washington, D.C., the group appeared to be waiting to hear from some unidentified individual.

It is noted that on May 28, 1972, there was a reported break-in of the Democratic Party National Headquarters, Watergate Apartments, Washington, D. C.

In addition to the foregoing the Security Guard at the Watergate Apartments reported that sometime over the Memorial Day week end (he cannot pin this down any closer) papers were found stuffed in the doorway of the 6th floor stairwell in an apparent attempt to keep the door from working. Democratic Party National Headquarters is located on the 6th floor of the Watergate Apartments.

*Tracing of Funds:* There follows a summary of investigation to trace funds that may have been used to finance the operation involving the burglary of the Democratic National Headquarters on June 17, 1972.

*Bank Account of Bernard L. Barker:* Barker as Barker Associates, a real estate firm, maintains an account at the Republic National Bank of Miami. A review of the records of this account shows that on April 21, 1972, Barker presented a cashier's check dated April 10, 1972, payable to Kenneth Dahlberg, drawn on the First Bank and Trust Company of Boca Raton, Florida, and endorsed by Dahlberg. Upon checking with the latter bank and determining that the cashier's check was "as good as gold" Barker was given $25,000 in cash by the Republic National Bank.

Barker on April 21, 1972, also presented to the Republic National Bank four checks dated April 4, 1972, totaling $89,000, drawn on the Banco Internacional, Mexico City, payable to Manuel Ogarrio and endorsed by Ogarrio. Since these checks were payable to a third party, Barker was told he would have to deposit these checks and wait for them to clear before he could receive any money for them. On May 8, 1972, Barker was given $89,000 in cash by the Republic National Bank for the foregoing checks.

Bernard L. Barker at the time of his release on $40,000 bond on July 14, 1972, said he received the four checks totaling $89,000 from two men and turned the money over to them. He took the 5th Amendment when asked to identify these individuals.

*Kenneth Dahlberg—$25,000 Cashier's Check:* Kenneth Dahlberg is a prominent industrialist and Regional Chairman of the Finance Committee to Reelect the President, who lives in Minneapolis and winters in Boca Raton, Florida. After several refusals to be interviewed, Dahlberg on July 6, 1972, consented to be interviewed regarding the foregoing $25,000 cashier's check cashed by subject Barker. Dahlberg stated this check represented cash contributions he had obtained while in Boca Raton and he furnished this check to Maurice H. Stans, Chairman, Finance Committee to Reelect the President on April 11, 1972, in Washington, D. C. According to Dahlberg he has no knowledge of what happened to this check after he surrendered it to Stans. Dahlberg stated he was not acquainted with subject Barker or any of the other subjects involved in this matter. It is to be noted that during the period June 23, 1972, to June 26, 1972, when we were endeavoring to interview Dahlberg concerning this check, he made three telephone calls to Washington, D. C., to the Committee to Reelect the President.

*$89,000 Banco Internacional Checks:* On July 10, 1972, Manuel Ogarrio, an attorney, Mexico City, advised that he purchased the four foregoing bank drafts totaling $89,000, drawn on the Banco Internacional as a favor to an American client of twenty years standing whom he refused to identify other than as a reliable American company with operations in Mexico. According to Ogarrio his client gave him a check for $100,000 which he negotiated into the foregoing four bank drafts and cash. He signed the checks making them negotiable and turned them and the remaining $11,000 cash over to his client. He received no commission for doing this and has no knowledge as to how Barker came into possession of these checks. According to Ogarrio he believed the purpose of the transaction was to convey money to the Republican Party anonymously. On July 11, 1972, Ogarrio in a reinterview stated that he learned on July 10, 1972, that the foregoing endorsed bank drafts were forwarded to Maurice Stans of the Republican Party.

*Bank Accounts of James Walter McCord:* McCord maintains a personal checking account and a business account in the name of McCord Associates at the Maryland National Bank, College Park, Maryland. The records of these accounts show he made a $10,000 cash deposit to his personal account on April 12, 1972; a $10,000 cash deposit to his business account on May 31, 1972; and a $10,000 cash deposit to his business account on June 12, 1972.

In addition, McCord on behalf of the Committee to Reelect the President on February 22, 1972, opened an account in the name of Dedicated Friends of a Better America, with McCord as Chairman, at the National Savings and Trust Company, Washington, D.C. This account was closed April 17, 1972, and during the period it was opened over $90,000 passed through this account.

*Interview with Maurice Stans:* Maurice Stans, Chairman, Finance Committee to Reelect the President, was interviewed July 14, 1972, at which time he advised that a $25,000 cashier's check was given to him by Kenneth Dahlberg in Washington, D.C., on April 11, 1972. Stans in turn gave this check to Hugh Walter Sloan, Jr., who at the time was responsible for the supervision of funds received by the Finance Committee. According to Stans, Sloan then gave this check to George Gordon Liddy who was acting as legal counsel to the Finance Committee for a determination as to how this check should be handled since it was dated April 10, 1972, but the funds which it represented had been contributed prior to April 7, 1972, the effective date of the new Federal Disclosure Act. Sloan subsequently advised Stans the money from the check had been received by the Committee. Stans could furnish no explanation as to how Barker came to be in possession of Dahlberg's $25,000 cashier's check.

Stans advised that on April 6, 1972, he learned from Sloan that the Committee to Reelect the President had received $100,000 in the form of bank drafts on Mexican banks. Stans, when informed the Mexican drafts totaled $89,000 replied that Sloan had told him $100,000 in Mexican bank drafts had been received and this is all he knew about the matter. Stans could offer no explanation as to how these bank drafts came into Barker's possession nor was he aware of the identity of the American firm which allegedly made this contribution.

When Stans was requested to make Sloan available for immediate interview, he advised that Sloan had resigned two weeks ago. Sloan was subsequently contacted on July 17, 1972, and he declined to be interviewed until he had a chance to discuss this matter with his attorney.

*Interviews at White House:* Everette Howard Hunt and George Gordon Liddy were known to have been employed at the White House as consultants and White House telephone numbers used by these individuals were found in subjects' possession. Accordingly, various White House staff members acquainted with Hunt and Liddy during their White House assignment were interviewed.

At the request of Mr. John W. Dean, Legal Counsel to the President, he, Dean, sat in on all interviews conducted with White House personnel. Those interviewed included Charles W. Colson, David R. Young, Alfred Wong, Bruce Kehrli, Fred Fielding and Kathleen Chnow. All stated they were unable to furnish any information concerning Hunt's or Liddy's involvement in these matters involving the burglary of the Democratic National Committee Headquarters.

According to Mr. David R. Young, both Hunt and Liddy worked for him on a project to classify and declassify Government documents.

It was determined from Mr. John Dean that the personal effects of Everette Howard Hunt had been removed on June 20, 1972, from Hunt's office in the Executive Office Building and brought to his, Dean's, office. This material which was turned over to the FBI on June 27, 1972, included ancillary equipment for the transceivers and other equipment identical to items known to have been purchased by James Walter McCord, Jr.

*Interviews at Committee to Reelect the President:* Numerous interviews were conducted with personnel employed at the Committee to Reelect the President and in each interview at the Committee's insistence an attorney of the Committee was present. Several persons subsequent to interviews conducted at the Committee contacted the FBI Washington Field Office and requested to be further interviewed away from Committee headquarters and without the knowledge of Committee officials. These persons advised that the presence of the attorney during the interview prevented them from being completely candid. These sources further advised that all Commitee people subpoenaed before the Federal Grand Jury were subsequently debriefed by Committee attorneys as to what occurred at the Federal Grand Jury hearing.

One of the foregoing persons confidentially advised that Hugh Walter Sloan, Jr., who supervises Committee finances reportedly maintains a brief case full of money in his office safe. During the period February-April 1972, according to this source Sloan allegedly disbursed large sums to various Committee officials for unknown reasons such as $50,000 to Jeb Magruder, $100,000 to Herbert L. Porter and $89,000 to George Gordon Liddy.

Another cooperative source at the Committee advised confidentially that Committee officials during interviews were sending FBI Agents on fishing expeditions to keep them from getting to the truth. This source advised that Mrs. McCord following her husband's arrest on June 17, 1972, told Committee official Robert Odle words to the effect "Well, it looks like your project failed." This source identified Odle as one of the individuals who was less than candid in his interview with FBI Agents.

*Photographs of Democratic Party Correspondence:* On June 22, 1972, Michael Richardson, Rich Photos, 1600 W. Flagler Street, Miami, Florida, advised that about noon, Saturday, June 10, 1972, one white male whom he tentatively identified from a photograph as Bernard Barker, came to this store which is located in a heavily populated Cuban area. This individual presented two rolls of exposed Kodak tri-X black and white 35 millimeter film on which he said documents had been photographed. He requested immediate development and printing of 8 by 10 prints. Richardson did a rush job and determined there were four exposed document negatives on one roll and 34 document negatives on the other roll for a total of 38 exposed negatives. Richardson made one 7 by 10 print of each of the 38 negatives.

Richardson said most of the documents had an emblem and were headed "Chairman Democratic National Committee." The documents photographed appeared to have been on onion skin paper and most were typed. A few consisted of handwritten notes. On at least one of the documents, there was the signature "Dick." Several letters had the handwritten name of Lawrence O'Brien. One or more of the documents concerned a resumé of an unrecalled woman who headed a local campaign for Senator Hubert Humphrey. Richardson said all documents were photographed with a shag carpet background and hands covered with clear-type gloves held down each corner of each document.

Richardson made no written record of the transactions and maintained no copy of the negatives or prints. Richardson tentatively identified one of the two men who accompanied Barker as being Fiorini, but was unable to identify the third man.

Investigation at the Howard Johnson Motel, 2601 Virginia Avenue, N.W., Washington, D.C., determined the carpet utilized by the motel is similar to that noticed in the photographs by Richardson.

*Direction of Investigation:* Investigation is being directed to developing evidence of an Interception of Communications violation against not only the subjects, but all those who may have assisted them such as who recruited them, who financed the operation, who planned the operation, etc. Section 2511, Title 18, U.S. Code, makes it a violation for anyone to willfully intercept, endeavor to intercept or procure any other person to intercept or endeavor to intercept any wire or oral communication. It is also a violation of that Section for anyone to willfully use, endeavor to use or procure any other person to use or endeavor to use any electronic, mechanical or other device to intercept any oral communication. The possession of any electronic, mechanical or other device which is primarily useful for surreptitious interception of wire or oral communications is a violation of Section 2512, Title 18, U.S. Code, provided the device or any component thereof has been sent through the mail or transported in interstate or foreign commerce. Section 371, Title 18, U.S. Code, the general Conspiracy Statute, makes it an offense if two or more persons conspire to commit any offense against the United States.

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## A Nation That Cares

(An address by the Honorable L. Patrick Gray III, to the Rotary Club, Butte, Mont., September 7, 1972)

As a fellow Rotarian, I welcome this opportunity to be your guest this evening.

We in the FBI deeply appreciate the splendid cooperation which you, as Rotarians and citizens of this great city and State, have given us over the years.

This evening I want to talk about A NATION THAT CARES, a Nation which is concerned about its citizens, their welfare, their happiness, their dignity as human beings.

In our 20th century world these are among the salient questions facing mankind:

What kind of society do we want?

What kind of country is America going to become?

Does our Government care about our people?

Does it listen?

Is it a sensitive society, wanting to make life more significant and meaningful for every man, woman, and child?

These are questions which strike to the very heart of our American way of life.

They are questions about which we must take a stand if we are to face the future with confidence and courage.

I believe that Americans know what it means to care.

We care enough to do our very best.

We care deeply about our community, our fellow man, our Nation.

We realize that unless people care—about themselves, about others, about their values and traditions—our country will die.

This is why America is today a great and respected Nation.

This is why human dignity and equality have achieved unparalleled heights under our democratic system of government.

How important the whole concept of service is to the survival of civilization is pointed out—very succinctly—in these words by a prominent educator:

"I do not believe," says this educator, "the greatest threat to our future is from bombs or guided missiles. I don't think our civilization will die that way. I think it will die when we no longer care."

Unfortunately, there are today a small minority of Americans—not many but a few—who bitterly and falsely denounce our country as cruel, sick, callous, and repressive.

They want to create the impression that our Government is an ogre, a monster which simply doesn't care.

Another prominent educator has publicly denounced our national leaders as not giving—in his words—"any clear sign of compassion or concern for the poor, the weak, the sick, the unemployed, the helpless. . . ."

Another speaks of a "selfish and oblivious ruling Establishment."

An author asks, "Is America Falling Apart?" and then categorically states, "The American Constitution is out of date."

The law enforcement profession finds itself constantly attacked by extremists. We are called "pigs." We are accused of repressing the rights of citizens. Every opportunity is seized to portray our police, our courts, our judicial system as cold, insensitive, unfair, and bigoted.

This is extremist rhetoric. This in inflammable rhetoric that does nothing to enlighten or to contribute to our society.

It is not based on facts.

It deals in overkill, emotion, and flamboyance.

It seeks to set group against group, citizen against citizen.

The objective of extremist rhetoric is to create the totally false impression that our political processes—local, state, and Federal—are insensitive and cruel, not responsive to the needs of the day.

These detractors aim not at reform of our institutions, but at their destruction.

In my opinion the vast majority of Americans are becoming tired of this quacking chorus of pessimism, cynicism, and lack of faith.

The time has come to end this strident demagoguery and look at the facts about America.

Let me ask you, what other nation in history has even come close to the level of assistance that the United States has given to enhance the economic well-being and security of its neighbors around the world?

Since World War II the taxpayers of this country have provided approximately $130 billion in loans and outright grants to other nations. This has gone not just to our strongest and closest allies, but most especially to weaker nations most in need of it. We have given this aid literally until it hurt—hurt our balance of payments and our trade position with other countries.

But the critics who claim this is a selfish Nation do not talk much about that.

Again, what other country has found a means to send people of ability and dedication to help emerging nations around the world in their efforts to elevate their way of life, without asking anything whatsoever in return?

The critics who say we are a crass and ungenerous people do not talk much about that.

What other people supports anywhere near the variety of charitable causes and contributes anywhere near the proportion of its resources for such causes? I refer to approximately $20 billion per year in private contributions to health, welfare, educational, and religious institutions. And this does not

include the millions of man-hours and woman-hours contributed in the form of personal skills and service to these causes by devoted individuals.

But the doomsayers who call ours a decadent society do not talk much about that.

What other nation can and does channel resources so generously through government programs to meet human needs? I refer to programs providing security for the aged, help for disadvantaged children, support for the unemployed, and other basic requirements for human life and dignity. This is done not just at one level of government, but at the local, Federal, and State levels. To those who claim that our national priorities are distorted away from the individual, I would point out that the Federal outlays for supporting and developing human resources such as those I have described continue to increase year after year, and that in the current Fiscal Year 45 percent of the Federal Budget is for human resources and only 32 percent for national defense.

But the calamity-howlers who say that the little man is forgotten do not talk about it.

America is NOT a selfish, unconcerned society that does not care.

Perhaps no society in all of history has been more interested in the personal well-being of its citizens, in human concerns, in giving aid to the unfortunate both within and beyond its boundaries.

I like the quotation attributed to Lowell Thomas, the famous radio commentator and world traveler: "He who allows a day to pass without generosity . . . ," he said, "is like a blacksmith's bellows—he breathes but does not live."

This is the spirit of A NATION THAT CARES.

In our democratic society, however, the concept of service takes on a dimension beyond material assistance.

Its greater gift is to provide a climate of freedom in which every individual may pursue his own hopes, dreams and aspirations, and may work out his own destiny as a human being.

This means a commitment to equal treatment, equal justice, and equal opportunity for every citizen of these United States.

What other nation has devoted as large a share of its energies and resources to assuring an education for every American until he or she reaches adulthood? I refer not only to the some $40 billion provided by all levels of government for public elementary and secondary schools. I am also speaking of the vast and growing public funds for higher education and the objective, already reached in some states, of providing a higher education to every young person who wants it. And I am referring to the huge individual and corporate contribution to private education at all levels and to free public libraries throughout the country.

But those who charge that this is a society of special privilege do not talk about all of that.

What other country has made such a determined effort to combat discrimination and assure equal opportunity for all persons regardless of race, color, or religion? This crusade is succeeding because Americans and their elected officials do care about the rights of others. At the Federal level, the resources and the successes in this field continue to rise, and today there is more legal action against alleged civil rights violators than ever before.

But those who claim that Americans are full of hatred and discrimination do not talk about all that.

Finally, the gift of individual freedom and equal opportunity that we enjoy derives primarily from the free government that we have maintained for two centuries. By that I mean a government in which the individual is protected in his freedoms and his personal goals by laws that he or his representative helped to make. Contrary to the opinion of some, law is not the enemy of freedom. Law guarantees freedom against invasion by others.

We in the FBI and in the law enforcement agencies of our country are proud of the part we are playing to make more secure your rights, your lives, and your property.

Today there is every indication that the upward thrust of crime is being considerably slowed.

During the first quarter of 1972, crime registered its smallest increase—one percent—in 11 years. This gives us hope that very shortly crime will reflect an absolute decline—and that this tide of lawlessness which for so long has beset our people will recede.

Eighty of our largest cities reported actual decreases in crime for this three-month period—compared with 22 cities in 1970, and 59 in 1971.

In Fiscal Year 1972, the FBI's drive against organized crime hit an all-time high with a continuing series of major gambling raids, and the conviction of more than 750 racket figures, including some of the country's ranking syndicate leaders.

Much hard work remains ahead. Organized crime is a tenacious and costly social malady. But effective law enforcement, utilizing the latest techniques of crime detection, is making more difficult the position of the hoodlum mobs.

The tide is also turning in favor of the American people in the area of narcotics.

In 1971, Federal Agents removed five times as much heroin and equivalent opium derivatives from the world market as in the year 1968.

The United States for the first time has won the genuine cooperation of foreign countries which have been sources of narcotics, and they are clamping down on the traffic.

Your Government is doing everything possible to fight drug abuse, which President Nixon has labeled, "America's public enemy number 1."

The role of the law enforcement profession in helping create A NATION THAT CARES is absolutely vital.

My command of the English language does not enable me to express my indignation when I hear police officers called "pigs."

The vast majority of men and women in our profession are honorable people, conscientiously devoting their lives to a vital public service.

They are often underpaid and overworked.

They daily risk their lives that you—and millions of other Americans—might enjoy the liberties of this land.

To equate the law enforcement profession with repression, to sanctimoniously accuse the FBI and local police and our whole judicial system of eroding the liberties of the people, is to completely misunderstand the positive role they play in our society.

As Acting Director of the FBI, in meeting police officers of all ranks, I have been deeply impressed by their honesty, their integrity, and especially their compassion as human beings.

I always think of the picture of the police officer bending over a child who has been badly injured, blowing the breath of life from his own body into the mouth of that youngster.

Ours is a profession of service. Its members are in it because they care about their city, their state, their Nation, and they care about the people in them. They give from their own strength, knowledge, and dedication so that others might live in safety and freedom.

That is why our Rotarian motto—SERVICE—reflects the spirit of America and why it has so much to say to Americans.

"You must give some time to your fellow man," said Albert Schweitzer, the famous author, philosopher, and physician. "Even if it's a little thing, do something for those who have need of a man's help, something for which you get no pay but the privilege of doing it."

Today, more than ever, this moral imperative influences the American people. It characterizes our Nation far more than the passing shortcomings that are magnified by the professional critics. It is what continues to make the United States not only a Nation but a state of mind—a state of mind that cares about others and still lights the lamp of hope in a troubled world.

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THE WHITE HOUSE,
*Washington, June 13, 1972.*

Memorandum for: Hon. L. Patrick Gray
From: Patrick E. O'Donnell
Subject: Freedom's Forum—The City Club, Cleveland, Ohio

The City Club has asked our assistance in attempting to secure your participation as a key speaker sometime during the period following July 1, 1972. Since its founding fifty years ago, Cleveland's City Club has been a focus and one of the bulwarks of freedom of speech in one of America's great cities. The Club maintains a deep interest in affairs of government, economics and politics, both national and international. It offers a prestigious meeting place for the open discussion of important social, political and economic problems.

They meet every Friday at noon and have a 300 maximum attendance. However, if you were inclined, they could "go public" and provide almost a crowd of any size you might desire. Both Secretaries Hodgson and Shultz have recently addressed the Club and just recently Ambassador Bush delivered a well-received speech.

With Ohio being crucially vital to our hopes in November, we would hope you will assign this forum some priority in planning your schedule. In the event you are interested, I have full background material available. Incidentally, Under Secretary of Commerce Jim Lynn is quite familiar with the Club.

Many thanks.

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U.S. GOVERNMENT MEMORANDUM

To: Mr. Bishop
From: M. A. Jones
Subject: The City Club, Cleveland, Ohio, request for appearance of Acting Director Gray.

A memorandum dated June 13, 1972, from Mr. Patrick E. O'Donnell, advised Mr. Gray that his assistance had been requested to secure Mr. Gray's participation as a key speaker before The City Club of Cleveland, Ohio, sometime after July 1, 1972. He pointed out that the Club meets Friday at noon, and although they have a maximum attendance of 300, they could "go public" if Mr. Gray were so inclined. He commented that Secretary Hodgson and Shultz recently addressed the Club as well as Ambassador Bush. The Club offers a prestigious meeting place for the open discussion of important social, political, and economic problems.

The Cleveland Office has advised that The City Club has no political connections and actually the majority of the members could be classified as "liberals." The Club engages in discussing controversial subjects and it is entirely possible that some embarrassing questions could be put to Mr. Gray which might prove embarrassing to him and the Bureau. They also noted that these meetings are carried live on local radio stations.

Although Cleveland points out that this Club discusses controversial subjects, it is believed that it might be advantageous for Mr. Gray to appear before such a group. As indicated, the Club is dominated by liberals and these are the type of people we should be contacting in an effort to "convert them."

RECOMMENDATION

Mr. Gray may desire to accept this invitation and, if so, he should indicate some Friday after July 1st when he could appear. (Due to other commitments, it would appear that a Friday in August or early Fall might be the most convenient). Thereafter, additional details will be obtained from Mr. O'Donnell.

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U.S. GOVERNMENT MEMORANDUM
JUNE 27, 1972.

To: Mr. Felt.
From: T. E. Bishop.
Subject: The City Club, Cleveland, Ohio, request for appearance of Acting Director Gray, August 11, 1972.

In a memorandum from Jones to Bishop date 6/16/72, there was set forth details concerning an invitation extended to Mr. Gray by The City Club of Cleveland, Ohio, for him to be a key speaker at a Friday noon meeting of the Club sometime after July 1, 1972. It was recommended and approved that Mr. Gray accept the invitation if possible. Mr. Gray noted, "I will do it but push it out ahead. Check with Mrs. Neenan."

After consulting with Mrs. Neenan, on 6/26/72 Bishop advised Patrick E. O'Donnell of The White House, through whom the invitation had been extended, that Mr. Gray could make this appearance on August 11, 1972. O'Donnell stated that he would check with Lawrence Robinson, Executive Director of The City Club of Cleveland, (telephone—area code 216, 862–1260), to ascertain if this date is satisfactory and advise Bishop of the result on 6/27/72.

On 6/27/72, Mr. O'Donnell advised Bishop that Mr. Robinson had informed him that the Club would be delighted to have Mr. Gray speak to it at its noon meeting on Friday, August 11, 1972. He advised that Mr. Robinson stated that he would furnish Mr. Gray additional details concerning the Club and the meeting in question in a letter to be forthcoming in the immediate future.

RECOMMENDATION

That Crime Records Division begin preparing an appropriate speech for use by Mr. Gray on August 11, 1972.

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INSERTION OF MR. GRAY IN HEARING RECORD

Mr. GRAY. Mr. O'Donnell has advised us that he contacted the following individuals requesting that they speak before the Cleveland City Club: Senator Barry Goldwater, Herbert Stein, John Volpe, Peter Flanigan, Peter Peterson, Joseph Blatchford, George Romney, Senator Marlow Cook, Shirley Temple Black, John Eisenhower, Donald Rumsfeld, James Hodgson, George Schultz, George Bush, John Connally, William Ruckelshaus, John Scali, Earl Butz, L. Patrick Gray III.

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FREEDOM UNDER LAW

(An address by the Honorable L. Patrick Gray III, to the City Club of Cleveland, August 11, 1972)

In January, 1787, our Minister to the Court of St. James—John Adams—sent to the printers a book which he thought might prove useful to his countrymen.

Shays' rebellion had recently occurred in Massachusetts, and friends there were writing that confusion and anarchy lay just over the horizon. This rebellion was viewed by some at home as the popular uprising inevitably leading to a dictatorship which would restore order and guarantee the security of life and property—at the cost of freedom.

John Adams wrote to convince his countrymen that a salutary restraint is a vital principle of liberty. He also wrote to persuade his fellow citizens that good laws and orderly government alone could protect lives, liberties, religion, property, and character.

Later in that year of 1787 when our Constitution was drafted, the framers placed the highest priority on freedom under law—not the one or the other, but both together, "one and indivisible"!

Alexander Hamilton, a delegate to the Constitutional Convention and a principal author of The Federalist Papers, put it this way:

"Government is frequently . . . classed under two descriptions—a government of force, and a government of laws; the first is the definition of despotism, (and) the last of liberty."

The blueprint for self-government created by the delegates to the Constitutional Convention came under immediate attack. There were more than a few, here and abroad, who warned that our Constitution embodied too radical a departure from conventional concepts of government. It was termed impractical, unworkable, dangerous.

Today the attack continues—for the concept of free men and women governing themselves for the common good is virtually as radical in the 20th Century as it was in the twilight of the 18th. And make no mistake—it is radical doctrine!

Our concept of freedom under law is banned, barred, forbidden and feared in vast areas of the world where might makes right—where suppression wears the uniform of the police and the robes of justice.

In our country today, there are strident voices proclaiming that the same conditions exist in our land. We are told that American society is "sick" and that law is used to repress freedom.

This is demagoguery, pure and simple. It is a slander and a lie.

But still the questions persist: Where are these United States today, and where are we going? How do we as American citizens evaluate ourselves? Do we believe in our form of government? Does our government care about people? Is our society out of control? Are the law officers of the nation the tools of an oppressive ruling establishment?

Well, what are the answers? I want to tell you what mine are.

The great American adventure born two centuries ago has grown stronger generation after generation.

We are on the threshold of the greatest growth pattern in our history—growth in the quality of life for all our citizens—growth in our total effort to eradicate the imperfections in human society (beginning, always, with our own).

Bayh says it is a strong comparison of President's assessment speech.

We occupy seven percent of the land surface of the earth. We are six percent of the world's population. We account for almost one-third of the goods and services produced on earth.

Our national economy is bulwarked by increased earnings and a rising gross national product.

Production, incomes, employment, business spending, and consumer buying are all showing sharp increases.

The rate of inflation has been slowed.

We export foodstuffs, medicines, technology, and expertise to help feed, comfort, and care for millions of men, women, and children around the world.

Material accomplishments, however, do not begin to tell our whole story.

Every citizen of the United States is guaranteed legal rights and protections of a magnitude not found anywhere else in the world.

All have the promise of individual rights and liberties.

All have an awareness of those rights and liberties.

All have a guarantee of opportunity to full realization of their rights and liberties.

All have the assurance that our Government and body of citizens will support them in the enjoyment of their rights and liberties.

Advantages such as these help make America the freest and most progressive society in the world—more than "advantages," realities.

You wouldn't choose to live in any other country. Nor would I.

No, pessimism does not yet reign supreme in these United States.

But there are those who insist that our priceless liberties are being eroded—that freedom is increasingly in jeopardy across the United States.

Two years ago, a well-known author and educator warned that repression "comes to us . . . with official sanction and is imposed upon us by officials sworn to uphold the law."

Who are these officials?

This author identified them as "the Attorney General, the FBI, state and local officials, the police, and even judges."

Biased as I may be, I reject such an attack—and so do the great majority of our citizens. The facts are otherwise, and we Americans are not about to accept myths in their place.

The people of the United States know that the law enforcement profession is dedicated to safeguarding the rights of all citizens—and that it demands of its members exacting standards of fairness, impartiality, and restraint.

I do not for a moment suggest that abuses of authority are nonexistent among law enforcement professionals.

Unfortunately, there have been abuses in the past—and as long as it's men and women involved, there will be recurrences in the future.

But no profession is more zealous in policing its own ranks. We know the risks. And we know that the confidence of those we serve must be maintained if we are to discharge the trust and responsibility placed in our care.

As a Nation, we face a crime problem that has steadily been growing since 1955. Today, there are clear signs that the upward thrust of crime is being turned back.

During the first quarter of 1972, crime registered its smallest increase—one percent—in 11 years. (And none of us can rest until even that plus one becomes zero, and then a minus.)

Eighty of our largest cities reported actual *decreases* in crime for this three-month period—compared with 22 cities in 1970, and 59 in 1971.

Important successes are also being scored in the counteroffensive which the law enforcement profession is pressing against organized crime.

These successes are being achieved *within* the provisions of our Constitution and laws—and with the cooperation and support of the citizens of the United States, who know that America's peace officers are guardians of *their* lives, *their* property, *and* their rights.

Let's look at a vital area of our freedoms—the right to a fair and impartial trial as guaranteed all Americans by the Bill of Rights.

A slogan coined some weeks ago insists that militant extremists who have been charged with crimes should be immune from prosecution in our courts of law.

"The only fair trial would be no trial at all," this slogan demands.

This is a "society-be-damned" slogan. It says, in effect, "Hide the evidence; gag the witnesses; ignore the victim; create a privileged class under law."

Citizens of the United States rose above such a lopsided system of injustice centuries ago.

We will not turn the calendar back.

One of the foremost advocates of categorical immunity is an acid-tongued lawyer

who has warned of "perverted use" of our courts to "inhibit, terrorize or destroy persons who . . . have incurred . . . hatred, fear or mistrust."

The same advocate also alleges that our "judicial process" has been used "as a form of political repression."

He is wrong on all counts—unless we are ready to concede that senseless acts of violence, including murder, are legitimate forms of *political* expression.

Those who define their lawless activity as political expression seek only to exclude themselves from the legal structure established so long ago under the Constitution, and from the inevitable consequences of their own acts.

Conduct clearly in violation of the law—regardless of the brand name applied to such conduct—is still anathema to the preponderant majority of Americans.

The American still believes that the lawbreaker is to be arrested and tried as prescribed by the law.

Guilt or innocence is to be determined in accordance with Constitutional principles and not by mob rule or pressure group tactics.

Today there are those among us who appear to prefer a life style far removed from the mainstream of American society and that choice should be protected. But they demand more.

Their battle cry is, "I want no part of your system, and I intend to destroy it. But while I push for anarchy, I will continue to insist on the protection afforded me by the system that I attack—until it is so weak that it affords protection to no one."

Yet they will continue to receive protection from the system they attack—from the Congress, the Courts, the law enforcement profession—even while the same Congress, Courts, and the men and women of law enforcement agencies work to protect our legal system from these anarchists and separatists. We, at least, do believe in freedom!

But let us not think that our Government of laws is in danger only from those who openly proclaim their goal to set aside the whole of the legal structure.

There is another enemy as well, less visible perhaps but just as insidious—persons who in their own way weaken our society, damage our leadership principles, and completely ignore the responsibilities of good citizenship.

Office holders who occasionally compromise principle or a public trust in exchange for gifts and favors, businessmen who pad their expense accounts and deflate their income tax returns, would be stunned if anyone said they were not responsible and law-abiding citizens. They are—most of them.

The workingman who patronizes after-hours bars and neighborhood bookmakers, those who buy merchandise at prices and under circumstances that clearly suggest it is stolen, contribute to the survival of crime in our society—though they would be aghast at being called criminals.

The president of a corporation who conspires to break the anti-trust laws because it assures a certain profit, the procurement agent who deals in secret kickback agreements, may give the appearance of being model members of society and each undoubtedly seeks to retain that image.

Yet, each of these persons, and myriad others like them who have a cavalier attitude toward the law when it suits *their* purpose, attack the society of law from within.

If the law is to be defended and obeyed *except* when it is inconvenient, then what purpose is served? And what have we learned from the history and growth of our Constitutional democracy?

Man is said to be destroying his own physical environment—almost through careless disregard. And it should be obvious that man can destroy the social environment in the same way—by his failure to appreciate the indivisibility of freedom *and* the law. To be "law abiding" is no *sometime* thing!

Yes, there is a difference, a vast difference, between the bomber and the bettor, the conspirator and the cheater. The one blasts, the other chips away. But *each* weakens the stature of the law in our society.

The law enforcement officer—the *peace* officer—has the prime responsibility to protect society from those who break or destroy or undermine the law.

But our society can never be protected from itself if responsible citizens, by a subtle change in attitude towards the law, abandon their responsibilities as citizens *when it suits their purpose.*

It is the duty of every citizen and the prime responsibility of leading citizens to be conscious of the continual need for affirmative action to nourish our Government of laws.

Everyone realizes the danger of continual attacks upon police officers and the departments they serve. These attacks erode the capacity of the law enforcement profession to uphold the peace that law should bring.

This same kind of attack is being made upon the society of law—from within—by many who take the easy way out, who abrogate their responsibilities as citizens, who do not care enough to uphold the tradition of our Constitution and its authors.

Do not look *just* to the Congress, the Courts, or the law enforcement profession to protect society from itself.

All of us citizens have that responsibility. If we bear that responsibility lightly—and only when it suits us—we jeopardize the society of law just as do the anarchists, the separatists, the criminal neophytes, and the professional forces of organized crime.

Our pledge must be to *continue* to be worthy of our matchless heritage.

Our course as a Nation is unmistakably onward and upward. Time and again we have proven that freedom under law *does work.*

Our Government cares about our people. Our police officers are protectors, not oppressors. Our society is not out of control.

As human beings, we do not claim perfection. But it is an enormous triumph that man with all his faults dares to reach for the stars. This is his ultimate glory.

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SEPTEMBER 8, 1972.

To: L. Patrick Gray, Director, FBI.

From: Ralph E. Erickson, Deputy Attorney General.

Subject: Information for Campaign Trips: *Events and Issues (Attached White House Memorandum).*

Would you undertake to evaluate the questions asked of us by John Ehrlichman in the attached memorandum and give me the benefit of your response.

Although we are beyond the due date of this memorandum already, please make your response as quickly as possible.

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THE WHITE HOUSE,
*Washington, D.C., September 1, 1972.*

Memorandum for: The Deputy Attorney General.

Subject: Information for Campaign Trips: *Events and Issues.*

In order for John Ehrlichman to give the President maximum support during campaign trips over the next several weeks, the following information is required for *each* of the states listed at Tab A.

(1) Identification of the substantive issue problem areas in the criminal justice field for that particular state. Please limit yourself to problems of sufficient magnitude that the President or John Ehrlichman might be expected to be aware of them. Brevity is the key, and often all that is necessary is to flag a sensitive problem so it can be avoided or more extensive preparation can be undertaken should we choose to speak about it.

(2) A list of events relating to the criminal justice area that would be good for John Ehrlichman to consider doing. For each suggested event, the following items should be indicated:

(A) Purpose of the event.

(B) The nature of the group or institution involved.

(C) The content of the event.

(D) Names of specific people who can be contacted for the purpose of setting it up (together with titles, addresses, telephone numbers, etc.).

(E) All trade-off factors to be considered in scheduling the event.

I am receiving separate materials from both LEAA and DALE, so you should omit any consideration of problems in the area of Federal aid or drugs. I would expect your list of problems to be fairly brief, but there are certainly criminal justice problems (such as the Fort Worth Five) that we should flag for the President.

I know this is rushing you, but I need the information by close of business, Thursday, September 7, 1972.

Thanks, Ralph.

GEOFF SHEPARD.

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California (San Francisco and Los Angeles).
Connecticut.
Florida.
Georgia (Atlanta).
Illinois (Chicago).
Massachusetts.
Michigan.
Missouri (Kansas City).
New Jersey.
New York City.
Ohio.
Pennsylvania (Philadelphia and Pittsburgh).
South Dakota.
Tennessee.
Texas (San Antonio).

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SEPTEMBER 8, 1972.

To SACS: San Francisco, Los Angeles, New Haven, Miami, Tampa, Jacksonville, Atlanta, Chicago, Boston, Detroit, San Antonio, Kansas City, Newark, New York City, Cleveland, Cincinnati, Philadelphia, Pittsburgh, Minneapolis, Knoxville, and Memphis.

From acting Director, FBI.

Inquiry from White House.

Following memorandum received from White House:

"In order for John Ehrlichman to give President maximum support during campaign trips over the next several weeks, the following information is required for each of the States listed.

(One) Identification of the substantive issue problem areas in the criminal justice field for that particular State. Please limit yourself to problems of sufficient magnitude that the President or John Ehrlichman might be expected to be aware of them. Brevity is the key, and often all that is necessary is to flag a sensitive problem so it can be avoided or more extensive preparation can be undertaken should we choose to speak about it.

(Two) A list of events relating to the criminal justice area that would be good for John Ehrlichman to consider doing. For each suggested event, the following items should be indicated:

(A) Purpose of the event.

(B) The nature of the group or institution involved.

(C) The content of the event.

(D) Names of specific people who can be contacted for the purpose of setting it up (together with titles, addresses, telephone numbers, etc.).

(E) All trade-off factors to be considered in scheduling the event.

"Receiving separate materials from both LEAA and Dale, so you should omit any consideration of problems in the area of Federal aid or drugs. Would expect your list of problems to be fairly brief, but there are certainly criminal justice problems (such as the Fort Worth Five) that we should flag for the President."

In accordance with above, you should submit by immediate teletype to be received by the Bureau no later than eight a.m., Monday, September eleventh pertinent material which should include matters pertaining to gun control legislation, corruption in police departments, probation and parole, etc. Deadline must be met.

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SEPTEMBER 11, 1972.

To: Mr. Bishop.
From: M. A. Jones.
Subject: Events and issues (Attached White House Memorandum).

In accordance with the request contained in referenced memorandum, there is attached material from various field divisions and offices of this Bureau for consideration. This material has been broken down by state and locality to conform with the listing submitted by the White House.

Recommendations:

(1) That the attached material be approved for transmittal to the White House through the Department.

(2) That after approval, this memorandum and attachments be returned to your (Mr. Bishop's) office for transmittal to the office of Ralph E. Erickson, Deputy Attorney General.

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ADDRESS BY L. PATRICK GRAY III, EXECUTIVE ASSISTANT TO THE SECRETARY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, TO ALL APPOINTEES IN THE DEPARTMENT AT THE DEPUTY ASSISTANT SECRETARY LEVEL AND BELOW, JULY 25, 1969

I am going to talk to you about some lessons learned in the first six (6) months. The approach will be practical, but threaded throughout will be the lofty ideals and the great concerns we have as we join together in HEW to serve the President, the Secretary, and the people of our Nation.

At the risk of being tagged here and now as an over 30, "turned off" reactionary, let me emphasize to you the importance of the concept that we are here to serve, not to be served—that we are here to serve, not to enhance our own perfectly normal, human selfish interests. This may be out of tune with some of the thinking surrounding us today.

Each of us is possessed of our own desires, ambitions and goals. This is normal. This is commendable. At the same time, when we embark upon a career in the service of our government, whether that career is to be short term or long term, we must be quite willing to subjugate our own personal goals to a deep, personal commitment to serve our President, our Secretary, and our Nation.

This commitment must be our homing beacon throughout our career in the service of our government.

Each one of us is here in HEW because Richard Nixon was elected to the high office of President of the United States. Further we are here because Secretary Finch has seen fit to place trust and confidence in us and to approve our selection to fill a position in HEW.

In short we owe our positions to the capability of the President to come off the mat, so to speak, and drive through hard, vigorous years of campaigning to win the nomination of the Republican Party, and then go on to win the Presidency of the United States with the valiant help of hundreds of thousands of dedicated, hardworking supporters campaign workers, and contributors.

So also are we here because Secretary Finch has seen fit to ask us to serve with him and to help him move this Department forward as he and the President seek the solutions to the people problems which, if not solved, might well rupture and destroy the society which the people of our Nation have created.

Obviously, we are a chosen few, an elite group—make no mistake about it—there are thousands of Republicans who are knocking at the door and who would be pleased to be in our positions.

Appreciate this hard fact of life. Appreciate the fact that every single member of the opposite political party is working hard day and night to ensure that the President of the United States is hampered and harassed in carrying out his programs and that the President of the United States is not reelected to serve a second term.

This is a real hard political fact of life. This is in keeping with the nature of our political system. Without such a system, one party government could produce a totalitarian state. We accept this fact of life; so does the opposing party. Accordingly, do not retch or quiver when we insist that the preponderant majority of our colleagues—political appointees—be members of our own party.

Again it is plainly obvious that we must be dedicated and devoted to the concept that our Republican President will be a great President, that his programs will be successful, and that he will be reelected to a second term.

Above all other qualities of character that we hold near and dear, we must have deep, abiding, sincere loyalty to our President and to our Secretary.

Earlier I placed great emphasis on service. Now I want to drive home hard the emphasis on loyalty. I do not speak of blind, automatic loyalty. I speak of a sincere, an intelligent, a freely made decision to join President Nixon and Secretary Finch because we believe in them, trust them, understand the goals and objectives they hold, and desire to support them with the deepest sense of dedication and total commitment.

Should there be anyone of you here present today who cannot make this commitment, you must—in order to maintain your own dignity, self-respect, and integrity—examine deeply your own hearts and minds and reach a decision—to serve or not to serve.

Do not today understand me to be saying that each of you is to consider yourself as a fanatic, blind, unreasoning, partisan Republican of the brand often caricatured by Herb Block and others who are determined that an enlightened, human, understanding Republican President shall not succeed.

No, I am saying that you are here because you have made a profound commitment to support with total dedication the President of the United States; that you have made this commitment intelligently because you wish to join with him in bringing this country together again; that you have made this commitment intelligently because you wish to join with Secretary Finch in assisting him to perform the tough tasks which lie ahead—tasks which must be performed well in order that the President may accomplish his objective.

Our Nation has elected a Republican President. We have a Republican Administration. We have Republican approaches to the problems of our people. We have the knowledge of the President's goals. We have the common sense to know the desires and objectives of the President and the Secretary—we must have the loyalty, the courage, and the commitment to do their will—not our will. This means, plainly and simply, that we get on the track with the President and the Secretary and that we stay there and track with them.

You may say, "I am not political"—"I am an Independent"—"I do not care what party is involved, I vote for the man"—"Politics is a dirty business," and so on. From the vantage point of my ancient age, let me assure you that no American can afford to ignore politics, to ignore the machinery of government, to adopt an attitude of "Let George do it." This attitude is guaranteed to ensure the demise of the two party system—our form of democracy. No American can afford to avoid involvement, particularly in today's world, when the thing to do is to become involved, to participate, to take a position.

Now let's go on to other lessons learned:

Loyalty includes also a dedication to your immediate superior and to those who work with you in our cause, on our team.

Loyalty includes an avoidance of criticism of our leaders and of our colleagues. Criticism which is destructive in nature is cancerous—it will destroy us and our entire team. Snide remarks and facetious comments lightly made often come back to haunt us. Too often have I heard this form of banter engaged in innocently. Too often have I seen the results published in newspapers or made the subject of remarks by the boob-tube word mashers.

Loyalty includes having the common sense and decency to deal with others in a manner calculated to bring credit to the President and the Secretary. We are the President's people—we are the Secretary's team—and when we speak, we speak for the Secretary but we do not speak as the Secretary. We do not wear the Secretary's mantle. Therefore, while we speak from strength, we do not speak with arrogance. Courtesy is the key. Our errors here become the Secretary's errors and place him in a very delicate position. Instead of strengthening him, we weaken him.

Loyalty includes the touching of all required bases as we set out on our daily rounds to carry out the will of the Secretary. We deal directly and candidly. We deal with those who ought to know and who have a responsibility to the Secretary, too. In short, we do not "end around."

I believe that I may have placed the concept of service and loyalty in the proper perspective and I want to go now to a few more pitfalls and pratfalls that can harm us, the President, and the Secretary.

Not one problem that we handle in HEW is simple. This is the lot of a Department responsible for the problems of people at the national level. Accordingly, not one task assigned to you is of a nature such that you can give it the so-called "light touch." You have to shred the problem; look at it from every angle; learn to work in depth; learn to dig hard; learn to turn in a work product that is as thorough, as logical, and as clear as you can make it. You should be concerned with the overview, the big policy, the grand decision. But you also are in a training period, a development period—we all are. Do the tasks assigned well and you will find that your personal job satisfaction is enhanced and your responsibilities are increased. Above all do not seek out only the so-called "glamour work;" put your shoulder to the wheel and be eager to tackle the "nitty gritty" chores, too.

The President and the Secretary appreciate another hard fact of life. Simply stated it is that intelligent members of an elite group—our team—will generate a wide diversity of views and rather strong opinions regarding the highly charged issues facing our Nation today. This is great and we do not want to stifle the minds and stagnate the thought processes of the members of our team. At the same time, and although we believe in and foster the thorough airing of our views and opinions within our own family, we must present a united front in support of a decision once made by the

President or the Secretary. Our support must be total and absolute.

In conversations with others, we do not refer to RHF as "Bob." He is the Secretary to all within the Department and to outsiders. Be extremely careful at all times to maintain the dignity of his office, but do it with warmth and humility—not with arrogance. We have enough problems in HEW now without creating more by being inept or overbearing.

Even though each of us is close to the Secretary, resist at all times the temptation to enhance our own image by "puffing," or by our actions demonstrating how close we are to the Secretary. We would not be here if we were not close to the Secretary and those with whom we will come in contact know this political fact of life. You will demean yourself and the Office of the Secretary by taking "name dropping" advantage of your position.

Lobbyists—You will come in contact with them; they have a legitimate reason for existing. Be a courteous listener, but a most careful talker. Make no commitments whatsoever in the name of the Secretary: Moreover, do not even talk in such a manner to "lead on" a lobbyist—you trap yourself in a very difficult situation and you can hurt RHF badly by this sort of conduct. Again, be a courteous and attentive listener, but a most careful talker.

Telephone Conversations—The telephone is obviously an invaluable communication tool, but do not say in a telephone conversation that which you would not care to see in print the next day. Once again the concept is that of tact, courtesy, patience, understanding, care and concern—but no commitments in the name of the Secretary, and no "puffing."

Mail—The principles I have spoken of thus far apply as well to all mail leaving the Department. When preparing correspondence for the Secretary's signature, or when reviewing it, never treat it lightly, no matter how simple the subject. The reasons are obvious—every letter portrays the image of our office and of the Department; further every letter reflects the substance of our positions and policies.

Security—Recent examples should be sufficient to impress upon each of us the critical importance of the general security of our office and our official, as well as unofficial, papers. Every Department of Government is loaded with prying eyes—eyes that are prying for one reason or another. Be assured that none of this prying has as its objective the enhancement of the Nixon Administration or the enhancement of our Department. We deal with critical issues of great importance to many diverse groups in our land. Be mindful of security at all times; above all leave a clean desk when you leave for the day and be certain that critical papers are under lock.

The effective functioning of any group is related to the degree of cohesiveness and common purpose which has been established and accepted throughout the group.

Let's look to see if we have the ingredients in our make-up to generate that sense of cohesiveness and common purpose.

Why are we here?

A. Because we believe in President Nixon and Secretary Finch.

B. Because we are dedicated to them and their work.

C. Because we ask only to serve; not to be served.

D. Because we have no greed for personal aggrandizement.

E. Because we feel a deep sense of personal pride, honor and humility in being asked to serve.

How do we operate?

First, we will operate as the Secretary desires us to operate.

Second, our mission is to do just as much for the Secretary as we can to remove from his shoulders unnecessary burdens.

Third, we do our work in accordance with the guidelines laid down by the Secretary.

Fourth, we are staff assistants to the Secretary—not decision makers or policy makers, even though we may well have a strong input to him prior to the moment decisions are made and policies established. Once made, we support them to the hilt!

Fifth, we operate in such a way as to reflect credit upon the Secretary for choosing us to occupy the important positions to which he has appointed each of us.

Sixth, we do not throw around the weight of the Secretary's Office. We are courteous and considerate in all of our dealings with the people in the Department, yet we are not to be hoodwinked or misled into presenting slanted information to the Secretary.

I believe that each of us can agree that we have the ingredients required to function effectively in behalf of the President and the Secretary.

Our objective—to assist to the fullest extent, the Secretary in his objective to make this the *best* Department in the Nixon Administration; to establish this Department as a Department on the move, a Department composed of compassionate and understanding people who are determined to generate and manage plans and programs designed to enrich the lives of all Americans; to make this Department so attractive and so meaningful in its work, that members of the civil service, and others not now in government, will be eager to join HEW and assist the Secretary to achieve his objectives. Imaginative, creative, dedicated, and competent people form the heart and flesh, the bone, sinew and muscle of any organization whether it be the corner grocery stores, or a major Department of the Government of the United States. We must have them and we must work with them in such a manner that they can realize their full potential in the best interests of the people of the United States.

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WHITE HOUSE PRESS CONFERENCE,
MARCH 9, 1973

Q. If I could turn to another subject, did you request that John Dean be present when you were interviewed by the FBI?

Mr. EHRLICHMAN. Yes.

Q. You did?

Mr. EHRLICHMAN. Yes.

Q. Could you tell us why?

Mr. EHRLICHMAN. Well, as a lawyer I have always felt it appropriate to have counsel present at an interview of that kind, and I just felt more comfortable having someone there who was an attorney, not answering the questions, but on whom I could call for advice or an opinion in the event that a question arose in my mind as to the propriety of a question.

Q. Throughout any of the interview, did you have to call on him?

Mr. EHRLICHMAN. No, I didn't as a matter of fact.

Q. Does any citizen have the right to have counsel present when he is being interviewed by the FBI?

Mr. EHRLICHMAN. I think that is an unquestioned right. I gather that some people don't avail themselves of that right, but I would think it is entirely proper for someone to request that that be the circumstance of the interview. I know that doesn't make the Bureau terribly happy, but from my standpoint, if I had a client who called and said, "What do you think about this?", I think my advice would be it would be a good idea to get legal advice if it is an interrogation of such a nature that justifies it.

Q. If the White House is not involved, why did you take the White House counsel to be your counsel in this case? Why not get a personal counsel?

Mr. EHRLICHMAN. I think it is entirely proper for someone in my situation to draw on the White House counsel if he is available for advice in a matter that is germane to a proceeding of that kind.

On the other hand, I guess I had two other options, neither one of which I availed myself of. One would have been to retain private counsel. Considering the fact we haven't had a raise for four years, that is probably the least desirable of all the alternatives. The other might have been to get someone from the Justice Department, but under the circumstances, that wouldn't have been terribly appropriate. So, this seems to be the best of three alternatives.

Q. The Justice Department serves the White House, they don't serve individuals who work in the White House.

Mr. EHRLICHMAN. I don't think that is correct, Miss McClendon.

Q. That is what they tell me.

Mr. EHRLICHMAN. I don't think they are telling you correctly then. This came up in the context of some previous proceeding two or three years ago and I had an opinion—it may have been oral, I can't recall—as to the propriety of an employee of the government, and I have forgotten who, someone in the Departments, being represented by the Justice Department in a proceeding where a deposition was involved and I think it was a consumer case and the fellow was a named defendant in the case—it may have been Secretary Hardin, I think it was—where he was a named defendant in the case, and the question of whether he should have private counsel or have Justice Department counsel and it is proper for an individual in a proceeding of that kind, even though he is a party to the action and a named defendant, to have the Justice Department represent him.

Q. Didn't you involve Mr. Dean as White House counsel when you called on him to be there——

Mr. EHRLICHMAN. Certainly.

Q. —and be personally interviewed by the FBI?

Mr. ERHLICHMAN. Certainly.

Q. John, were you aware that Dwight Chapin had suggested to Mr. Kalmbach that it would be a good thing to put Segretti on the payroll, that he could be of service to the Republican Party?

Mr. EHRLICHMAN. By my answer, I don't want to imply the truth of the assumption you make. I had no personal awareness of any circumstances like that; whether it happened or not, I don't know.

Let me go back to this question. I was being interrogated in this proceeding not about my personal involvement, but about the status of Hunt and Liddy as employees of the White House. They wanted to know whether they had done any work for me, what their jobs were and things of that kind. So, I didn't see anything out of the ordinary about involving White House counsel in a proceeding of that kind.

Q. Did they want to know whether you had directed them in certain things connected with the Watergate?

Mr. EHRLICHMAN. No, I was not asked that.

Q. Would you accept——

Mr. EHRLICHMAN. Let me go back and finish that.

I think probably the reason that question was not asked is that the circumstances I described in my narration of their employment here, which was the fact that they had long since, both of them, left the White House and left my area of concern, and that I had had no contact with them for many months and so on. They laid that foundation so we never got to a question of did I direct them or that sort of thing. They asked me did I ever talk to them or see them after that and I said no. That was the end of it.

COMPTROLLER GENERAL OF THE UNITED STATES,
*Washington, D.C., February 22, 1973.*

Hon. WILLIAM PROXMIRE,
*U.S. Senate,*

DEAR SENATOR PROXMIRE: Your letter of June 21, 1972, requests our report on the applicability of 5 U.S.C. 3348 to the temporary appointment of Mr. L. Patrick Gray III as Acting Director of the Federal Bureau of Investigation (FBI). We found it necessary to obtain the views of the Department of Justice in regard to Mr. Gray's appointment and have carefully considered them.

By Public Law 90–351, title VI, § 1101, June 19, 1968, 82 Stat. 236 (28 U.S.C. § 532 note), Congress provided for appointing the Director of the FBI, as follows:

Effective as of the day following the date on which the present incumbent in the office of Director ceases to serve as such, the Director of the Federal Bureau of Investigation shall be appointed by the President, by and with the advice and consent of the Senate * * *.

Prior to this, the Director had been appointed by the Attorney General.

On May 2, 1972, the incumbent, Mr. Hoover, died and on May 3, 1972, the then Acting Attorney General, by Order No. 482–72, designated Assistant Attorney General Gray to serve as Acting Director of the FBI. On May 11, 1972, Mr. Gray was reassigned by the Acting Attorney General from the position of Assistant Attorney General to the position of Associate Director of the FBI. The previous Associate Director, Mr. Clyde Tolson, had resigned effective at the close of business on May 10, 1972. Mr. Gray has continued to serve as Acting Director since his designation to that position on May 3.

Under section 3348 of title 5, United States Code, a 30-day limit is imposed on temporary appointments to fill positions which are subject to Presidential appointment and Senate confirmation. That section is worded as follows:

§ 3348. Details; Limited in time.

A vacancy caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of this title for not more than 30 days.

The cited sections, 5 U.S.C. 3345–3347, provide:

§ 3345. Details; to office of head of Executive or military department.

When the head of an Executive department or military department dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops.

§ 3346. Details; to subordinate offices.

When an officer of a bureau of an Executive department or military department, whose appointment is not vested in the head of the department, dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops.

§ 3347. Details; Presidential authority.

Instead of a detail under section 3345 or 3346 of this title, the President may direct the head of another Executive department or military department, whose appointment is vested in the President, by and with the advice and consent of the Senate, to perform the duties of the office until a successor is appointed or the absence or sickness stops. This section does not apply to a vacancy in the office of Attorney General.

Also pertinent is 5 U.S.C. 3349:

§ 3349. Details: to fill vacancies; restrictions.

A temporary appointment, designation, or assignment of one officer to perform the duties of another under section 3345 or 3346 of this title may not be made otherwise than as provided by those sections, except to fill a vacancy occurring during a recess of the Senate.

All five sections are derived from the act of July 23, 1868, ch. 227, 15 Stat. 168, hereafter referred to as the Vacancies Act. The time limit now found in section 3348 was 10 days as covered in the 1868 act and was increased to 30 days by the act of February 6, 1891, ch. 113, 26 Stat. 733. Congressional intent in passing the 1868 act is indicated by debate recorded in the Congressional Globe of February 14, 1868:

Mr. TRUMBULL. The intention of the bill was to limit the time within which the President might supply a vacancy temporarily in the case of the death or resignation of the head of any of the Departments or of any officer appointed by him by and with the advice and consent of the Senate in any of the Departments. As the law now stands, he is authorized to supply those vacancies for six months without submitting the name of a person for that purpose to the Senate; and it was thought by the committee to be an unreasonable length of time, and hence they have limited it by this bill to thirty days. [Changed by floor amendment to 10 days.]

The bill also has another object. By the second section (now 5 U.S.C. 3349) it is intended to repeal all previous laws on the subject. * * * *lest there be any misapprehension about it the second section is intended to be very full and to repeal all other laws on this subject, so that the whole law in regard to supplying vacancies temporarily will be in this one act.* (Emphasis added.)

* * * * *

Mr. TRUMBULL. * * * This bill only applies to cabinet officers and the heads of bureaus—those officers appointed by the President, by and with the advice and consent of the Senate. In case of vacancy or inability to discharge the duties of the office by any of these parties the President is authorized to detail some other officer to perform the duties for ten days in case of a vacancy, and during those ten days, of course, it will be his duty to nominate to the Senate, if the Senate is in session, some person for the office * * * 39 Cong. Globe 1163, 1164.

It is clear that sections 3345 through 3349 were intended to preclude the extended filling of an office subject to Senate confirmation without submission of a nomination to the Senate.

The question then, as raised by your letter, is whether the cited sections are applicable to the appointment of Mr. Gray. It is the view of the Department of Justice, that Mr. Gray's appointment was not made pursuant to section 345, 346 or 3347 of title 5, and that therefore the 30-day limitation in 5 U.S.C. 3348 is inapplicable to his continued service. In a letter dated January 10, 1973, the Department takes the following position:

[Mr. Gray] was reassigned to the position of Associate Director, FBI, by personnel action effective May 11, 1972. Pursuant to Department of Justice regulations, the Associate Director serves as Acting Director in the event of a vacancy in that position. 28 CFR 0.132(d).

Under a provision of the organic act of the Department of Justice, 28 U.S.C. 509, virtually all functions of officers, employees, and agencies of the Department are vested in the Attorney General, including the functions of the FBI. The Attorney General, in turn, has authority to delegate the performance of these functions to "any other officer, employee, or agency of the Department." 28 U.S.C. 510. He has assigned these functions by regulation and has provided who is to perform them when the principal office to which they are assigned is vacant.

See 28 CFR, Part O. It is under these regulations, and pursuant to these statutory provisions, that Mr. Gray now serves as Acting Director of the FBI, rather than pursuant to 5 U.S.C. 3346 or 3347.

The Department also makes the following points:

5 U.S.C. 3345–47 provide for filling certain vacancies in general terms. In contrast, provisions such as 28 U.S.C. 508–510 deal with a specific Department and, read in pari materia with 5 U.S.C. 3345–47, indicate that Congress intended different provisions to govern the filling of vacancies in the Department of Justice than govern generally.

While 5 U.S.C. 3349 appears to create an exclusive method of filling vacancies temporarily, on close reading it is clear that it is applicable only to vacancies filled 'under section 3345 or 3346.'

It is noteworthy, that 5 U.S.C. 3345, for example, authorizes the President to designate the order of succession for department heads generally. 28 U.S.C. 508, however, authorizes the Attorney General to make this designation in the Department of Justice.

Comparing the general provisions of 5 U.S.C. 3345–48, originally enacted in 1868, with the provisions of 28 U.S.C. 508–10, derived from the Department of Justice Act of 1870 and Reorganization Plans No. 2 of 1950 and No. 4 of 1953, it becomes clear that the vacancies provisions governing this Department are an exception to the general vacancies provisions.

It is a settled principle of statutory construction that a specific statute prevails over a general and that a statute later in time prevails over an earlier.

Sections 508–510 of title 28, United States Code, referred to by the Department of Justice, provide as follows:

§ 508. Vacancies.

(a) In case of a vacancy in the office of Attorney General, or of his absence or disability, the Deputy Attorney General may exercise all the duties of that office, and for the purpose of section 3345 of title 5 the Deputy Attorney General is the first assistant to the Attorney General.

(b) When, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

§ 509. Functions of the Attorney General.

All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—

(1) vested by subchapter II of chapter 5 of title 5 in hearing examiners employed by the Department of Justice;

(2) of the Federal Prison Industries, Inc.

(3) of the Board of Directors and officers of the Federal Prison Industries, Inc.; and

(4) of the Board of Parole.

§ 510. Delegation of authority.

The Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.

Section 508 is derived from Reorganization Plan No. 4 of 1953; sections 509 and 510 are derived from Reorganization Plan No. 2 of 1950. These plans were promulgated pursuant to the Reorganization Act of 1949 (Public Law 109, 81st Cong., 63 Stat. 203) which was enacted, following recommendations of the first Hoover Commission, as a means of expediting reorganizations in the executive branch. In a report by the Senate Committee on Expenditures in the Executive Departments, S. Rept. 1683, 81st Cong., 2d sess.,

the purpose of Reorganization Plan No. 2 is explained:

In a special message to Congress accompanying Reorganization Plans Nos. 1 to 13 of 1950, the President outlined the purpose of plans Nos. 1 to 6 inclusive, as follows:

Reorganization Plans Nos. 1 to 6, inclusive, relate to the Departments of the Treasury, Justice, the Interior, Agriculture, Commerce, and Labor. With certain exceptions, these plans transfer to the respective Department heads the functions of other officers and agencies of the Departments. They permit each Department head to authorize the functions vested in him to be performed by any officer, agency, or employee of the Department * * *

Through the years the Congress has repeatedly endorsed the policy of holding agency heads fully accountable for all the functions of their agencies. * * *

* * * * *

*Plan No. 2 does not give to the Department of Justice any more powers, authority, functions, or responsibilities than it now has.* (Emphasis added.)

It is clear that the primary intent of Reorganization Plan No. 2 was to establish clear and direct lines of authority and responsibility for the management of the Department of Justice and to make the Attorney General clearly responsible for the effectiveness and economy of administration of the Department of Justice. See also H.R. Doc. 503, 81st Cong., 2d sess. (1950). The wording in Reorganization Plan No. 2 is similar to the wording of other reorganization plans approved in 1950, such as Reorganization Plan No. 3 concerning the Department of the Interior, Reorganization Plan No. 5 concerning the Department of Commerce, and Reorganization Plan No. 6 concerning the Department of Labor. In fact, nearly all executive agencies were subsequently reorganized under similarly worded reorganization plans and for similar reasons—to effectuate the recommendations of the Hoover Commission by establishing clear and direct lines of authority within each agency.

In our opinion since nearly all executive agencies have similarly worded statutes conferring almost identical powers on the heads of the respective agencies, the position of the Department of Justice—that from the wording in 28 U.S.C. 509–510 it is manifest Congress intended different provisions to govern the filling of vacancies in the Department of Justice than govern generally—is not tenable. Also, if the interpretation of the Department of Justice with regard to its reorganization plan were applied to the reorganization plans of all agencies, the effective result would be to render virtually null and void the statutory prohibitions contained in sections 3345–49 of title 5, United States Code. It is clear that such result was not intended.

It is worth noting that section 5(a)(5) of the Reorganization Act of 1949 prohibits any reorganization plan from having the effect of "increasing the term of any office beyond that provided by law for such office", a restriction which, to be meaningful, would have to apply to the 30-day term limit put on temporary appointments to positions requiring Senate confirmation.

With respect to the remaining arguments of the Department of Justice, it is sufficient to state that they, as well as the Department's position as discussed above, lead to the ultimate conclusion that Congress did not intend to require Senate confirmation of the new head of the FBI. For there is nowhere in the Department's logic any provision for Senate confirmation except as the President might decide to nominate someone for the position.

Therefore, our opinion is that the service of Mr. Gray as Acting Director of the Federal Bureau of Investigation is subject to the provisions of 5 U.S.C. 3346–3349, and that his continued service in that position is prohibited since he has performed the duties thereof in excess of 30 days. See 32 Op. Atty. Gen. 139 (1920).

Sincerely yours,

ELMER B. STAATS,
*Comptroller General of the United States.*

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REMARK: BY PATRICK GRAY III, ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION, DEPARTMENT OF JUSTICE

(Before the Wage-Price Control Workshop, March 24, 1972)

Nearly a hundred years ago a journalist was interviewing the railroad magnate, William Vanderbilt, about his plans for discontinuing a rail line.

"And what about the public?" asked the reporter.

"The public be damned!" answered Vanderbilt.

As you can see, this was well before the term "public relations" had been invented. And as you can imagine, this startling statement stirred a tremendous hue and cry from the enemies of American business. They said it simply expressed what everyone knew—that businessmen were running roughshod over the public interests. Among those who were loudest in their denunciations were leaders of the labor movement.

In the last three days the nation has been treated to another spectacle of the same type. When the pay board made a decision that the AFL–CIO didn't like, its President and three other labor members of the board walked out.

Public Relations has come a long way since William Vanderbilt, and George Meany did not say, "The Public Be Damned!" But that is the full and complete meaning of his action. Not since the so-called Robber Barons of the 19th Century has a special interest group demonstrated such blatant contempt for the public interest. Let's look at the record.

Our most recent inflationary spiral began in 1964. For the first five years of this raging inflation, a democratic administration was in Washington. What did it do to stop this inflation? Nothing. During that same five years, what did the leaders of organized labor demand of that Democratic Administration, in order to stop inflation? Nothing.

Just three years ago, after President Nixon took office, he applied then his existing powers to try and stop inflation. As you know, these were indirect powers—credit restrictions, the tax structure, and so forth. He also called upon business and labor for voluntary efforts in controlling inflation. What was the result?

In general, organized labor continued to make strong and inflationary demands at the bargaining table. And in too many instances, business gave in to these demands and simply passed the added costs on to the consumer, in the form of higher prices.

Lest I be accused of coming here just to blame organized labor for the inflationary spiral, let's recognize that it takes two sides to negotiate at the bargaining table and two sides to sign a contract. If labor was wrong in demanding inflationary increases, business was wrong in granting them.

The one side that wasn't represented at the bargaining table was the side of the consumer. He is the one who, in the end, had to pay the price.

Now, as you know, President Nixon preferred not to apply direct controls to the economy, if it could be avoided. He knew that such controls can stifle our free and competitive economy. He had hoped that inflation would be cured by indirect and voluntary means. And, in fact, there was some reduction in the rate of inflation. But by mid-1971 the Nixon administration realized it was not enough.

All this time the Democrats—those whose party had done nothing to stop the inflationary spiral in the first five years—were blaming the President and were calling for more drastic and direct controls.

Leaders of organized labor, led by George Meany, were calling for direct controls. They said that was the only way the President could curb inflation.

Then on August 15, President Nixon announced his wage-price freeze. Well, George Meany said that wasn't exactly what he had in mind. He was in favor of freezing prices, but not wages. And since public relations has become an important factor since the days of William Vanderbilt, Mr. Meany didn't say, "The public be damned!" No—instead he claimed that labor was being asked to bear the brunt of the fight against inflation, and he threatened to ignore the wage freeze.

Then, after the 90-day freeze the President established phase II—the economic stabilization program. It embodied the most scrupulous attempt to administer wage and price controls that would be fair to all concerned. Not since the national crisis of World War II was everybody in America so united in one cause—the need to buckle down—pull together and break the back of the psychological inflation as well as the real inflation.

Everybody, that is, except the likes of George Meany. At first he hesitated to serve on the pay board until his terms were met. Then he reluctantly agreed, saying, in effect, that he would do so only as long as it served labor's interest to do so.

While I am not here to throw bouquets at business, I must observe that the management representatives on the pay board did not come in with their fingers crossed. They did not hang onto their hats and keep one foot outside the door.

Now, let's look at the record of the Pay Board and see whether its performance justified George Meany's fears.

Out of 54 votes on major issues by the Pay Board, more than half were unanimous. The majority voted the way the labor members voted 36 times.

Let's cut it another way. The Pay Board agreed that 5.5 percent was a permissible increase, considering productivity gains, and that 7 percent was reasonable where there was some "catching up" to do. Yet in the soft coal settlement the Board agreed to 15 percent. In the aerospace settlement it agreed to 8.3 percent plus an additional 4 percent in the second year. The United Transportation Union got 10 percent.

The full Pay Board has acted upon eight major wage cases. In five of these the position of the labor members prevailed.

Does this record look like the Pay Board was stacked against organized labor?

Meanwhile, what was the Price Commission doing?

The weighted average price increase it has allowed—and bear in mind it has denied any increase at all in a number of cases—has been 3.16 percent for applicable sales, and 1.55 percent for total revenues. And whereas the Pay Board allowed the soft coal workers a 15 percent wage increase, the Price Commission established a policy that even in such cases, no more than a 5.5 percent price increase in wages would be accepted as allowable cost to be passed on as a price increase.

How has all this affected the cost of living? The President has indicated that his goal is to get the Cost of Living Index down to an annual increase of 2 to 3 percent. Since the start of phase II the Monthly Price Index has averaged increases that are well within this annual rate.

It is true that here and there you can find prices that have exceeded this goal. Mr. Meany's game is to pick and choose such exceptions—meat prices, for example—to try and build a case.

The fact is that retail food prices have risen just one-tenth of 1 percent on the

average in the last six months. It is also a fact that only 16 percent of the typical family's income goes for food today compared with 23 percent in 1952.

Now comes the dock strike settlement, in which the Pay Board is asked to approve a whopping 20.6 percent increase.

As you know, this followed a strike that strangled West Coast ports and shipping for many months. This strike was terminated when the President invoked the Taft-Hartley Act on the 98th day, and a court ordered the strikers back to work 112 days after the strike began. The cooling off period expired after 80 days, and the dock workers were out again. They did not return again until 35 days had elapsed.

Reasonable observers declared that if the pay board caved in and allowed anything like the 20.6 percent increase, the whole economic stabilization program was liable to go down the drainpipe.

When it's decision of 14.9 percent was announced it created a furor—but not just on the side of labor. Those who had feared the pay board would "cave in" were just as adamant on the other side. They pointed out that the dock workers increase was comparable to the soft coal increase that had already been criticized as excessive. But Mr. Meany and three other labor leaders affiliated with the AFL–CIO walked out, hurling thunderbolts over their shoulders.

As he had warned, Mr. Meany had been willing to stay on as long as things were generally going his way, but when an important decision went the other way, he picked up his marbles and went home.

Of course, he invoked the help of public relations and put out an explanation that took nearly half a page of newspaper space. He didn't say, "the public be damned." But he did use as one of his excuses that he and his colleagues had "a deep disbelief in and distrust of the aims and purposes of this administration's economic and social policies. . ."

I would like to be charitable and believe that this, and not just pure narrow self-interest, explains Mr. Meany's problem. He doesn't trust this administration, so he pulls out of the game and goes home.

It's not really a question of trust with Mr. Meany—it's a question of power—the raw and unbridled power to pull the strings and manipulate to achieve his own objectives and the public be damned.

At the present time this is the administration in office and headed by a President elected by the people of the United States.

At the present time it is charged with the responsibility of conducting the affairs of the government, and it's the only government we have.

It is administering the only economic stabilization program that Congress has authorized.

At the present time it's the only weapon the Nation has that can win the battle against inflation.

So even if Mr. Meany isn't satisfied with this game, the fact is that it's the only game in town.

Walking out on that game is an indulgence in personal prejudice that the rest of us can't allow ourselves to enjoy.

In my opinion the American labor movement has the right to expect reasoned and responsible leadership from its chieftans. Instead it has now received a buckshot load of irrational irresponsibility.

I believe that the workingman and his family have suffered heavily under the inflationary scourge. They have seen their wages increase but their purchasing power has declined. They deserve the responsible representation that the AFL–CIO potentates may have been able to provide had they placed public interest above self-interest and raw power.

I believe that the overwhelming majority of Americans, including many members of organized labor, will applaud the fairness, the courage and the performance of the pay board.

I believe that the overwhelming majority of Americans recognize the need for the economic stabilization program, and for all Americans to put national interest ahead of special interest in supporting that program.

I believe that the overwhelming majority of Americans do not allow themselves to be ruled by suspicion and distrust. They know that if we are to continue to accomplish great things as a Nation, we must maintain confidence in each other and in the leader we elect.

I predict that, together, we Americans will beat this specter called inflation—with or without Mr. Meany.

In the process we will validate an article of faith—not "the public be damned," but "the public be served."

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### Nixon Will Create Unity In the Nation, Aide Says

(By James Quinn)

New London.—The presidency of Richard M. Nixon will achieve national unity by combining top-level administrators with an attitude of leadership for all, says a New London lawyer who knows him intimately.

Louis Patrick Gray 3rd, who has worked on and off for Nixon since 1960, indicated today he is completely confident the president-elect will overcome "the polarization" of the American people.

"The primary issue facing the country—and Nixon concurs without a doubt—is unity at home," Gray said.

The 52-year-old attorney, a partner in the firm of Suisman, Shapiro, Wool, Brennan & Gray, acknowledges he may get a position in Nixon's administration.

A former Navy captain, Gray has advised the former vice president on a special assignment basis in the areas of defense and economics.

Gray performed a similar role in Nixon's 1960 campaign for the presidency, briefing him then before his television debates and at other times.

This year, he has been again primarily an ideas man for the candidate, researching and preparing first drafts of position papers.

The attorney's assistance to Nixon has been in the fields covered by his educational and occupational background.

An Annapolis graduate, he also has a law degree from George Washington University, and nearly 20 years experience in the Navy, including a one-year turn as executive officer of the Submarine Tender *Fulton* in New London.

After quitting the service in June, 1960, he served in Nixon's unsuccessful campaign, then entered law practice here and set up a small business investment corporation.

Gray's background also reflects the three areas in which he says he might be called upon to work for Nixon—"somewhere in defense, somewhere in the Small Business Administration and maybe within his personal staff."

But in regard to the post of Secretary of the Navy—for which he has been mentioned most often—Gray would say only, "I think not."

He refers to Nixon as "the old man" or "the boss", and says, "I love the guy."

Gray proudly shows visitors a 1960 photograph of the Nixon family hanging in his office. Beneath the picture is a note from the former vice president thanking his adviser for "tough-minded and superbly efficient work as a key member of my campaign staff."

Even while acknowledging that the particular programs of an administration will play a large role in its ultimate success, Gray reasserted that "leadership, which must stem from the president, is the first concern."

Nixon will provide that leadership "through direct communication with all the people, making full use of all news media," he said.

The next most important criterion for success is to "get the best possible men you can to serve in a Nixon administration," according to the attorney.

In regard to establishing a rapport with the nation, Gray feels that "the boss' press relations have improved tremendously" since 1960.

Gray said that during a private luncheon with Nixon at a Washington hotel after the 1960 election he "came down hard" on this matter in assessing the defeat.

Nixon went almost directly from the luncheon into the press room for a chat, Gray said.

"I think he carried this into his campaign on a great basis—except in the last few weeks," he said.

If Nixon cannot communicate his ideas and sincerity to the press, Gray said, his administration "will wither and die in its infancy—and don't think he doesn't know it."

Gray said that Nixon's programs for domestic problems will definitely be more liberal than his critics expect.

"But it's really more a question of humanism," he added. "And don't forget, that this man was a poor boy, he came out of adversity."

Gray lives with his wife Beatrice and four sons on Finlay Way, Stonington.

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### The Other Side of the Coin

(Address of Hon. L. Patrick Gray III, to the Orange County Bar Association, April 28, 1972)

(Note.—This is the official text of Mr. Gray's speech. It may be fully quoted and attributed to him. Due to time limitations, however, a shorter version will be delivered.)

During the celebration of Law Day in our Nation, one of the traditional themes is the responsibility of the lawyer. You would have every reason to assume that this might be the subject of my talk today.

It is not. I am going to talk about the responsibilities of a free press and its relationship to the freedom of our Nation.

My rationale is basic twin responsibilities—that of the lawyer and that of the press—are two sides of the same coin.

Our Nation was founded on the principle that a people will respect and observe laws that they themselves, through their elected representatives, have created.

This was a radical idea two centuries ago in an age of kings. And it hinged on another radical idea—that the people are capable of governing themselves if they are informed.

Listen to the words of Thomas Jefferson in the year that our Constitution was created:

"The basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter."

So it is that the law and the press are two sides of the American coin. This year, as in years past, Law Day speakers across the country will discuss one side of the coin. I would like to talk about the other.

The American press is, and has been for many years, the most productive press in the world. With its wire services, its legion of correspondents, its high-speed presses, its radio and television coverage, it brings more news to more people, faster and more frequently, than any press on this globe.

The American press enjoys more freedom than just about any other press in the world. The American press is free to seek out and

publish the facts without fear or favor, and in general it has shown outstanding initiative in doing so.

Consequently, in fulfillment of Jefferson's ideal, the American citizen ought to be the best informed citizen and the best informed voter in the world.

Or is he?

Let me quote from a President of the United States:

"I really look with commiseration over the great body of my fellow citizens, who, reading newspapers, live and die in the belief, that they have known something of what has been passing in the world in their time. . . . I will add, that the man who never looks into a newspaper is better informed than he who reads them; inasmuch as he who knows nothing is nearer to the truth than he whose mind is filled with falsehoods and errors."

What President wrote that? The same Thomas Jefferson who was such an ardent supporter of the press.

He wrote in a day when journalistic standards remained to be invented; when there was no distinction between news stories and editorials; when the so-called news columns poured forth the most outrageous partisan vilification imaginable.

But beginning in the 19th Century, these shortcomings were corrected as the American press developed true journalistic standards. In the 20th Century, fairness and objectivity in reporting were promoted in schools of journalism and through professional organizations such as the American Society of Newspaper Editors, which established a code of ethics at its first meeting in 1923. I quote one representative sentence out of many in this enlightened document:

"Partisanship, in editorial comment which knowingly departs from the truth, does violence to the best spirit of American journalism; in the news columns it is subversive of a fundamental principle of the profession."

The American public learned to expect that the news columns dealt in facts, and that opinion was confined to the editorial page. The two sides of the coin were complementing each other better than in Jefferson's day. The people were able to make decisions based on fact, rather than having to see through or discount mere propaganda.

And it is true today—as it has been in the past—that the American citizen with the facts in hand can generally be counted on to make a reasonable decision.

But if the "facts" reported are not facts, and the newspapers which the public has come to trust now begin to sacrifice accuracy and objectivity to partisan bias and prejudice of whatever brand—then we may be worse off than the readers of Jefferson's day.

For, if the press retains only the forms of objectivity, and opinion masquerades as fact, then we do not even realize we are being brainwashed. And the two-sided coin which to Jefferson was the basis of democracy—an informed electorate—would be snatched away from us.

Could this happen in America? Is it happening in America?

As you know, Vice President Agnew has had something to say about this. The press responded in two ways—first, hysterical cries of "censorship!"; second, righteous denials of the criticism. Recently, in a television discussion about political reporting, one of the reporters said, "We don't make the mistakes that Vice President Agnew, for instance, says we make." I would like to respond to that by going over with you some of the press coverage of the United States Department of Justice.

On December 2, 1971, the NBC Nightly News provided its viewers with a story entitled, "Police Protection at National Political Convention."

The subject was a grant of funds by the Law Enforcement Assistance Administration, an arm of the Department of Justice, to the city of Miami Beach for improved police services at the Democratic National Convention this year.

One of the NBC reporters named some of the items that the funds would be spent for, including "armor", a "mine-detector", and "hidden microphones and television cameras to keep an eye on areas where demonstrators might get together."

And the presentation ended with the sentence: "One congressional aide who has seen the list said the Justice Department must be expecting the biggest assault since the Tet offensive."

So said NBC. Now what are the facts?

No armor and no mine-detector were ever listed or intended in the grant. The grant does list a metal detection sweeper and two metal detection friskers, but it is a far cry from these devices to detect firearms or pipe bombs, which are standard civilian police equipment, to a mine-detector, which is clearly military equipment.

As for the microphones and TV cameras, they are the usual kind of closed-circuit system that we see every day in banks and apartment lobbies, and are in no sense "hidden".

The quotation from the anonymous "congressional aide" adds nothing to the story except to provide the reporter with a means of injecting an opinion. Needless to say, the exaggeration and emphasis about armor and a mine-detector, which would be military equipment and not police equipment, and the subtle use of the word "hidden" to impute secret police tactics, lend themselves to this opinion.

The story didn't mention what most of the funds would be used for—police training and communications equipment. And NBC News never bothered to check with the agency that was the subject of their story.

I cite this example because it contains just about every device that can be used to twist the news without appearing to do so.

By use of the words "armor" and "mine-detector" it invented phony information.

Its use of the word "hidden" implies sinister motives and seems calculated to arouse suspicion.

It used an anonymous quote from someone who, since his name is not used, is not responsible for the statement.

It left out information that did not lend itself to the impression the reporter was trying to make.

And it shunned any contact with the organization that was the target of the story.

The viewer would get the impression that the Justice Department was expecting a full-scale riot in Miami Beach and was supplying the military hardware to enable local authorities to crush any rioting with police-state methods.

There is little doubt that this was clearly the result intended. What other reason could there be for this form of mangled journalism? I can only conclude that there is no other reason, and it is a deliberate attempt by a major news organization to mislead the public.

So much for news distortion. Now let's look at an example of blatant news fabrication.

In December 1969 the Attorney for the Black Panthers, Charles R. Garry, stated publicly that police across the nation had murdered 28 Panthers in "a national scheme by various agencies of the Government" to "commit genocide upon members of the Black Panther Party." With no proof whatever, the charge from this biased source was soon being repeated, not as an allegation, but as an accepted fact, by many news media, including the *New York Times* and the *Washington Post*. One national magazine, *Newsweek*, stated that the Department of Justice had joined the police and "escalated the drive" against the Panthers.

A few days after the Panther attorney's original charge, a *Chicago Tribune* reporter named Ronald Koziol exposed it as a fraud. But his story was ignored in the onrush of vilification against law enforcement agencies. More than a year after the original allegation, it was investigated by writer Edward Jay Epstein who reported his findings in the *New Yorker* magazine of February 13, 1971.

With old-fashioned thoroughness, these two reporters independently started from the same base—the rather obvious journalistic step of requesting a list of the 28 alleged murders. It turned out that 28 had just "seemed to be a safe number," according to Garry's own admission, and that the most names he could scrape together was 19. The investigators checked on each of these 19 and as Mr. Epstein reported it:

One had been killed by a shopkeeper in resisting a robbery, not by police.

One was shot in an argument with "friends," not by police.

One was shot by his wife, not by police.

Another was executed by other Black Panthers, not by police.

Four were killed in a shootout with members of a rival black militant organization, not by police.

One was shot in an unsolved case, by a pistol later found in a raid on a Black Panther Headquarters.

There were eight other cases which involved crimes or street shootouts, in which the police believed they were dealing with criminals as such and had no reason to think they were encountering Black Panthers. Six of these Panthers were shot by policemen who were already seriously wounded and were fighting for their lives. According to Epstein's report, two policemen were killed and 14 were wounded in the eight cases.

In only two Panther deaths were the police conducting a planned raid. One was killed as the police entered after he had fired a shotgun through the door, and the other appears to have been hit by a stray police bullet that went through two intervening walls.

Thus, no deaths can be attributed to what the Panther attorney called a "national scheme" of "genocide." The fraud had been laid bare, and to its credit the *Washington Post* made a full admission of error. But this is small compensation for the sorry spectacle of the press repeating the most damaging charges without the facts. And why? It is obvious that the reporters involved wanted to believe the story. It coincided with their apparent prejudice against the police and the U.S. Justice Department. For them it was a classic case of the saying, "My mind's made up—Don't confuse me with the facts."

Here is another example from the recent hearings on the confirmation of Richard Kleindienst as Attorney General.

On March 14, 1972, a United Press International photographer took a picture of former Attorney General John Mitchell conferring with Robert C. Mardian, who was then an Assistant Attorney General in the Department of Justice, before testifying to the Senate Judiciary Committee. But in identifying the second man the photographer did not check the name that someone gave him. The cutline which was sent out with the photograph mistakenly identified the second man not as Mr. Mardian, but as William Merriam, an ITT Vice President, and pointed out that the controversial Beard Memo had been addressed to Mr. Merriam.

This erroneous caption made it appear that the Justice Department and ITT were in cahoots with each other.

It went out over the UPI wire at 1:30 p.m., March 14. UPI sent out a correction at 3:30 p.m. and a second correction at 5:30 p.m. on the same day.

Despite these prompt and early corrections, the *New York Times* and some other papers ran this photo in their next morning editions with the erroneous caption. Their

readers believed that Mr. Mitchell was "having a final word" with ITT's Vice President before testifying. Later the *New York Times* ran a correction.

Was the failure to correct this gross error a careless mistake, or the result of subtle bias? The fact that reputations of a lifetime were at stake did not seem to be of too much import. One honest mistake or careless error of this sort can destroy a human being in the time it takes the reader to draw the obvious inference, while at the same time further undermining the public's confidence in its Government.

Let me describe an occasion on which reporters from CBS–TV did contact the Law Enforcement Assistance Administration for its side of a story.

The programs of LEAA were the subject of the Mike Wallace "60 Minutes" show on April 9, 1972. In preparing the program, Mr. Wallace conducted a filmed interview with Jerry Leonard, Administrator of LEAA. He also conducted interviews with others who were critical of the Law Enforcement Assistance Administration.

The manner of editing these interviews is not only illuminating—it is frightening. Big Brother is here, and George Orwell is off in his prediction by some twelve years. Not facts, but thought control is the product of the editor's cut and paste efforts.

Virtually every reference Mr. Leonard made to successful programs funded by LEAA was cut out.

The answers that Mr. Leonard gave regarding the few LEAA programs that were not working well were edited so that only partial answers were used—those parts which lent themselves to Mr. Wallace's purposes, or the purposes of his editors or the network.

Even some of Mr. Wallace's questions were rephrased and substituted at a later date.

Mr. Leonard's edited answers were spliced with the statements of other people who seemed to contradict him—all this without giving him any opportunity for rebuttal or even letting him know that his interview would be altered in this manner.

All Mr. Leonard's suggestions for contacting and interviewing officials of communities with successful programs were ignored.

All his references to the fact that the problem programs had been discovered by LEAA itself were cut out.

The fact that most of the problems discussed in the interview had arisen during the term of Mr. Leonard's predecessor and had afterward been solved by Mr. Leonard was deleted.

So here again we perceive the stiletto at work behind the scenes, but the viewer is not aware of the depth and breadth of the emasculation. Only the reporters and the editors involved in this program know that they have led their audiences to believe that another one of the institutions of Government is inefficient or corrupt or both, regardless of what the facts may be.

In commenting on this gross travesty, I can do no better than to quote the distinguished Senator from Nebraska, Roman Hruska, who placed the whole revolting performance in the Congressional Record.

"Such deception," cried the Senator. "The cunning thus displayed would do credit to a burglar."

Now, suppose Mr. Leonard had refused to talk to the representatives of the news media because he feared that he would be participating in a hatchet job on himself? This, too, has its dangers.

For example, on January 24, 1972, NBC Nightly News described the beginning of court proceedings in the Berrigan Trial at Harrisburg, Pennsylvania. Among other things, an NBC newscaster stated that the original accusations against the Berrigan group "were used by the Government to launch Grand Jury investigations into anti-Administration activities all over the country."

When the Justice Department's Public Information Officer asked the newscasters why he would make such an untrue statement without seeking to ascertain the facts, the newscaster finally said, after much argument, "If you would tell us more about what you are doing, you wouldn't have this problem."

Such logic defies response, but I must say that we are hardly in a position to tell the press more about what we are doing, if we are not doing it.

It is obvious that I do not stand alone in calling attention to wide-spread abuse in the American press. Last year Edith Efron wrote a book on this subject, *The News Twisters*. Among other things she carefully studied the TV coverage of the 1968 election campaign. She showed on a quantitative basis that the news shows of the three networks had clearly slanted their coverage away from Mr. Nixon.

A new book just out, *The President and the Press*, is written by James Keough, who had left a position as Executive Editor of *Time* magazine to become head of President Nixon's writing staff. In example after example, he documents the distortion of the news in repeated attempts to portray the President and his Administration in a blatantly false manner.

Today journalists are becoming too much a part of the culture of disparagement which threatens to destroy all respect for established institutions. This was the conclusion reached by Daniel Patrick Moynihan, distinguished Harvard College academician, and former Counsellor to the President. Moynihan also concluded that the press was being more and more influenced by attitudes genuinely hostile to American society and American Government.

This trend is evidenced in part—and in a very small way—by the remarks of Walter Cronkite in 1970, "I don't think it is any of our business what the moral, political, social, or economic effect of our reporting is."

If the news media always reported facts accurately, objectively, and fairly, Mr. Cronkite's statement would be entitled to a high degree of acceptance, and I would have no quarrel with it.

But the record is clear that the reporting is often inaccurate, biased and grossly unfair. My examples today are just a meager few of the many that could be cited.

It must be said in fairness that not all of the press has conducted itself in the manner I have described. A great many reporters and editors continue to pride themselves on their professional objectivity. Some of them deplore the erosion of journalistic standards that they see among their fellows.

Theodore H. White has stated that the bias that infects the major media "subtly but profoundly influences those who sit astride the news flow in New York and Washington and thus stains the prisms of reporting through which the nation as a whole must see itself."

On a recent television talk show, Douglas Kiker of NBC News appeared to be genuinely concerned over the way the political reporter's personality was being injected into the news-making process. As he stated, "it occurs to me that today politics has become so complicated that the people who report politics are being forced to take a role beyond the old role of total objectivity, that we're, in effect, becoming a party to the action. Whether we like it or not, we're a party to the action and we might as well admit it."

This is the spectre that now looms over the American political process. Is the other side of the coin—the free press that should keep the electorate informed—now stepping into a new role—that of controlling the electorate by controlling the information it receives? Instead of the public using the press as its source of information, is the process now being reversed, so that the press will be using the public in the same way that a programmer uses a computer?

A terrible prophesy was made by Fisher Ames, one of Thomas Jefferson's political opponents: "The newspapers are an overmatch for any Government. They will first overawe and then usurp it."

Such a bitter forecast was once discounted as a product of partisan conflict, but I wonder now whether it could happen here, in our time. For as George Washington himself warned:

"If the Government and the Officers of it are to be the constant theme for News-paper abuse, and this too without condescending to investigate the motive or the facts, it will be impossible, I conceive, for any man living to manage the helm, or to keep the machine together."

There is the chance that I, in delivering a speech in this tenor, will be misquoted and misinterpreted. And if there are any headlines as the result of the delivery of this speech they may charge, "Government Official Attacks Freedom of The Press."

Something like this recently happened to Treasury Secretary John Connally, who spoke to the American Society of Newspaper Editors about his concern that this nation was undermining its self-confidence by too much self-criticism. The Washington Post ran an 18-inch story on the speech. In its very last sentence the story quoted him as follows:

" 'It is absolutely critical,' in this political year, Connally concluded, 'that those in the press and politics use some restraint.' "

The headline writer seized upon this one statement at the end of the story for his five-column headline, which said, "Connally Seeks Press Restraint."

I subscribe to and support fully the Jeffersonian concept of a press free to inform the people—and like Jefferson, if I had to make the choice, I would prefer "newspapers without a Government." I am not advocating—in fact, I would abhor—any action by the Government to control the press. I believe, just as strongly as Mr. Jefferson, in the inviolability of the other side of the coin.

I am unalterably opposed to any attempt on the part of the Government to control the press—so also, I am just as opposed to the attempts of the press to control the Government. The American people do the job quite well when informed adequately of the facts by a free press observing the fairness inherent in the code of ethics of the American Society of Newspaper Editors.

I like to believe that the basic decency—the sense of fair play—in the hearts of Americans will bring a rebirth of journalistic standards in areas where they have now become only an empty shell. I believe that readers will demand it from a press which is still competitive enough to respond to reader demand.

Today there is a crisis of confidence in the press.

The record is replete with the errors of the past. There is no need to repeat them. By profiting from both the error of the honest mistake and the error of the hatchet job, the press can find the truth, can print the facts, and can keep faith with the American people.

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## VISIT TO THE SENATE BY A DELEGATION FROM THE BRITISH HOUSE OF COMMONS, SUBCOMMITTEE ON DEFENSE AND EXTERNAL AFFAIRS EXPENDITURES

Mr. SPARKMAN. Mr. President, I have the privilege of presenting to the Senate a distinguished delegation that is visiting us today.

Several of us have just had the pleasure of having lunch with them in the Foreign Relations Committee Room.

They are a delegation of parliamentarians from our friend, Great Britain. I will ask them to stand as I call their names.

The first is Sir Harwood Harrison, who is chairman of the delegation.

Then:

Major General D'Avigdor-Goldsmid.

Mr. Geoffrey Finsberg.

Mr. John Tilney.

Mr. James Boyden.

Dr. John Gilbert.

Dr. David Owen.

We are most happy to have them with us. I take pleasure in presenting them to the Senate.

I ask unanimous consent that I may place the list of names and a short biographical sketch about each in the RECORD.

[Applause, Senators rising.]

The PRESIDING OFFICER. Without objection, the list will be printed in the RECORD.

The list, ordered to be printed in the RECORD, is as follows:

LIST OF BRITISH DELEGATION

SIR HARWOOD HARRISON, CONSERVATIVE MP FOR THE EYE DIVISION OF SUFFOLK, CHAIRMAN OF THE HOUSE OF COMMONS SUB-COMMITTEE ON DEFENSE AND EXTERNAL AFFAIRS EXPENDITURE

Sir Harwood Harrison has been a Member of the House of Commons since 1950. He was Parliamentary Private Secretary to Mr. Harold Macmillan at the Ministry of Housing and Local Government from 1951–54. He has served as a Conservative Whip and as a Lord Commissioner of the Treasury (1956–59). He was a Comptroller of the Queen's Household (1959–61).

Sir Harwood Harrison was born in 1907 and educated at Trinity College, Oxford. During the war he served in the Army in the Far East and was a prisoner of war in Singapore. He is married.

MAJOR GENERAL D'AVIGDOR-GOLDSMID, CONSERVATIVE MP FOR LICHFIELD AND TAMWORTH

Major-General d'Avigdor-Goldsmid has been a Member of the House of Commons since 1970 having previously worked in the Ministry of Defence. He was a regular Army Officer for 35 years and is now Colonel of his former regiment, the 4th/7th Royal Dragoon Guards. His brother, Sir Henry d'Avigdor-Goldsmid is also a Member of Parliament.

Major-General d'Avigdor-Goldsmid was educated at Harrow School and Sandhurst. He is not married.

MR. JAMES BOYDEN, LABOUR MEMBER OF PARLIAMENT FOR BISHOP AUCKLAND (COUNTY DURHAM)

Mr. Boyden has been a Member of the House of Commons since 1959. He was a Parliamentary Under-Secretary of State in the Department of Education and Science between 1964 and 1965 when he became a Parliamentary Secretary at the Ministry of Public Building and Works (1965–67). He served as Parliamentary Under-Secretary in the Army Department of the Ministry of Defence from 1967–69.

Mr. Boyden was born in 1910. He was educated at Kings College, London and was thereafter called to the Bar. From 1947–59 he was Director of Extra Mural Studies at Durham Colleges.

Mr. Boyden is a Member of the Fabian Society. He is married.

MR. GEOFFREY FINSBERG, CONSERVATIVE MEMBER OF PARLIAMENT FOR HAMPSTEAD, LONDON

Mr. Finsberg has been a Member of the House of Commons since 1970. Before entering Parliament he was Chief Industrial Relations Adviser and Personnel Controller of Great Universal Stores Limited. He was active in local government in the Borough of Hampstead.

Mr. Finsberg was born in 1926. He was educated at the City of London School. He is married.

DR. JOHN GILBERT, LABOUR MEMBER OF PARLIAMENT FOR DUDLEY

Dr. John Gilbert has been a Member of the House of Commons since 1970. He is a chartered accountant having graduated with a PhD in international economics at NYU School of Business Administration.

Dr. Gilbert was born in 1927. He was educated at St. John's College, Oxford and NYU. He is a member of the Fabian Society. He is married.

MR. JOHN TILNEY, CONSERVATIVE MEMBER OF PARLIAMENT FOR WAVERTREE, LIVERPOOL

Mr. John Tilney has been a Member of the House of Commons since 1950. From 1951–55 he was Parliamentary Secretary to the Secretary of State for War (i.e. the Army) and thereafter was Postmaster General (1957–59) and from 1959–62 he was Parliamentary Private Secretary to the Minister of Transport. From 1962 he was Parliamentary Under-Secretary of State for Commonwealth Relations.

During the war, Mr. Tilney served in the Army. He is also a past Chairman of the British Group in the Inter-Parliamentary Union (IPU) and he is now a Trustee of the United Kingdom Branch of the Commonwealth Parliamentary Association.

Mr. Tilney is a member of the Northern Stock Exchange. He was born in 1907 and educated at Magdalen College, Oxford. He is married.

DR. DAVID OWEN, LABOUR MEMBER OF PARLIAMENT FOR SUTTON DIVISION OF PLYMOUTH

Dr. David Owen has been a Member of Parliament since 1966. He served as a Parliamentary Private Secretary to the Minister of Defence (Administration) in 1967 and from 1968–70 he was Parliamentary Undersecretary of State for the Royal Navy.

Dr. Owen is a physician. He was born in 1938 and was educated at Sidney Sussex College, Cambridge and St Thomas's Hospital, London. He is married.

Mr. BENTSEN. Mr. President, I ask unanimous consent that these names be put at the end of the discussion and the debate on this afternoon's bill.

Then I ask unanimous consent that the Senate stand in recess for 5 minutes, so that the Senators may greet the distinguished visitors.

The PRESIDING OFFICER. The Senate will stand in recess for 5 minutes.

(Thereupon the Senate took a recess for 5 minutes.)

## FEDERAL AID HIGHWAY ACT OF 1973

The Senate continued with the consideration of 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. BENTSEN. Mr. President, I ask unanimous consent that Mr. Elwin Skiles, Jr., minority counsel of the Subcommittee on Housing and Urban Affairs; Mr. Stephen Paradise of the staff of the Committee on Banking, Housing and Urban Affairs; and Mr. Victor Maerke, of the staff of the Senator from Vermont (Mr. STAFFORD), the ranking minority member of the Transportation Subcommittee; have the privilege of the floor during the debate and votes on this measure.

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

Mr. WEICKER. Mr. President, will the Senator from Texas yield for a similar request?

Mr. BENTSEN. I yield.

Mr. WEICKER. I ask unanimous consent that Arnold Shields and Robert Thompson of my staff be permitted to be present in the Chamber during the consideration of this measure.

Mr. BENTSEN. I have no objection.

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

Mr. KENNEDY. Mr. President, will the Senator yield for a unanimous-consent request, without losing his right to the floor?

Mr. BENTSEN. I yield with that understanding.

Mr. KENNEDY. I ask unanimous consent that Mr. Mark Schneider of my staff be granted the privilege of the floor during the debate on this measure.

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

Mr. BENTSEN. Mr. President, today the Senate begins consideration of S. 502, the Federal-Aid Highway Act of 1973. As Members of the Senate know, this measure is before us because of the inability of the Congress to complete action on a highway bill last year. After a very difficult conference with the House of Representatives, the Senate voted on and accepted a conference report, but the House adjourned before it could take similar action on the last day of the 92d Congress.

Many provisions of S. 502, therefore, are similar, and in some cases identical to those in the legislation that was before us last year. This bill, however, is not merely a repeat of the 1972 proposal to the Senate. We have had the opportunity to consider the issues again and in greater detail. The result is that S. 502 contains what I believe to be a number of improvements over last year's bill. We have had the advantage of additional testimony in hearings and of extensive consideration by both the Subcommittee on Transportation and the Committee on Public Works. So, while some of the issues are the same as in 1972, our responses to them are, in several cases, different.

The subcommittee this year conducted 4 days of hearings on all aspects of the Federal-aid highway program. Thirty-nine witnesses appeared before us and additional statements from many other individuals and organizations were filed with the subcommittee.

A major difference from the 1972 bill is that the measure now before the Senate authorizes Federal highway activities for a 3-year period. This is a departure from the normal 2-year highway bill. Had the committee reported a 2-year bill this year, it would have meant that highway legislation would have to be considered again in 1974, almost before the present legislation was fully implemented. In addition, we felt that a 3-year bill was proper since it will carry the highway program through fiscal 1976. This is the

year in which the appropriate committees of the Senate and House will have to consider the future of the highway trust fund, the mechanism by which most of the Federal-aid program is financed. By having both authorizations and financing legislation considered in the same year, more knowledgeable judgments can be made as to the future of both aspects of the highway program.

For the 3 years covered by S. 502, the authorizations total slightly more than $18 billion. This is not an excessive amount when measured against the highway transportation needs of our country or against the capacity of the highway trust fund to sustain such a program. It is a level of spending which is also consistent with the general objectives of the Federal Government to pursue fiscal policies that do not stimulate further inflation.

Mr. President, I ask unanimous consent that a table showing details of proposed expenditures for the next 3 years be printed in the RECORD at this point.

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

FEDERAL-AID HIGHWAY ACT OF 1973

[In millions]

| Highway programs | Highway trust fund | | | General fund | | |
|---|---|---|---|---|---|---|
| | 1974 | 1975 | 1976 | 1974 | 1975 | 1976 |
| Interstate | $3,250 | $3,250 | $3,250 | | | |
| Primary—Rural | 650 | 650 | 650 | | | |
| Secondary—Rural | 350 | 350 | 350 | | | |
| Urban system | 850 | 850 | 850 | | | |
| Urban extensions | 350 | 350 | 350 | | | |
| Minimum ½ percent interstate | 50 | 50 | 50 | | | |
| Urban high-density traffic | 50 | 50 | | | | |
| Forest highways | 33 | 33 | 33 | | | |
| Public lands highways | 16 | 16 | 16 | | | |
| Forest development roads and trails | | | | $75 | $75.0 | $75.0 |
| Public lands development roads | | | | 10 | 10.0 | 10.0 |
| Park roads and trails | | | | 30 | 30.0 | 30.0 |
| Parkways | 75 | 75 | 75 | | | |
| Indian reservation roads | 75 | 75 | 75 | | | |
| Landscaping and scenic | 15 | 15 | 15 | | | |
| Access Roads to Federal lakes | | | | $15.0 | $15.0 | $15.0 |
| Administration expenses | | | | 1.5 | 1.5 | 1.5 |
| Guam | | | | 2.0 | 2.0 | 2.0 |
| Virgin Islands | | | | 2.5 | 2.5 | 2.5 |
| American Samoa | | | | .5 | .5 | .5 |
| Bridges on Federal dams | | | | 8.5 | | |
| Highway beautification and junk yards | $65 | $65 | $65 | | | |
| Rural bus demonstration programs | 20 | 20 | 20 | 10 | 10.0 | 10.0 |
| Alaska assistance | 20 | 20 | 20 | | | |
| Alaskan highway | | | | 58.67 | | |
| Rail relocation project | 4.55 | | | 9.1 | | |
| Dulles Airport | 10 | | | | | |
| Metro Accessibility | | | | 65.0 | | |
| Total | 5,883.55 | 5,869 | 5,819 | 287.77 | 146.5 | 146.5 |

Mr. BENTSEN. Mr. President, the Interstate Highway System has been this country's principal highway effort since 1956. This massive program to tie our country together with a network of high-speed, limited access roads is now 81 percent completed. For a variety of reasons, the original goal of simultaneous completion in all States cannot be achieved. Several States, therefore, are on the threshold of completing their portions of the Interstate System. Others have substantial work to do and still others are involved in controversy which is, in some cases, delaying and in others making uncertain, the completion of the system.

This current statuts and future prospects for the Interstate System are recognized in several provisions of this bill. For the next 3 years, authorizations for the Interstate System would be reduced from the $4 billion in the present law. The proposed Interstate authorization level of $3.25 billion per year is adequate for orderly continuation of the program at its present stage and will not work an undue hardship on any State's highway activities.

I remind the Senate that although the existing authorization level is $4 billion annually, the administration for several years has seen fit, for reasons of its own, to withhold from obligation part of the money available. In the present fiscal year, for instance, only $2.8 billion is being released for Interstate obligation. The President's budget proposal for fiscal 1974 indicates that there will be an even greater reduction and that the administration intends to release only $2.6 billion for Interstate activities.

The committee recognizes that the Interstate System will not be completed by 1976, the year through which it is presently authorized. It is our estimate that at the present rate of construction and with the amount of work remaining, we can anticipate completion of the system in about 1982.

This date is 10 years longer than that foreseen when the program was started in 1956. While the construction time has been stretched, the cost of the system also has grown and today stands at more than $73 billion. The next cost estimate is required under present law in 1974, but the bill before us extends this date to 1975. At that time we will be in a better position to make a determination on the final cost and completion date of the system.

Because several States are near to completion of their portions of the system, S. 502 contains provisions to prevent them from being denied interstate funding while other States complete their work. Within the period covered by this bill, it is anticipated that the States of Delaware, North Dakota, and Nebraska, will finish their portion of the Interstate System and that other States will come near to completion. This bill provides that for the next 3 years all States will receive a minimum of one-half of 1 percent of authorized interstate funds.

Part of the delay in completing portions of the Interstate System is due to the nature of some segments in urban areas. While short in terms of mileage, these controversial and delayed segments are substantial in terms of money. Several of them have held up interstate work for several years. The committee includes provisions in S. 502 which are intended to help the States resolve the questions connected with both controversial interstate segments and those that are now being considered in a new light within the States.

These provisions permit States to transfer interstate roads in urban areas. Existing law permits such a transfer, but only on the basis of mileage. Thus an interstate segment now can be relocated only if the new route is no longer than that presently designated. These strict mileage limitations have made it difficult, if not impossible, to relocate portions of the Interstate System. The bill revises the statute to permit interstate transfers on the basis of cost rather than of mileage. Under this provision, interstate highways could be transferred if the relocated road is no more costly than the original segment. Since most of the disputed routes are high-cost segments in urban areas, it is anticipated that relocation will be considerably easier.

In this connection, the bill also provides that where State and local officials determine that an interstate link is no longer desirable, it can be removed from the system entirely so long as the removal does not leave a gap in the total nationwide Interstate System.

In both cases—interstate transfers or total removal of a segment—any funding remaining would be transferred to the urban system apportionment for the urban area concerned.

In response to the highway transportation needs of our country's growing urban areas, the Congress in 1970 created the Federal-Aid Urban System to help meet these needs. Since creation of the system, it has become increasingly apparent that the largest urban areas, in particular, must have some assurances that they will receive their fair share of Federal funding available for this purpose.

The consideration of this problem was the one to which both the Subcommittee on Transportation and the Committee on Public Works devoted the most time during preparation of this bill. We discussed it from all angles and considered a number of proposals to assure that our greatest concentrations of population received the funds they need.

Early in our deliberations, we realized that there was no perfect formula. The provisions of the bill in this respect, however, are a positive and workable response to the need for reliable funding. In arriving at its answer to the problem, the committee considered both direct pass-through of highway funds and earmarking of these funds. The final recommendation is a combination of each.

S. 502 provides that all urbanized areas of 400,000 population or more will have their urban system funds earmarked for expenditure in these areas. At the present time, there are 56 such urbanized areas ranging in size from the metropolitan New York to Bridgeport, Conn. These urbanized areas would be entitled to urban system funds on the basis of the relationship their population bears to the total urban population of their States.

The second portion of this section deals with what is known as the pass-through of funds. It provides that cities of 400,000 population or more—as opposed to urbanized areas—can receive urban system funds for their own expenditure. This means that the cities themselves rather than the State highway departments would carry out urban system programs if they qualify as pass-through recipients. To qualify, the cities would have to have the legal authority under their State laws, and would have to demonstrate to the Secretary of Transportation their competence to carry out an urban highway program.

Under the 1970 census there are 32 cities of more than 400,000 population that could qualify to receive pass-through urban system funds. The largest of these is New York City. No. 32 on the list is Minneapolis, Minn.

I assure Senators that there were no parochial consideration by members of the committee in arriving at the 400,000 figure for both urban area earmarking and city pass-through. I note that had we been looking out for our local interests, we would have arrived at different figures.

While urban fund availability occupied much of the committee's time, the most controversial issue before us was that relating to the use of highway funds for public transportation. The bill as reported contains the same provisions in this regard as did last year's bill. The committee is aware that there is a strong relationship between the highway program and public transportation. In recent years that relationship has been given emphasis by programs to construct preferential or exclusive bus lanes and such other facilities as fringe parking, first as demonstration programs, and later as permanently authorized activities.

S. 502 proposes to broaden this relationship by authorizing the use of urban system and urban extension funds for public transportation purposes, including the purchase of equipment. The key issue in this section, and the one which has precipitated much controversy, is the limitation on equipment purchase to that which is highway-related. Rail transit equipment is specifically excluded.

As it did last year, the subcommittee and the committee gave very careful consideration to the public transportation needs in American cities. Once again we concluded that the highway program could be used to help meet these needs by restricting its involvement to public transportation which is highway oriented.

The flexibility provided in this bill will allow our cities to utilize available urban highway funds to take advantage of the already substantal investment in highways. The great majority of American communities do not today, and are unlikely in the future, to need rail transit systems. Conversely, they already have the basic facilities in their streets and roads for a public transportation system.

This allows cities, particularly those that must institute traffic controls to reduce air pollution, to quickly provide an effective alternate means of transportation.

Rail transit already is assisted through the urban mass transit program and is a far more effective tool for this purpose than is the highway program. The limitations of apportionment formulas utilized by the highway program would prevent any city from receiving a significant amount of assistance for very expensive rail construction. On the other hand, the proposals of S. 502 would relieve some of the pressure on the urban mass transit program and consequently make more money available from this source for rail construction.

Closely related are the sections intended to help cities comply with air pollution reduction requirements. The committee adopted an amendment authorizing the transfer of urban extension funds to urban system allocations in those areas which must institute transportation controls. It also requires that in any such urban area, all highway construction projects must be consistent with the air pollution reduction plan for that area.

The committee continued to be concerned about public involvement in highway planning as we developed this bill. From our hearings and from other sources we became convinced that there still is not adequate public involvement at the local level. Therefore, this bill contains provisions to strengthen existing requirements that the public be heard and heeded. It requires the Secretary of Transportation to develop minimum guidelines for public participation in the planning process required under existing law. These minimum guidelines must include annual public hearings to review the overall transportation planning process. The Secretary could withhold approval from Federal-aid projects in any urban area where he is not convinced that all reasonable measures have been taken to encourage and assist public participation in the planning process.

While the Federal-aid highway program is mainly concerned with providing highway facilities, there has been a growing concern in recent years for the esthetic aspects of the program. The Highway Beautification Act of 1965 marked the entry of the Congress into this field. The goals of this act, however, have proven to be elusive. In 1970, the Commission on Highway Beautification was created to examine this issue in depth. Its report is due to be submitted to the Congress by December 31 of this year. In the meantime, however, the committee felt that some particularly troublesome questions should be addressed in the bill before us.

The original Beautification Act prohibited the construction of advertising signs within 660 feet of the Interstate highways. As any traveler knows, this prohibition simply stimulated the construction of the so-called Jumbo billboards just beyond the 660-foot limit. S. 502 extends prohibition to any sign built primarily to be visible from an Interstate or primary highway without regard to the distance in feet.

To help make the beautification program more workable, the committee strongly endorses its financing from the highway trust fund rather than from the most general fund appropriations.

Earlier in my remarks, I said that comprehensive review of the highway program would have to be undertaken in 1975. In anticipation of this review, S. 502 requires that a functional realinement of the Federal-aid system by June 30, 1975. In 1968, Congress directed that a study of highway functions be undertaken nationally. The 1970 act required the Secretary of Transportation to make recommendations to the Congress on the functional alinement of our highways and this report was received in 1972.

It is important that this classification be carried out so that highway designations accurately reflect the type and use of each highway. As the Federal-aid system has developed over more than 50 years, the classification of our highways no longer reflect their true status. For instance, there are instances in which heavily-used roads of the freeway type are officially classified as secondary, although they are anything but secondary roads. The opposite extreme is that some roads designated as primary, may be lightly traveled rural highways. The reclassification is intended to correct these inequities and provide us with better guides in structuring the Federal-aid program in the future.

In line with our desire to build maximum flexibility into the Federal-aid highway program, the committee included in S. 502 provisions making highway facilities accessible to forms of transportation other than motor vehicles. I personally am encouraged by the number of people who have chosen to leave their cars at home and to obtain their transportation by bicycles. Unfortunately, in many areas, particularly in cities, the streets are so crowded that bicycle riding sometimes is a hazardous activity. I believe we should encourage and facilitate bicycle riding and similar activities. To do this, the bill provides authority for the construction of bicycle paths, pedestrian walkways, and equestrian trails as a part of highway projects.

A number of States have indicated to the committee that they need and desire to build high-capacity highways, but are without the funds to do so. The States believe that these interstate-type roads are needed immediately. They believe they cannot wait until some unspecified future time when additional Federal funds conceivably could be available. These States desire to build these needed highways as toll roads and, in the future, utilize Federal aid funds to retire the bonded indebtedness. Such a provision is included in the bill. Whenever a State has received its final interstate apportionment, it would then build toll roads with indebtedness to be retired from the State's regular primary fund apportionment. This provision provides no State with any funds over and above what it

might otherwise receive. It merely permits them to build needed roads now and pay for a portion of them with Federal funds in the future.

There is a provision in the bill which terminates the San Antonio North Expressway as a Federal aid project. This section approves the return of funds previously designated for this intracity expressway and removes any further Federal involvement. This action was requested by the State and local governments so that they might complete the expressway with wholly local funds if the project meets local standards.

Two sections of this bill relate directly to transportation problems in the Washington, D.C., area. One is intended to resolve questions surrounding the construction of Interstate 66 into the Nation's Capital. This highway has been delayed also by a series of procedural and court decisions. The committee in approving this section relating to I–66 intends merely to see that the steps required by the courts are followed; but followed expeditiously so that a final decision can be made on the road without undue delay. This section in no way mandates the construction or nonconstruction of Interstate 66. It merely sets a timetable by which the necessary decisions are to be made.

Dulles International Airport, located approximately 22 miles west of Washington, is generally considered as the model jet-age airport in the United States. Its relative distance from the city, however, has contributed to the fact that Dulles Airport is, today, utilized far below its capacity.

There have been a number of proposals over the years for providing public transportation facilities between the city of Washington and the airport. Such facilities undoubtedly would result in high utilization of Dulles, with a corresponding result of reduction of congestion at other airports in the Washington area. The bill authorizes a demonstration program to establish a high-speed transportation system between Dulles and Washington, D.C. This program is conceived as using exclusive or preferential bus lanes, special terminals or parking facilities, and especially designed high-speed buses. The committee believes that such a program would be valuable not only to Dulles Airport, but would produce knowledge applicable to similar situations elsewhere in the country.

Mr. President, I have discussed the major provisions of the Federal-Aid Highway Act of 1973, as reported from the Committee on Public Works. There are, of course, many other parts of the bill, each of them intended to improve the capacity of the highway program to respond effectively to modern transportation needs.

In this respect, S. 502 continues the evolution of the program that began when it was first adopted in 1916. A great part of the success of the Federal-aid program certainly is due to the continued vigilance of the Congress and to the adaptability that regular reviews of the program have fostered.

Highway transportation is essential to the continued growth and prosperity of our country. It is a basic form of transportation and will continue to be such in the foreseeable future. I anticipate that there will be considerable discussion of this bill and I welcome it, for I want Members of this body to be fully informed about the contents and intentions of S. 502 before they are called upon to vote. With this knowledge, I know that my colleagues in the Senate will approve this bill.

I am pleased to yield to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I appreciate the chairman of the Transportation Subcommittee yielding to me.

I join with the distinguished Senator from Texas (Mr. BENTSEN) in urging approval of the Federal-Aid Highway Act of 1973.

Before I address myself to the merits of the legislation, as the ranking minority member of the Transportation Subcommittee, I would like to express my sincere appreciation for the leadership displayed by the Senator from Texas (Mr. BENTSEN), the chairman of the Transportation Subcommittee, and by the Senator from West Virginia (Mr. RANDOLPH), the chairman of the Public Works Committee, who, as always, guided the full committee to harmonious agreement on this bill. And to the ranking minority member (Mr. BAKER).

During the subcommittee hearings, we heard testimony on virtually every aspect of the bill from virtually every possible quarter. Administration officials from appropriate Federal agencies gave their testimony, as did Governors and mayors and other State and local officials. We heard the views of contractors and other roadbuilders, interspersed with the views of spokesmen for environmental and conservation organizations. And, in shaping this legislation, all those views were considered by the Transportation Subcommittee. At full committee markup sessions, the Senator from West Virginia (Mr. RANDOLPH), as he always does, encouraged a full range of discussion on all proposals and a thorough airing of all views regarding this legislation. This bill is the product of that kind of outstanding leadership.

You have already heard a detailed description of the bill, so I will not take up any of your time by going over that ground. But, I hope that each Member of the Senate will examine this legislation carefully.

We have tried to hold down the authorization level in the interest of fighting inflation, but this bill still deals with very large sums of money. It directs the expenditure of that money in ways that will influence the very shape of our Nation through the development of transportation methods and patterns. This is not simply a road construction bill. It is a social instrument that will have significant impact on the ways Americans will live their lives in the future.

We have tried to provide a balanced transportation system plan in this legislation. As you know, further efforts to increase the transportation alternatives will be proposed on the floor of the Senate, and I will join with one of those efforts, as I did in committee. We have also attempted to provide more flexibility to State and, particularly, to local governments in their transportation planning. The interstate transfer provision of the bill and the proposals to provide earmarking and pass-through of some highway funds to larger communities of the Nation are prime examples of that new flexibility.

This legislation represents another in the continuing effort to provide our Nation with a balanced transportation system to meet the needs of our citizens. At the same time, I am pleased to report to you that this legislation, at virtually every turn, strives to balance the need for transportation systems with the necessity to protect our environment. While S. 502 is essentially a construction bill, it also makes every effort to prevent unnecessary injury to our finite natural resources.

This legislation is national legislation. It recognizes America's need to continue to provide ways of moving cargo for commerce and of moving families for recreation. It also recognizes that different approaches may be required in our cities and in our small towns. It deals with the Interstate Highway System, a greatly expanded urban road system, and also with bicycle and hiking trails, as well as with a new proposal designed to protect our national forests and parks from becoming crisscrossed with roads. And, of course, as all omnibus highway bills do, this legislation attempts to deal with some regional and local problems that have developed during this Nation's efforts to provide improved transportation opportunities for all of us.

Some of the proposals for national, as well as regional or local, solutions are controversial and will be challenged during the debate ahead. This is not a perfect bill, but it is a good bill. I commend it to the Senate for careful consideration.

Mr. BENTSEN. I thank the distinguished Senator from Vermont. I thank him particularly for the contributions he made in the deliberations on this bill in committee. He is always most cooperative and always knows his subject well.

Mr. BAKER. Mr. President, will the Senator from Texas yield for a unanimous consent request?

Mr. BENTSEN. I am delighted to yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I ask unanimous consent that Richard Herod of the Public Works Committee staff be permitted the privilege of the floor during consideration of the pending bill, and also during votes on the bill and amendments thereto.

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

Mr. BAKER. I thank my colleague from Texas.

Mr. BENTSEN. Mr. President, I now yield such time as he may desire to the distinguished Chairman of the Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH), who has done so much to bring this bill to the floor.

Mr. RANDOLPH. Mr. President, the able Senator from Texas, who chairs our Subcommittee on Transportation, has detailed the provisions of this legislation.

To say that this is a comprehensive bill is, of course, the truth. To say that it is an innovative bill is also the truth. To say that it is a bill that meets the challenge of our changing times is true.

There are certain basic functions built into this legislation which are absolutely necessary if we are to complete the interstate system which began 17 years ago and which, hopefully, we will be able to complete by 1982.

Mr. President, I think it is important to say that Congress, in the creation of the highway trust fund, did not approve an abstract concept. Congress brought into being a commitment, or 42,500 miles of interstate highways to be completed and open to traffic so that the mobility of America might continue to expand, so that the products of its factories could move to the cities, so that the products of its farms could move to the consumers, and that Americans generally would benefit. As the knowledgeable Senator from Texas has said, approximately 81 percent of that total mileage is now open to traffic. Approximately 10 percent more is now under contract. That means that we have today 91 percent open to traffic or under contract. In other words, we begin to see the program in its final years of construction.

No one can deny that the development of our highway system in America has strengthened every State and every community in the country, regardless of whether those communities and those States are large or small in population.

It is important for us to realize that in October 1977, the highway trust fund will cease to exist. That means that the Members of this body and those in the House of Representatives will be faced with the necessity, in 1976, to determine what course to follow with reference to the continuance, the changes, the refinements, of the highway trust fund.

As we did with the creation of the highway trust fund, we later developed a trust fund for airport development and facilities. This legislation became law, and today we are developing our airport system, and are improving the safety of our airways facilities with a trust fund, just as we did in the trust fund to develop our great highway system.

Throughout my career as a Member of both the House of Representatives and the Senate, I have been deeply involved in the development of highway legislation. During that period I have seen many changes in the highway program, and these changes have made it a Federal activity that remains abreast of the times.

Seldom, however, have I been involved in the development of highway legislation that has stimulated both the public and congressional concern as has the bill before us. The success of the highway program in recent years has solidified the American public's preference for motor vehicles as its primary form of transportation. The highway program, as a result, has been subjected to careful scrutiny concerning the role it plays in American life. I welcome the examination of any Government program, and I welcome all suggestions as to the highway program that can be improved.

The Federal-Aid Highway Act of 1973 was built with many such recommendations from many segments of American society, as well as with our own continuing experience in the Senate. It is a bill which addresses contemporary needs and does so in a responsible manner. The Senator from Texas (Mr. BENTSEN), has described the major features of this bill in detail. As chairman of our Subcommittee on Transportation, Senator BENTSEN has performed admirably in this new responsibility and has guided the preparation of this bill in a skillful and competent manner.

I will not repeat his description of this bill, but will confine my remarks instead to a few issues.

With regard to the major Federal-aid highway program activities, this bill neither maintains the status-quo, nor makes changes intended to be permanent in the future. It does, in fact, set the stage for a full reexamination of the Federal-aid program in 1975. This will be a proper time for a searching review of the program because it coincides with the period during which determinations must be made about the future of the highway trust fund by the Senate Finance Committee and the House Committee on Ways and Means. This timing will permit both the committees responsible for authorizations and those responsible for revenue raising to consider the future of the program concurrently.

Meanwhile, this bill is designed to further the orderly development of the Federal-aid program as a workable and effective tool to advance highway transportation development in the United States.

While the interstate system has been our most conspicuous and costly road-building activity over the past 17 years, it is not the only function of the program. This bill gives new emphasis to the primary, secondary, and urban systems in an attempt to strengthen their roles and to begin reducing some of the accumulated needs in these systems.

As the Senator from Texas has explained, reduction in authorizations for the interstate system will in no way impair its continued development. Increased funding for primary, secondary and urban roads will provide a badly needed acceleration of activities in these systems.

Mr. President, while the general highway activities are of importance to all Members of Congress because they relate to our transportation system on a nationwide basis, there are provisions in this bill addressed to problems of a more restricted nature. I have had a particular concern with several of these, and I am pleased that the legislation before us includes provisions addressed to these specific problems.

As a Senator from a State with a substantial amount of forest land, I have, in recent years, been alarmed at the increasing amount of clearcutting that has taken place on publicly-owned lands. I am convinced that this is an unwise forest practice and have worked to have it restricted on publicly-owned land.

It would, therefore, be inconsistent to include authority in this highway bill that might possibly be used to facilitate clear-cutting. This bill authorizes $75 million annually for forest development roads and trails. These are intended primarily for the development and utilization of national forests, including access for timbering activities. While the harvesting of timber may be a legitimate part of forest management, I am convinced that clear-cutting is not, when carried out on large tracts on closely-spaced small tracts, or as the predominant form of management.

The committee agreed to additional funding for forest roads and trails, but with the understanding that this increased financing would not be used to provide access for large-scale clear-cutting.

This provision has implications not only in West Virginia, but in many other States where clear-cutting is a major problem.

Related to the preservation and proper usage of national forests is another section of the bill which relates to the highland scenic highway in West Virginia. This road, which originates in Richwood, W. Va., has been under development for several years as a public lands highway in the Monongahela National Forest. The low level of funding has made construction of this road a slow process. This bill redesignates the highland scenic highway from the Cranberry Mountain Visitor Center to U.S. 250, as a parkway. With increased funding proposed for parkways, construction of this road should be accelerated. The concern of many people in West Virginia that this road not become a general use highway is reflected in the bill, and in the committee report. It is intended that the parkway portion of the highland scenic highway be only a scenic and recreational road, utilized by passenger vehicles only and not available to commercial or industrial vehicles.

The highland scenic highway is envisioned as strictly a pleasure route through some of America's most spectacular scenery, an area of beauty which is all too rare in the eastern part of the United States. The highland scenic highway will open this spectacular land to millions of Americans who would otherwise be unable to enjoy it.

This bill also expresses the continuing concern of the committee for public transportation in urban areas. The problems of urban transportation are well known because of their impact on life in America's cities.

A less visible, but just as serious problem, is the public transportation requirements of people who live in small towns and rural areas. Mr. President, there is at present no Federal program which seeks either to define, evaluate, or help resolve public transportation questions in these areas.

For this reason, I have sponsored the provision in this bill for a demonstration program for rural public transportation. This program is intended to de-

termine the scope of rural public transportation needs and to explore possible methods of granting to the people who live in these areas the mobility enjoyed by people who live in cities. The lack of public transportation can have a serious, adverse impact on people in rural areas. They often must travel to towns for such routine purchases as food and medical supplies. They must go to towns to receive a wide variety of Government services, for entertainment, for education, and for religious services. Rural service is a real gap in our national public transportation system and this section of S. 502 can be the first step in correcting this serious deficiency.

In 1970, the Congress created the urban highway system to focus increased attention on highway transportation needs within urban areas. At that time, all urbanized areas of 50,000 population or more were made eligible to receive urban system funds.

This bill continues that start made in 1970, and lowers to 5,000 the population figure for urban system eligibility. There are many smaller communities in America with local traffic problems which are just as severe, although on a smaller scale, as their larger neighbors. By making urban areas of 5,000 or more eligible for urban system funds, and by increasing authorizations for this category to $850 million a year, the smaller communities can receive the assistance necessary to begin resolving their more serious internal problems.

Mr. President, the Federal-Aid Highway Act of 1973 is the product of a careful evaluation of America's highway transportation needs. When the Federal-aid program was begun 57 years ago, these needs were relatively small. In 1973, they are vastly more complex and I am convinced that this bill is the mechanism by which these needs can be met.

I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from New Jersey (Mr. WILLIAMS).

Mr. BAKER. Mr. President, will the distinguished Senator from Texas yield to me briefly, so that I may make brief remarks and insert my opening statement in the RECORD following that of the distinguished chairman of the committee?

Mr. BENTSEN. I am pleased to yield to the Senator from Tennessee for that purpose.

Mr. BAKER. I thank the Senator from Texas.

To begin with, Mr. President, I reiterate my praise and admiration for the distinguished chairman of the full committee, Senator RANDOLPH, as I have stated it so many times previously. This is the first time I have had an opportunity to express publicly my admiration for him and my grateful appreciation to him for his cooperation and leadership since I became the ranking member of the Committee on Public Works. I believe that his chairmanship and his administration of the committee are exemplary and serve as the basis and model for a truly cooperative effort on the part of standing committees of the Senate, in terms of a nonpartisan effort, in most instances, in terms of the willingness to explore and consider varying and different viewpoints and ideas in the committee, in terms of allocation of staff and resources, in terms of the overall conduct of the activities of the Committee on Public Works.

I have listened very carefully to the opening statement of the distinguished chairman, much of which I agree with, as I find myself often in agreement with matters that he offers in legislative form and in camera.

In this case, in the general consideration of this measure, as he knows and as our colleagues in the Senate know, there are matters of disagreement as well, and they will be presented to the Senate in an orderly way, for this body to work its will. I think it is symbolic and significant in terms of the character of a chairman that we understand each other in this disagreement and that we respect each other's point of view.

Mr. President, we have a great deal of work before the Senate this afternoon. If we are to be able to negotiate the debate and determination of significant issues in the form of important amendments to this bill that may come up this afternoon, it is important, I believe, that I not burden the RECORD with an extended opening statement. I will not do that. I ask unanimous consent, therefore, to have my opening statement printed in the RECORD following these remarks.

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

STATEMENT BY SENATOR BAKER

Mr. President, with what I believe to be extraordinary dispatch, the Public Works Committee has brought to the floor a comprehensive, progressive and thoroughly considered highway bill. Great credit is due the Senator from Texas (Mr. Bentsen), Chairman of the Subcommittee on Transportation, for his firm but fair stewardship of this legislation through hearings and Subcommittee consideration, to the ranking minority member of the Subcommittee, Senator Stafford, for his guidance, and to the Chairman of the full Committee for his attentive, decisive, and, as always, fair, leadership of the whole committee.

The Committee held extensive hearings this year in addition to the eight days of testimony heard last year. The issues were confronted directly, and no view advanced during the Committee's deliberations went unheeded. I am confident that S. 502 is one of the best pieces of highway legislation to be developed by the Public Works Committee and brought before this body for its consideration.

This bill authorizes $3.25 billion annually for Interstate highway construction for the next three years. It is of great concern to me, and to other members of the Committee and of the Senate, that completion of the Interstate be brought about in as expeditious and orderly manner as possible. Although the authorizations in this bill are reduced from existing, they are commensurate with the actual level of spending over the last several years and are, I believe, sufficient to insure continued progress on a system which is now 80% complete.

S. 502 provides a timetable by which States must resolve controversies over Interstate routes still to be constructed, and allows greater latitude to the States and cities in the alternatives they may employ to reach a compromise on contested routes. The so-called "Interstate Transfer" provision, which permits relocation of proposed routes where the current location is clearly unacceptable vide a connected Interstate system, permits use of the funds for other urban transportation projects, will make progress toward Interstate completion easier while assuring that the needs of cities are considered.
to the urban area to be served, or, where the proposed route is not necessary to pro-

During consideration of S. 502 the Committee reported—and the Senate passed—S. Con. Res. 6, a resolution I introduced to insure that Interstate funds would be available to States during the spring contract-letting season. As the Committee Report stated, the resolution was not a substitute for, nor would its passage impede development of, a comprehensive bill. I think our statement has been borne out. I would hope, however, that the House—which does not begin hearings on a highway bill until next week—will act on the resolution in order to prevent valuable Interstate construction time from being lost while Congress works out the remaining issues.

In connection with Interstate construction, I would like to mention that under S. 502 States which choose to move ahead to complete their portion of the System and which elect to issue bonds to finance accelerated construction, may use future Interstate apportionments to repay the Federal share of interest costs, as well as the principal. This was a proposal I made last year and which I believe will permit those States with little Interstate work remaining to move quickly toward completion.

S. 502 increases the funds for rural areas and provides more flexibility and funding for smaller urban areas—those between 5,000 and 50,000 in population. Previously, these smaller cities and towns were not eligible to receive funds for a Federal-aid Urban System and could rely on Federal assistance only for one or two main routes through town. S. 502 makes Urban System funds available for all urban areas over 5,000, thereby expanding the routes and projects in smaller towns eligible for Federal aid.

The rural bus demonstration program, created to explore ways to provide needed transportation in areas where, at present, there may be none, is the result of continuing efforts by the Chairman of the Committee to see that the needs of our rural population are not overlooked in our concern for the cities. Certainly we should not lose sight of the fact that a good deal of the future well-being of this country may depend upon making our smaller cities and our rural areas more attractive and accessible for those who live there and for others who wish to visit or settle.

The bill also contains three important provisions that are designed to improve highway access to airports and other transportation terminals. Such access would expand the inter-connections between various modes of transportation, and thus improve the overall transportation system of the United States.

The first two of these provisions are nearly identical, and would clarify the intent of the Congress affecting highway access roads that serve airports in both urban and rural areas.

Specifically, Section 109(e) adds the phrase "access roads to airports" to the description of the Federal-aid secondary road system. Section 110 amends the description of the Federal-aid urban system and includes among other changes the new phrase "access roads to airports and other transportation terminals."

I believe that current law gives to the States the flexibility to build such roads. But, it has been often neglected, lessening the opportunity for a more integrated national transportation system. The Federal

Aviation Administration, of course. also has authority to assist in the construction of airport access roads. This authority, however, has generally been restricted to single-purpose airport roads, such as the access road to Dulles International Airport in Virginia.

Many opportunities now exist to construct better roads that would serve both airports and general highway travel. Such an opportunity exists in the area of Memphis, Tennessee, where a two-mile multi-purpose access road is needed from I-240 to the Memphis airport terminal.

It is my hope that the various States will take advantage of the discretion, whether it existed before or not, to improve public access to airports, and other terminals, such as railroad stations.

The third airport-related provision appears as Section 153 of the bill. This section would authorize a high-speed transportation demonstration program that would connect points in the Washington, D.C. area with Dulles International Airport, Virginia. Such a demonstration would be intended to utilize exclusive bus lanes, including, if necessary, the construction of such exclusive lanes in certain areas. Special terminals and parking facilities could also be built under this authority.

In addition, the Secretary of Transportation would have the authority to purchase high-speed buses and pay a portion of their operating expenses, if necessary, during the initial five years of service. As necessary, the Secretary would also undertake research into the development of buses designed to maintain high-speed, safe transportation.

It is understood that any program financed under this Section 153 would also comply with terms, such as those on employee protection, that are provided under Section 131 of this bill, which establishes standards for urban highway public transportation. It is estimated that such a demonstration, to be implemented effectively, may cost as much as $10,000,000. Therefore, that sum is authorized for this demonstration work out of the Highway Trust Fund.

The Public Works Committee, which has responsibility for environmental as well as highway legislation, in developing S. 502, did not limit its concerns to highway construction. This year's bill contains measures to insure coordination between the Department of Transportation and the Environmental Protection Agency in attacking the air pollution problems in urban areas. The bill also provides the Secretary of Transportation with the authority to direct a State to spend a portion of its highway funds on public transportation projects in regions with severe air pollution problems.

S. 502 recognizes the need to encourage alternatives to auto transportation by providing that highway funds may be used to construct bicycle paths. It is logical that such a program is financed out of the Highway Trust Fund because bicycle paths will attract riders off our present highway network, making those highways more efficient for the motorists using them as well as promoting highway safety.

I would hope that States will use this authority to place bicycle paths along new roads, construct pathways in the rights-of-way of existing roads, and, whenever possible, construct bikeways that are "in conjunction" with Federal-aid highways, possibly running across country between two Federal-aid highways on its own right-of-way.

S. 502 includes provisions for enhancing the scenic value of our highways. One section extends the prohibition against billboards along Interstate and primary highways beyond its present 660 foot limit and bans all signs which are visible from the highway and which were erected for the purpose of being read from the highway. This extended prohibition will have a particularly salutary effect in removing the "jumbo" signs which have been erected in defiance of the spirit of previous legislation to beautify the nation's roads.

The bill also authorizes funds for reconstruction of route 25-E through historic Cumberland Gap, the original "Gateway to the West". so as to preserve the scenic and historic quality of the Cumberland Gap National Historical Park while providing safe passage through this natural traffic corridor.

The interest of the distinguished Chairman of the Public Works Committee is, to a great extent, responsible for those provisions in S. 502 which call for greater citizen involvement in the formulation of highway programs and plans. I believe these provisions are valuable; they are a sign of a growing concern that citizens have a voice in decisions which affect their lives, and I wish to commend the Senator from West Virginia for his leadership in this area.

Finally, I want to discuss the provisions of S. 502 which deal with transportation in urban areas, and particularly in the larger metropolitan areas. The bill authorizes $1.1 billion for each of the next three years for use on highways and highly-related projects in urban areas. This figure includes $850 million for the Urban System and $350 million for urban extension of primary and secondary routes is a very significant increase over the 1973 authorization level of $475 million.

The bill contains several provisions which increase the role local officials in urban areas play in determining how urban System funds—$850 million—be spent. A city of over 400,000—there are 32 such cities at present—(I refer Senators to page 17 of the Report for a list) if authorized by the State and found by the Secretary of Transportation to be capable of carrying out ongoing transportation program, would receive its share of the $850 million based on its population, and would plan and implement its own programs. Cities over 400,000 not suitably equipped to carry on their own programs and cities under 400,000 in that State. This simply means that for the technical skills necessary to execute their programs.

A separate provision in S. 502—the so-called "earmarking" provision—requires a State to spend a prorated share of its Urban System funds in each urbanized area of over 400,000 in that State. This simply means that large, urbanized areas will have an assured annual amount of highway funds around which to plan their transportation programs. The State would work with these areas to plan projects and would continue to do the engineering and construction work.

S. 502 requires that in all urban areas local officials select the routes and originate project proposals for the Urban System. This is to be done in consultation with the State.

S. 502 increases the funds available for urban planning and permits cities to use urban funds to purchase buses. These are major advances in adapting the highly successful Federal-aid highway program of the past to current and future needs. I was glad to join with the other members of the Public Works Committee in taking these positive steps toward flexibility.

But, frankly, such flexibility in planning only meets part of the challenge.

Buses, of course, would effectively relieve the congestion on our highways, and make existing and new roads more productive. But I do not understand the logic that says a community may meet its urban transportation needs with buses, but it cannot help to relieve the congestion by using similar funds to buy extra subway cars or to develop or improve a system of rail transit lines.

Both have the same purpose: improvement in urban transportation. To assure ourselves that a community will make the best possible choice, we must in all logic give an urban area the flexibility to make that choice, not fettered by arbitrary restrictions.

I will support the amendment to be proposed by Senator Muskie, which would provide urban areas with this added flexibility. I will support the amendment because it will benefit the cities without penalizing rural areas. The proposal would not transfer one cent of rural funds to urban projects; it would merely allow urban areas to determine how to spend the funds already allotted to them.

Although I will vote to modify this section in the bill, I believe the bill, as a whole, is a forward-looking piece of legislation. It has received the most careful and thoughtful attention by all the members of the Public Works Committee. The new members as well as the veterans have made valuable contributions at all stages of its development. The Committee and the Senate can be justifiably proud of S. 502 as an exemplary product of the legislative process.

Mr. BENTSEN. Mr. President, let me supplement some of the remarks made by the distinguished Senator from Tennessee.

When he speaks of the contributions that have been made to that committee, he is right about the distinguished chairman of the committee and his fairness and his objectivity and the depth to which he researches the problems. The contributions by the Senator from Tennessee have added much to this bill and to its coverage of the basic highway needs of this country. As chairman of the Subcommittee on Transportation, I appreciate those contributions.

Mr. CRANSTON. Mr. President, for the second time in 6 months the Senate has before it a bill to extend and amend our Federal aid highway programs. And once again, the central question we must answer as we consider this legislation is whether, in fact, we have provided a sufficient number of alternatives to meet our pressing urban transportation problems.

The Public Works Committee should be commended for reporting a bill that recognizes and to some extent responds to the very critical transportation needs of our cities. I was pleased to note, for example, that the committee bill expands the availability of Federal aid urban system funds and urban extension funds to include the purchase of buses. I was also very pleased to note that the bill provides that the 32 cities in the United States with populations greater than 400,000 may receive their proportionate share of urban system funds directly from the State's apportionment of urban funds, provided that the city is found to be empowered by State law and is equipped to manage effectively such funds.

This latter provision will assist the four major cities in California with 1970 populations in excess of 400,000: Los Angeles—2,816,061; San Francisco—715,-674; San Diego—696,769; and San Jose—445,779. I was also pleased to note that the bill specifically requires the Secretary to find that any Federal aid highway project is in compliance with Federal air and noise pollution abatement standards before approval is granted.

Yet, despite these important steps forward, the committee bill falls far short of meeting the critical transportation needs of our cities. Urban and intercity transit systems are faced today with crippling financial difficulties and

their plight is worsening. Since the establishment of the highway trust fund in 1956, a total of 268 city transit systems have gone out of business, and 100 of these have folded since 1963. As freeways are built to accommodate the suburban commuter, those left behind in the cities—most often the very young and the very old, the handicapped and the poor—are left without a means of transportation and must absorb the increasing social costs associated with inner city deterioration. Today, only 7.3 billion transit passengers are carried annually as opposed to the 23 billion carried in 1945.

Despite increasing authorizations out of the general revenues for the Urban Mass Transit Administration's capital grants program, essential transit needs continue to go unmet. The Department of Transportation estimates that the cost of bringing urban transit up to minimally acceptable standards by 1980 will run between $28 and $34 billion. Unfortunately, it now appears unrealistic to expect more than $1 billion annually out of general revenue funds to support mass transit.

Our highway program has long enjoyed wide public approval and financial support. Since the inception of the Urban Mass Transit Administration in 1964, for example, the ratio of Federal support for highways compared to mass transit has been about 30 to 1. In other words, for every Federal dollar spent on mass transit, we have spent $30 to build highways. Moreover, including the revenues that local and State governments spent for road construction, maintenance and safety, the total bill for our national highway system came to nearly $22 billion last year. Not only is this vastly more than was spent on public transportation, but it is also more than the total Federal, State, and local government expenditures on housing, urban renewal, parks, recreation, sanitation, and police and fire protection combined. It is clearly time that we as a nation refocus our sight, our energy, and our dollars away from the construction of more and more highways to the exclusion of any other form of transportation.

To begin to move toward the development of clean, efficient, nonpolluting, and energy conserving mass transit, we must recognize that our total surface transportation resources are finite and that we must, therefore, reallocate some of the funds currently allocated for highways to mass transit.

Today, the Senate will have three opportunities to provide more adequate funds for public transportation. These are the three amendments that I understand will be offered today: an amendment which I am cosponsoring with Senator WILLIAMS to provide the Urban Mass Transit Administration with the authority to make grants and loans to cover the operating expenditures of urban transit systems; an amendment to be offered by Senators KENNEDY and WEICKER that would potentially provide $2.75 billion annually for rail and bus transit at the option of State and local officials; and an amendment that will be offered by Senators MUSKIE and BAKER, which I am also cosponsoring, that would open up the urban systems and urban extension funds to rail as well as bus transit, making some $850 million available annually.

Mr. President, these three amendments are critically important to California and to the Nation. Public hearings are currently underway in the Los Angeles metropolitan area on an EPA proposal to institute gasoline rationing and other severe measures in an effort to reduce air pollution to a level that meets the ambient air quality standards established by the Clean Air Act. The Environmental Protection Agency has estimated that the number of vehicle miles traveled in the Los Angeles area must be reduced by more than 80 percent if these standards are to be met. In the absence of an adequate public transportation system, such a proposal would wreak economic and social havoc on the Los Angeles area.

The Environmental Protection Agency has reported that, in addition to Los Angeles, some 66 metropolitan areas have auto-related air pollutants in concentrations that are believed to be hazardous to human health, and that measures to reduce automobile usage may be proposed in as many as 28 of these areas by 1975.

Moreover, in the face of what appears to be a serious energy crisis, it is important that we develop means of transportation that are more efficient users of energy than the automobile. Automobiles are energy gluttons. The Highway Action Coalition, in testimony before the Senate Public Works Committee, has made this point very well:

> The manufacture and operation [of automobiles] account for more than a fifth of all the energy consumed in the United States. Worse still, automobiles effectively use only five percent of the potential energy they burn; the rest is wasted. The average car has about 120 horsepower per passenger—roughly the amount required by a subsonic aircraft to take off. Per passenger mile, a car consumes five times as much fuel as a train, and six times as much as a bus.

Mr. President, it is clearly in the best interests of the Nation that the Federal Government begin to provide more adequate support for urban mass transit. The air and noise pollution and the congestion which the automobile inevitably brings to our cities are reaching unbearable levels. Those bearing the brunt of these problems are those left behind in the suburban exodus: the old, the poor, and the handicapped. The highway user and the city dweller alike will benefit from a vigorous Federal effort to develop viable transportation alternatives to the automobile. I, therefore, urge that the Senate vote today to provide the necessary financial assistance for those cities that opt to develop public transportation systems.

Mr. BURDICK. Mr. President, the Federal-Aid Highway Act of 1973 is a sound attempt to provide for the diverse transportation needs of a modern urban and rural society. I am particularly pleased with the attempt to hold spending to levels which will not inhibit the development of needed roadways, but which are also fiscally responsible. For this I commend the distinguished chairman of the Subcommittee on Transportation, Senator BENTSEN, the esteemed chairman of the full Public Works Committee, my friend Senator RANDOLPH, and all the committee members who worked so hard to attain a meeting of the minds on these issues.

I must especially mention the sections on highway public transportation; availability of urban system funds; control of outdoor advertising; Indian reservation roads and bridges; and control of highway litter, air pollution and noise levels as indicative of real strides toward strengthening our overall approach to highway travel.

In the debate which follows, I can say with confidence to my colleagues that all matters contained in S. 502 were fully explored during lengthy hearings this year and in the last Congress. The committee had a wealth of information before it during the executive sessions, and I believe that all points of view were fully examined. It is my hope that the House of Representatives will act promptly, utilizing the basic approaches taken by S. 502, and that we will have a strong bill on the President's desk before the present highway authorizations expire.

AMENDMENT NO. 30

Mr. WILLIAMS. Mr. President, I thank the Senator from Texas for yielding to me at this time.

I call up my amendment No. 30 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill insert the following:

TITLE II

THE EMERGENCY COMMUTER RELIEF ACT—AMENDMENTS TO THE URBAN MASS TRANSPORTATION ACT OF 1964

SECTION 1. The Congress finds—

(1) that over 70 per centum of the Nation's population lives in urban areas;

(2) that transportation is the lifeblood of an urbanized society and the health and welfare of that society depends upon the provision of efficient economical and convenient transportation within and between its urban areas;

(3) that for many years the mass transportation industry satisfied the transportation needs of the urban areas of the country capably and profitably;

(4) that in recent years the maintenance of even minimal mass transportation service in urban areas has become so financially burdensome as to threaten the continuation of this essential service;

(5) that the termination of such service or the continued increase in its cost to the user is undesirable, and may have a particularly serious adverse effect upon the welfare of a substantial number of lower income persons;

(6) that some urban areas are now engaged in developing preliminary plans for, or are actually carrying out, comprehensive projects to revitalize their mass transportation operations; and

(7) that immediate substantial Federal assistance is needed to enable many mass transportation systems to continue to provide vital service.

SEC. 2. (a) The fifth sentence of section 4(a) of the Urban Mass Transportation Act of 1964 is amended to read as follows: "The Federal grant for any such project to be

assisted under section 3 (other than a project for payment of operating expenses) shall be in an amount equal to 90 per centum of the net project cost.".

(b) The amendment made by subsection (a) shall apply only with respect to projects which were not subject to administrative reservation on or before July 1, 1973.

SEC. 3. (a) Section 3 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "No" in the fifth sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (f), no"; and

(2) by adding at the end thereof a new subsection as follows:

"(f) The Secretary is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any State or local public body to enable it to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. No financial assistance shall be provided under this subsection unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a program referred to in section 4(a), and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for the placing the mass transportation operations of such system on a sound financial basis, and (3) the Secretary determines that the mass transportation services provided by each system involved is being provided by an efficient operation of such system in accordance with regulations promulgated by the Secretary.

"The amount of any grant under this subsection to a State or local public body to enable it to assist any mass transportation system to pay operating expenses shall not exceed twice the amount of financial assistance provided from State or local sources for that purpose. The Secretary shall issue such regulations as he deems necessary to administer this subsection in an equitable manner. Such regulations shall include appropriate definitions of (A) operating expenses, and (B) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant."

(b) The fourth sentence of section 4(a) of such Act is amended by striking out "section 3" and inserting in lieu thereof "section 3 (other than subsection (f))".

(c) Section 4(c) of such Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 (except subsection (f)), and sections 7(b) and 9";

(3) by striking out "this subsection" wherever it appears and inserting in lieu thereof "this paragraph"; and

(4) by adding at the end thereof a new paragraph as follows:

"(2) To finance grants and loans under section 3(f) of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $800,000,000. This amount shall become available for obligation upon the date of enactment of this paragraph and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $400,000,000 prior to July 1, 1974, which amount may be increased to not to exceed an aggregate of $800,000,000 prior to July 1, 1975. Sums so appropriated shall remain available until expended."

(d) Section 4(c) of such Act is amended by striking out "$3,100,000,000" in the first and third sentences and inserting in lieu thereof "$6,100,000,000".

(e)(1) Section 12(c) of such Act is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(C) by adding after paragraph (5) a new paragraph as follows:

"(6) the term 'mass transportation system' means any private company or public authority or agency providing mass transportation service.".

(2) Section 12 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) The provision of assistance for the payment of operating expenses under section 3(f) shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable."

SEC. 4. Section 9 of the Urban Mass Transportation Act of 1964 is amended as follows:

(a) insert "(a)" before the first sentence;

(b) in the first sentence, delete the words "engineering, and designing" and insert in lieu thereof the words "engineering, designing, and evaluation";

(c) in the second sentence, delete the word "and" before "(3)", delete the period at the end of the sentence, and insert "; and (4) evaluation of such projects after their implementation." at the end of the sentence;

(d) in the third sentence, change the word "section" to "subsection" and insert the words "90 per centum" in lieu of "two-thirds"; and

(e) add the following new subsection:

"(b) The Secretary is authorized to utilize not to exceed one-half of 1 per centum of the authorization provided in section 4(c) to carry out technical studies by contract without limitation on the Federal share of the cost."

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Delaware (Mr. BIDEN), and the Senator from Kentucky (Mr. HUDDLESTON) be added as cosponsors of this amendment.

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

Mr. BENTSEN. Mr. President, will the distinguished Senator from New Jersey add the name of the Senator from Texas as a cosponsor?

Mr. WILLIAMS. Mr. President, I am honored to ask unanimous consent that the name of the distinguished Senator from Texas be added as a cosponsor of the amendment.

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

Mr. WILLIAMS. Mr. President, this amendment, which deals with urban mass transportation, was taken up last year when the Senate considered the highway bill. As the sponsor of the mass transit measure which comes within the jurisdiction of the Committee on Banking, Housing and Urban Affairs, I am deeply indebted to the distinguished Senator from Texas, who is leading the floor debate on this year's highway bill, and the chairman of the full Public Works Committee for their consideration of the approach which I have suggested, that just as last year, this measure be considered as part of the highway bill.

I might say that in developing this mass transportation amendment and an approach which I believe is essential for the survival of mass transit in this country, I have been helped immeasurably by my friend, the distinguished chairman of the Public Works Committee, Senator RANDOLPH.

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

Mr. WILLIAMS. I yield.

Mr. JAVITS. This is the measure that passed the Senate on one occasion.

Mr. WILLIAMS. On several occasions.

Mr. JAVITS. In one of them, I was the proponent.

I am delighted to see the chairman of the Committee on Labor and Public Welfare, who also is active on the Committee on Banking, Housing, and Urban Affairs, handling this amendment now. I cannot begin to emphasize the critical importance of it, for financial reasons, for ecological reasons, for traffic reasons.

As a cosponsor of this amendment I commend the Senator from New Jersey for his action in bringing this amendment to the Senate's attention. The time for responsible congressional action is now if the present picture of our mass transit systems is as it must to change from one of rising fares, increasing deficits, and declining ridership to that of a financially sound and viable transportation operation.

I am sure the issues embodied in this amendment are well understood by the Senate. We must act decisively now in the first session of the 93d Congress to see approval of the overdue Federal responsibility to improve the beleaguered financial state of this Nation's mass transit systems.

The fact that more and more citizens are traveling greater distances to and from their employment each year, and the continued deterioration of the Nation's environment, in particular the urban environment, where today 67 metropolitan areas have air quality threatening the health of their citizens due to auto-related air pollutants, one cannot overstate the urgency of the present situation.

To bring effective assistance, the responsibility for funding our mass transit systems must come from the Federal Government and from State and local governments to the extent they are able to do so. The services provided by a comprehensive urban transportation system benefit not only the riders, but additionally the economy and the social life of the region. It is only through planned and assured financial support of mass transit from Government, can urban mass transportation begin to meet the service needs of the future. This amendment would provide an equitable Federal program to accomplish this task.

The major elements of the amendment briefly stated are as follows:

It amends the Urban Mass Transportation Act of 1964 by authorizing the Secretary of Transportation to make grants

or loans to State and local public bodies for payment of operating expenses incurred by a mass transportation system. These grants would be obligated on a two-third Federal, one-third local matching basis and funded by the allocation of $800 million over the next 2 fiscal years.

Also, the amendment provides an additional $3 billion in contract authority to sustain the Urban Mass Transportation Act's capital grant program through fiscal year 1977. The cost-sharing formula for this program would be changed from two-thirds, one-third to 90 percent Federal, 10 percent local. This new ratio for funding mass transit capital improvements coincides with the present Federal interstate highway financing ratio.

In the tristate metropolitan region of New York City, encompassing 19 million people in the States of New York, New Jersey, and Connecticut, the deficit problem is overwhelming. In a recent report submitted by the Tri-State Governors' Special Commission on Financing Mass Transportation, mass transit operating deficits for the region in the period, 1972 to 1985, were estimated to be $13.6 billion. This means an average of $1 billion annually will be required for operations alone. In the same period, the region will need at least $7.3 billion to finance capital outlay for an average of $560 million in annual outlay.

For localities and States to meet the operational requirements of mass transit systems, new solutions are urgently needed.

It is now up to the Congress to seize the initiative before it. The more than 70 percent of the Nation's people who live in urban areas can no longer suffer from crippling and decaying mass transit and commuter systems and cannot bear continued delay over needed Federal assistance.

Mr. President, we are subsidizing airlines, railroads, ships, housing, and numerous other programs, but I know of no subsidization more indispensable to the life and environment of the increasingly city dwelling American people than this kind of buttressing which is called for by this amendment.

Mr. WILLIAMS. This approach to bringing Federal resources to urban mass transportation has had the full partnership of the Senator from New York for more than a decade, it was first introduced in the Congress. I am grateful to the Senator from New York.

Mr. President, over the past 4 years and during as many sets of hearings, those who use, regulate, operate, and finance urban mass transportation have testified before the Committee on Banking, Housing and Urban Affairs.

On all four occasions they have made a compelling case in favor of the Emergency Commuter Relief Act—in favor of aid that only the Federal Government can give.

And three times the Senate has responded by overwhelmingly passing legislation which would not only provide for the future of mass transit, but which would also enable it to survive its present crisis.

During both the 91st and 92d Congresses the Emergency Commuter Relief Act was passed by the Senate as part of the Housing Acts—and finally last year as an amendment to the Federal-Aid Highway Act.

But each time the legislation failed short of final enactment.

Today, I am again offering this act as an amendment to the Federal-Aid Highway Act.

I am pleased that Senators RANDOLPH, CASE, CRANSTON, JAVITS, PERCY, STEVENSON, HATHAWAY, BURDICK, GRAVEL, HUDDLESTON, KENNEDY, BENTSEN, and BIDEN, are joining with me cosponsoring this amendment.

As more and more bus and rail transit lines throughout the country in cities and towns both large and small teeter on the verge of bankruptcy or public takeover, we must once again do our best to alleviate our Nation's mass transit crisis.

And make no mistake about it, today's situation is grave and is getting worse.

From Salt Lake City, Utah, to Biloxi, Miss., to Lewiston, Maine, operating deficits have become a serious handicap to providing viable mass transportation.

During the past 10 years the number of municipalities forced to initiate local programs of operating assistance has increased by nearly 400 percent with deficits running at a rate of over $400 million a year.

At our committee's hearings held just last month, Clair M. Roddewig, acting chairman of the Chicago Transit Authority, stated:

> Today, the Authority is in deep financial trouble. If 1973 operations and level of fares are continued on the same basis as those in effect during 1972, we will have a $42.1 million deficit.
>
> It is not possible for us to borrow money with which to make up this deficit. Obviously, unless we obtain some financial assistance, we will be out of money and will be required to shut down our operations . . .
>
> Our daily cash receipts from the farebox on our system today are not sufficient to meet our daily payroll obligations let alone take care of the costs of fuel, power, supplies, parts and maintenance of the various rapid transit cars and vehicles used in our system . . .
>
> Mass transit in metropolitan areas must today be regarded as a public service in the same light as schools, police and fire protection, sanitation, public welfare, highways, and many other needs.
>
> Unless it is so regarded as a public service and given public assistance over and above that realized from the farebox alone, the systems like the Chicago Transit Authority will erode and face ultimate extinction.

The committee also heard compelling testimony on the impact of transit's financial decline from a small city mayor.

The Honorable John C. Orestis of Lewiston, Maine, told our committee:

> However, if our struggling city transit service is to do more than decline, a program of operating subsidy is the key. To depend on the varying financial capacities of local areas for this ingredient is not only unfair, but is self-defeating, for once transit dies in an area, its later resurrection which will certainly come, and will double or perhaps triple demands for capital grants.

In summing up the need for operating assistance, Carmack Cochran, chairman of the American Transit Association Legislative Committee and president of the Nashville Transit Co., clearly and succinctly stated:

> There has been an acceleration of public takeover of private transit properties which cannot meet cost, pay taxes or make payments to pension programs. Consider that since 1970, when we first began making this case, there are now 53 fewer private transit systems in the country. We estimate that by the end of this fiscal year 25 to 30 more will either cease to exist or become public property.
>
> These private transit companies do not leave the business because they've made a killing and now want to retire. They get out because finances, rising costs and more dependence on the automobile have forced them out. There are now 160 public transit systems in the nation, representing all but an insignificant fraction of the total transit ridership.
>
> All of these face the same grim facts and prospects which we have detailed for you on three previous occasions. Subsidy offers hope, stability and a promise of a truly balanced urban transportation system.

Mr. President, the need to revitalize and expand our Nation's mass transit systems is persuasive and overwhelming.

And my amendment, the Emergency Commuter Relief Act, is designed to meet that need.

It is designed to halt the raising of fares to intolerable levels, and the curtailment of essential transit services.

It recognizes that mass transit is the lifeblood of an urbanized society and that a program of capital grants meshed into one of operating assistance can go a long way toward alleviating the distress of both private transit operators and the increasing number of municipalities who own and operate transit systems.

Let me now sketch briefly how the Emergency Commuter Relief Act would help to reverse the decline and fall of mass transit.

It would amend section 3 of the Urban Mass Transportation Act of 1964 to prevent reduction of essential transportation services by authorizing assistance to defray operating expenses.

Grants, on a two-third Federal, one-third local matching basis, would be provided to State or local public bodies in order to assist any mass transportation system maintaining service in an urban area and to pay operating expenses incurred as a result of providing this service.

Included within the terms of such assistance are grants for debt servicing for mass transit investments.

As a prerequisite for obtaining a grant for operating expenses, the States and localities would have to determine which systems in their jurisdiction were in need of such aid and then submit to the Secretary of Transportation a comprehensive mass transportation program to improve such service and to place mass transportation operations on a sound financial basis.

The Secretary would also be required to make a determination that the mass transit services are being efficiently provided by the system applying for the grant in accordance with regulations promulgated by the Secretary.

The operating assistance provisions are geared to fulfilling three prime objectives:

Maintenance of service to the public;

Stimulation of further ridership, especially in the commuter peak hour category; and

Assistance to communities in meeting their overall development aims.

If enacted, this program will be an immense and immediate benefit to local communities.

It will give the the option of plan and implement the mix of transportation services most responsive to their own needs and their own goals for orderly community growth and development.

It will provide local governments with the resources to determine their own transportation policy.

And, it will bring a new measure of flexibility and balance to the planning and implementation of urban transportation programs.

To fund this program, $800 million would be made available over the next 2 years.

This is a realistic figure of actual needs and is fully supported by the Committee on Banking, Housing and Urban Affairs hearing record which was made during the 92d Congress.

The Emergency Commuter Relief Act would also amend the Urban Mass Transportation Act of 1964 to provide that Federal grants under the capital assistance program shall be in an amount to 90 percent of the net project cost.

In addition, grants for technical assistance under section 9 of the act would also be authorized at the 90-percent level.

In this manner, funding for mass transit facilities and equipment would be put on a ratio which is identical to that of the interstate highway program.

This type of parity is essential if our Nation's transit investment is to become an attractive alternative to highway programs, which over the years have been funded on a 90-to-10 basis for interstate construction.

Finally, it would provide an additional $3 billion in contract authority to sustain the capital grant program through fiscal year 1977.

Under the 1970 Urban Mass Transportation Assistance Act, the Secretary of Transportation was required to submit to the Congress by February 1, 1972, his estimate of the authorizations needed to carry out that program from July 1, 1975, to July 1, 1977.

Unfortunately, the administration failed to submit such information to the Congress within the legally prescribed time limitation and we were unable to act upon their recommendation when it was finally submitted on September 7 of last year.

However, the $3 billion contained in this legislation is in accordance with the administration's recommendations.

This level of funding should satisfy the act's objectives which were to assure the continued progress and continuity of the program.

Mr. President, today there is a great national stake in expanding and modernizing our public mass transportation systems.

The Emergency Commuter Relief Act reflects this stake and authorizes a total commitment of $3.8 billion in additional Federal resources to meet the No. 1 transportation challenge of the 1970's.

During the 4 year delay in enacting this legislation, costs have risen, fares have increased, and services have been curtailed and as a result, more and more transit riders have been forced to use automobiles.

And while expenditures have been held in check, transit plans and projects that are urgently needed in urban areas have piled up and gathered dust.

As James C. Pontious, the chairman of the Committee on Public Mass Transportation of the Railway Progress Institute, who along with the National League of Cities—U.S. Conference of Mayors, the Institute for Rapid Transit, and the American Transit Association, all of whom call this legislation "transit's top priority," stated:

> Present trends in most modern urban areas reveal a degenerating financial spiral. Higher costs are leading to higher fares and reduced service resulting in fewer riders and steadily declining revenues.
>
> We must recognize that urban mass transportation is a basic public service essential to our modern cities. Certainly, the current national concern over availability of petroleum products and the urban pollution crisis emphasizes the need for better mass transportation. If not treated and financed properly much needed mass transportation will continue to deteriorate and decline. We support the concept of federal operating assistance funds.

Mr. President, the time to act is once again before us.

By adopting the Emergency Commuter Relief Act, we in the Congress will by our deeds explicitly affirm the President's pledge to make mass transit our Nation's top transportation priority for the 1970's.

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

Mr. WILLIAMS. I yield.

Mr. STAFFORD. Mr. President, I join in commending the distinguished Senator from New Jersey (Mr. WILLIAMS) for his amendment.

Those of us who believe that all forms of mass transportation should be considered for use in dealing with our urban mass transit problems are well aware, as the Senator from New Jersey has often reminded us, that the highway trust fund is not large enough to meet the extensive needs of all rail systems. It has become clear from the deliberations of our Committee on Public Works that the most significant financial contribution for mass transit must come from sources outside the highway trust fund at this time.

The administration supports the $3 billion for capital grants over the next 3 years contained in the amendment, and I am pleased to join with the administration in that view. The administration, as you are aware, opposes the $800 million in operating subsidies for mass transit companies over a 2-year period as proposed by the amendment. It is my view that the subsidy provision is vital to the effort to reverse the trend that has seen the death of so many urban mass transit companies across our Nation in the last 15 years. These subsidies will be used only where they are necessary for the public interest and they are, I believe, worthy of our support.

This proposal, of course, does not supplant the concept contained in the Muskie-Baker amendment or the Kennedy-Weicker amendment, which will come before us later today, but actually is a supplement to that necessary kind of addition to the bill.

I thank the Senator for yielding.

Mr. WILLIAMS. I appreciate the statement of the Senator from Vermont.

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

Mr. WILLIAMS. I yield to the Senator from West Virginia.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The Senator is recognized.

Mr. RANDOLPH. Mr. President, I think the RECORD should reflect that on the three previous occasions when the able Senator from New Jersey has offered this legislation, I was a cosponsor. I have worked with him in the development of this program, not only in this instance, but also on prior occasions when he very properly brought to our attention the need for improved urban mass transit.

I disagree with my good friend from the other side of the aisle at this moment because he has indicated this is supplementary to the Kennedy-Weicker measure, or the Muskie-Baker measure. It is not supplementary; it is substantive. Does the Senator agree?

Mr. WILLIAMS. The legislation which I have introduced as an amendment is a continuation of our main legislative program of bringing national resources to urban mass transit. That is the foundation on which we are building. In order to make the capital great program meaningful. I have introduced this amendment which has the additional factor of providing operating subsidies for urban mass transit systems. It is designed to preserve and improve these systems until the capital infusion provided for in the urban mass Transit Act can take hold. But this is the foundation and any other approaches would be supplementary or complimentary to it.

Mr. RANDOLPH. I am sure the Senator from Vermont (Mr. STAFFORD) realizes that when I question this matter it is not to be critical but only to say that this program is what Congress has been doing about mass transit and is continuing to do and I hope will again do this afternoon.

Mr. WILLIAMS. Mr. President, I appreciate the Senator's statement. Yes, we have done this on other occasions. My amendment is in the same form in which it passed the Senate on other occasions.

It is designed to bring immediate oxygen to mass transit so that the major infusion of capital funds, also provided for by this amendment, can take hold.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

Mr. BENTSEN. Mr. President, I commend the distinguished Senator from

New Jersey (Mr. WILLIAMS) for his amendment.

A similar amendment was offered by the Senator last year, and it was accepted by this committee and successfully carried through the conference.

The Senator from New Jersey is one of the Senate's outstanding spokesmen for mass transit. He knows the problem well, for many of the citizens of his State commute from their homes into New York for work. His constituents know how much the Senator's amendment means to them.

The Senator from New Jersey is the father of much of the mass transit legislation now on the books, and for that we should be profoundly grateful.

I would only quote a few of the Senator's words in last year's debate on this issue.

He said at that time—

I understand and agree that the Highway Trust Fund is not large enough to include the extensive needs of all rail systems.

This problem can only be dealt with by increasing the contract authority under the Urban Mass Transportation Act.

Title III of the Federal-Aid Highway Act of 1972 meets the problem head-on by increasing the amount of contract authority funds available by $3 billion.

I am certainly in agreement with the Senator on the points he made. Although last year he did vote for the Cooper-Muskie amendment, he stated that the most important source of funds for mass transit has to come from either the Urban Mass Transportation Act or other special legislation we set up for that purpose.

I also want to commend the Senator from New Jersey for including in his measure some $800 million in operating subsidies for mass transit companies. In my view, the administration has been very shortsighted in opposing this provision. In fact, it is one of the most important provisions concerning mass transit to come before the Senate for some time.

Since 1956, some 268 urban transit systems across the country have gone out of business. The need for operating subsidies is documented, and I strongly support this section of the Senator's amendment.

I believe that with the Williams amendment we will have significantly strengthened the mass transit provisions already in S. 502.

As floor manager of the bill, I am pleased to accept the Wililams amendment on behalf of the committee.

Mr. BAKER. Mr. President, I find myself in sympathy for the purpose of the amendment. I find myself clearly in support of the first provision of the amendment providing $3 billion for construction funds, and I find myself not in agreement with providing operating subsidies in the amount of $800 million. I find myself in the position, however, of feeling that our Committee on Public Works is stretching its jurisdiction to the extent that I believe we are intruding on the jurisdiction of another standing committee of the Senate in the authorization of funds to be appropriated other than from the trust fund for these purposes.

It is not my intention to prolong the debate. I am concerned with the jurisdiction problem, but since I find myself in agreement with part and in disagreement with another part, I believe the better part of expedition is to move to table the amendment. So when the debate has run its course and without running the risk of cutting off statements by other Senators I express my intention to make a motion to table.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. How much time remains?

The PRESIDING OFFICER. There is no time limitation.

Mr. WILLIAMS. Obviously, in anticipation of the motion to table, I will state my strong position in opposition. There is no problem here of committee jurisdiction. This measure was introduced and referred to the committee that has jurisdiction over most of the urban affairs, the Committee on Banking, Housing and Urban Affairs. But because of the exigencies of the situation and the doubt about a housing bill this year, or if there is to be one, when it will be brought before the Senate, it is the feeling of our committee, that it would be proper for me to bring this measure to the Senate as an amendment to the highway bill which also deals in part with mass transit, insofar as bus systems are concerned.

The part which the Senator from Tennessee disagrees with is that part of the legislation which can make our major capital program work and bring us some degree of assurance that the $3 billion in contract authority for fiscal years 1975 and 1976 will be meaningful in terms of better transportation. It will do this by keeping our operating systems alive until they can be substantially improved, and made economic, efficient, and convenient for people who wish to use the option of mass transit and get out of their automobiles.

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

Mr. BAKER. Mr. President, if there are other remarks on the amendment, I shall be glad to yield. If there are not, I am prepared to make my motion to table.

Mr. WEICKER. Mr. President, I have just a few remarks in regard to the amendment of the Senator from New Jersey. I commend him for his amendment. I intend to support it and vote against the motion to table, but I do think it far better at this point of the entire debate to offensively anticipate what is going to take place here rather than be on the defensive. I think this was touched upon somewhat in the very short dialog between the distinguished Senator from Vermont and the distinguished Senator from West Virginia.

It is true that the substance of the amendment of the Senator from New Jersey was passed by this body last year. We are doing nothing different here than what we have done in the past. I think it is also important to point out that we in this body did adopt the Cooper-Muskie amendment last year. All this was done last year—both the Cooper-Muskie amendment was passed and what is now the amendment of the distinguished Senator from New Jersey was passed.

I do not want it said, as we get into debate and we move on from the distinguished Senator from New Jersey's amendment to the distinguished Senator from Massachusetts and the distinguished Senator from Tennessee's amendment, that we have done our bit for mass transit by passage of the amendment of the distinguished Senator from New Jersey. That is not the case.

There are two situations involved here: No. 1, the direct funding of mass transit in this Nation; and, on the other hand, the situation as it relates to the Highway Trust Fund whereby those moneys will be available for all forms of transportation—rail, highway, bus, et cetera.

So I want to make the situation quite clear that, in supporting the very fine amendment offered by the distinguished Senator from New Jersey, it will also be my intention to attack another problem, or another aspect of the problem, which would specifically relate to uses of Highway Trust Fund moneys, because we are so far behind in the task of providing mass transit that the effort that will be required will be on both grounds, the use of money from both the Highway Trust Fund and those that are directly related to mass urban transportation. We will not have done our job in behalf of mass transit merely by passage of this particular amendment.

Mr. BENTSEN. Mr. President, I yield to the distinguished assistant majority leader for the purpose of setting forth a time agreement on the various amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Texas for yielding to me.

I have cleared this agreement with the assistant Republican leader and other Senators on the other side of the aisle and with appropriate parties on this side of the aisle.

I make the following unanimous-consent requests: That time on the amendment by Mr. WILLIAMS and Mr. RANDOLPH, which I understand is now pending, be limited to one-half hour, to be equally divided between the sponsor of the amendment and the distinguished Senator from Tennessee (Mr. BAKER); that time on an amendment by Mr. KENNEDY and Mr. WEICKER be limited to 1 hour, to be equally divided between the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Vermont; that time on an amendment by Mr. MUSKIE and Mr. BAKER be limited to 1 hour, to be equally divided between Mr. MUSKIE and Mr. BENTSEN; that time on an amendment by Mr. BUCKLEY be limited to 2 hours, to be equally divided between the author of the amendment (Mr. BUCKLEY) and Mr. BENTSEN; that time on an amendment by Mr. HANSEN be limited to 1 hour, to be equally divided between the author of the amendment (Mr. HANSEN) and Mr. BENTSEN; that time on an amendment by Mr. COTTON be limited to

30 minutes, to be equally divided between the author of the amendment (Mr. COTTON) and the manager of the bill (Mr. BENTSEN).

I add this proviso: That time on any amendment to an amendment be limited to one-half the time on the basic amendment, the time to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished manager of the bill.

Mr. President, I ask unanimous consent that following the disposition of the Williams amendment, the Senate proceed to the consideration of the Kennedy-Weicker amendment, and that upon disposition of that amendment, the Senate proceed to the consideration of the Muskie-Baker amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, how much time remains on the Williams amendment?

The PRESIDING OFFICER. There has been no previous allocation of time, so time will start running from this time.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from Delaware (Mr. BIDEN).

Mr. BIDEN. Mr. President, when the Secretary of Transportation testified before before the Banking, Housing and Urban Affairs Committee on legislation to provide Federal operating subsidies, he agreed that the operating deficits for most of the transit authorities as now structured would not be met through the receipts from the farebox. Secretary Brinegar further expressed uncertainty as to whether the transit systems would ever reach a point where they would be only operating from the farebox receipts. It is disturbing that the administration opposes Federal operating subsidies under any circumstances and would grind our Nation's transit systems to a halt because of its unwillingness to act in response to a need which the administration itself acknowledges.

I think it is unreasonable to expect all mass transit systems to be on a pay-as-you-go basis. Like the police and fire departments, mass transit systems provide a service essential to the vitality of our communities and like those departments such systems should be subsidized, if necessary. Unlike the police and fire departments, however, which are highly localized and service a resident constituency, the mass transit systems often cross the jurisdictional lines of local governments and transport people from one constituency to another—and they should be encouraged to do so because that would facilitate the exchange of manpower and promote the ties of one community with another which are essential elements of vital urban or, for that matter, rural development. Because of the jurisdictional conflicts, such transit systems may require Federal initiatives for their construction and quite reasonably Federal subsidies for their operation.

As we consider the much-needed amendments to open up the Highway Trust Fund for mass transit capital expenditures, we also have a responsibility to see that our present systems serve their communities effectively and that future systems do not falter because of the lack of a national commitment to the constructive community development element they offer.

Many urban and even some rural areas are preoccupied with simply keeping their mass transit systems in operation. Their financial stresses have not permitted them to contemplate the innovative programs and requisite structural changes for a balanced and effective transit system. Consequently, the financial uncertainties of many systems have caused their communities to proceed hesitantly and not pursue the bold initiatives necessary to more effectively meet their immediate and long-term transportation needs. The proper Federal role in this instance is to encourage and sustain these local efforts.

The amendment the distinguished Senator from New Jersey (Mr. WILLIAMS) is offering provides for effective Federal encouragement and support. The opponents of this amendment, in particular the administration, have misrepresented this basically sound and responsible legislation as a program which would simply throw Federal funds down a bottomless pit. This interpretation misses the mark and ignores the provisions of the amendment which specify the conditions under which Federal funds would be available for operating subsidies.

First, any Federal grant would require a matching grant from the State or local public body in the ratio of 2 to 1. This local commitment would provide an incentive for limiting the size of the operating subsidies and thereby encourage efficiency.

Furthermore, the amendment specifically states:

> No financial assistance shall be provided unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a designated program, and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis, and (3) the Secretary determines that the mass transportation services provided by each system involved is being provided by an efficient operation of such system in accordance with the regulations promulgated by the Secretary.

Thus the amendment provides for adequate discretionary judgment for the efficient and productive distribution of funds and thus meets the objections to general operating subsidies as expressed in the DOT's report.

Rather than accepting the responsibility this amendment would place upon him, however, the Secretary of Transportation in testimony before the Banking, Housing and Urban Affairs Committee emphasized the administrative burdens and strongly opposed the measure. The Secretary's only advice to the transit authorities strapped for funds is to look to revenue sharing. Mr. President, my time does not permit an extended critic of revenue sharing of which I think we all have become at least somewhat skeptical. It strikes me though that quite in contrast to the administration's position, revenue sharing not operating subsidies would simply throw money at the transit problems because without the channeling of funds necessary to reach the mass transit systems which cut across jurisdictional lines the severe financial problems our mass transit systems face will not be solved.

In that program we do not have the checks and safeguards available under the present legislation, and I think that would be throwing the money away.

Mr. BAKER. Mr. President, I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I rise in support of the expressed intention of the Senator from Tennessee to move to table the pending amendment.

Mr. President, I am privileged to serve on the Public Works Committee. I would like to call the attention of the distinguished chairman of the Public Works Committee, as well as that of the Senator from Texas (Mr. BENTSEN) who chairs the subcommittee, to a few facts.

First of all, we went to some length to change the name of the committee from "Roads" to "Transportation."

It was expressed then by our chairman that the reason was that this committee should be involved in the whole matter of public transportation, so that it would not be a matter of merely roads, but also a matter of the financing program for transportation.

I understand that the $400 million subsidy for operations has been considered heretofore by the Senate. However, there are members of the Public Works Committee who have never heard anything about this proposal. And, indeed, while we are talking of fiscal responsibility and while we are critical of executive priorities, we present to the Senate today an amendment to a bill which was urged on the Public Works Committee as an expediting of the public works principles and goal of getting out a bill for the highways of America, without having brought it before the Public Works Committee or its Transportation Subcommittee, a $400 million program.

I submit that the expressed intention of the Senator from Tennessee (Mr. BAKER) to move to table the matter is not a technical matter, but rather one that deals with substance.

If the Senate is going to be critical of priorities, then we should not bring to the Senate, without even going before the Transportation Subcommittee of the Public Works Committee of the Senate, a matter that is not included in the bill under discussion by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, one of the major needs of this Nation is a balanced transportation system. Since coming to the Senate, I have become even more convinced of the need for a balanced transportation system because my committee work has immersed me in some of the problems of freight transportation. So we need balance not only among modes, but also between purposes—freight transportation and passenger transportation.

One of the country's greatest and most pressing transportation needs is the improvement of mass transit. But my position is that mass transit could and should be improved without in any way disturbing the Nation's commitment to continue construction of badly needed highways. Instead, I believe that we should seek to solve both problems at the same time through separate programs.

I believe the Senate has a unique opportunity to do just that: first, by passing the highway bill as reported which permits the use of urban system funds to purchase buses—a highway-related program which holds the key to the mass transit problems of the vast majority of our urban areas—but does not permit diversion of highway trust fund money to nonhighway purposes and, second, by accepting an amendment by the distinguished Senator from New Jersey (Mr. WILLIAMS) increasing funding for mass transit and making resources available for operating as well as capital improvement costs of mass transit systems.

When we talk about the highway trust fund, almost everyone thinks in terms of the Interstate System. This is natural, because the interstate program is by far the most visible and most expensive. And, while we can be thankful that the Interstate System is well along the way toward completion, I think the public may have been misled somewhat regarding the progress of this program. The Department of Transportation makes quarterly reports on the Interstate System—the last of which reported that 98 percent of the 42,500-mile system "has either been completed or started." One reading such statistics might conclude little is left to be done.

But in highway construction the difference between being "started" and "completed" is often a matter of years. Take Kentucky, for example. Only 585 of our total interstate mileage of 736 has been opened to traffic—in other words 80 percent. Some of the remaining 20 percent has been started but it is a long way from being completed. So, we still have much to do on the Interstate System.

Another misconception about the highway trust fund is that it finances only interstate highways. This fund also helps support numerous other types of highways including primary roads, secondary roads, and urban roads.

These road systems are just as important as the Interstate System, especially in a largely rural State like Kentucky. Without the highway trust fund many farm to-market roads, rural mail and delivery routes, and urban street programs would be crippled. These systems are vital to passenger transportation and commerce in less populated areas of Kentucky. And anyone who has traveled the streets of metropolitan areas knows the condition of roads there.

As long as these needs exist, I think it would be unwise to permit diversion of money from the highway trust fund—a fund financed through receipts of the excise tax on gasoline, tires, batteries, and road taxes, and a fund originally established solely for highway uses—to other purposes. But it is not necessary to change one program to help another. That is why I heartily endorse and am cosponsoring the mass transit amendment offered by the distinguished Senator from New Jersey (Mr. WILLIAMS).

At the present time, funds under the Urban Mass Transportation Act of 1964 are authorized only for capital expenditures. Senator WILLIAMS' amendment would authorize grants for operating expenses as well—$800 million in grant money over the next 2 years to be available on a two-thirds/one-third matching basis.

This amendment also provides an additional $3 billion in contract authority through 1977 for capital improvements of mass transit systems. And, it modifies the matching formula to change it from a two-thirds/one-third to a 90–10 basis.

This amendment will substantially improve mass transit systems in this country, and it has the support of the National League of Cities-U.S. Conference of Mayors, the AFL–CIO, and mass transit officials throughout the country.

In conclusion, I would reiterate my support for a balanced transportation system. I want a good highway system, but I also want a good mass transit system. We can accomplish both objectives by passing the highway bill, with the highway trust fund intact—and also adopting the Williams mass transit amendment. By attacking both problems simultaneously, we can provide the balanced transportation system we are all seeking.

Mr. BAKER. Mr. President, if there are no other remarks to be made on the pending amendment, I am prepared at this time to make my motion to table.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from New Jersey.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is it necessary prior to the making of the motion to table that all controlled time be utilized or yielded back?

The PRESIDING OFFICER. The Senator is correct.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey.

The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I now move to table the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (putting the question).

The motion was rejected.

Mr. RANDOLPH. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON, and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) is necessarily absent.

The result was announced—yeas 59, nays 36, as follows:

[No. 35 Leg.]

YEAS—59

| | | |
|---|---|---|
| Abourezk | Hollings | Nelson |
| Bentsen | Huddleston | Nunn |
| Biden | Hughes | Packwood |
| Brooke | Humphrey | Pastore |
| Burdick | Inouye | Pearson |
| Byrd, Harry F., Jr. | Jackson | Pell |
| Byrd, Robert C. | Javits | Percy |
| Case | Johnston | Randolph |
| Chiles | Kennedy | Ribicoff |
| Clark | Long | Saxbe |
| Cook | Magnuson | Schweiker |
| Cranston | Mansfield | Sparkman |
| Eastland | Mathias | Stafford |
| Fong | McGee | Stevenson |
| Gravel | McGovern | Symington |
| Hart | Metcalf | Taft |
| Hartke | Mondale | Talmadge |
| Hatfield | Montoya | Tunney |
| Hathaway | Moss | Weicker |
| | Muskie | Williams |

NAYS—36

| | | |
|---|---|---|
| Aiken | Cotton | Helms |
| Allen | Curtis | Hruska |
| Baker | Dole | McClellan |
| Bartlett | Domenici | McClure |
| Beall | Ervin | Proxmire |
| Bellmon | Fannin | Roth |
| Bennett | Fulbright | Scott, Pa. |
| Bible | Goldwater | Scott, Va. |
| Brock | Griffin | Stevens |
| Buckley | Gurney | Thurmond |
| Cannon | Hansen | Tower |
| Church | Haskell | Young |

NOT VOTING—5

| | | |
|---|---|---|
| Bayh | Eagleton | Stennis |
| Dominick | McIntyre | |

So Mr. WILLIAMS' amendment was agreed to.

Mr. RANDOLPH. I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Allen, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 194 of title 14 of the United States Code, the chairman of the Committee on Merchant Marine and Fisheries had appointed Mr. MURPHY of New York, Mr. SARBANES, and Mr. COHEN as members of the Board of Visitors to the U.S. Coast Guard Academy, on the part of the House; and that Mrs. SULLIVAN, chairman of the committee was authorized to serve as an ex officio member of the Board.

The message announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 4278) to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973; asked a conference with the Senate on the disagreeing votes of the two houses thereon, and that Mr. PERKINS, Mr. MEEDS, Mrs. MINK, Mr. HAWKINS, Mr. LEHMAN, Mr. ANDREWS of North Carolina, Mr. QUIE, Mr. BELL, Mr. ASHBROOK, and Mr. FORSYTHE were appointed managers on the part of the House at the conference.

## AMENDMENT OF NATIONAL SCHOOL LUNCH ACT

Mr. ALLEN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4278.

The PRESIDING OFFICER (Mr. SCOTT of Virginia) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 4278) to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ALLEN. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and Mr. TALMADGE, Mr. ALLEN, Mr. HUMPHREY, Mr. CURTIS, and Mr. DOLE were appointed conferees on the part of the Senate.

## FEDERAL AID HIGHWAY ACT OF 1973

The Senate continued with the consideration of 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.

AMENDMENT NO. 29

The PRESIDING OFFICER. The clerk will state the next amendment, pursuant to the unanimous-consent agreement.

The legislative clerk proceeded to read the amendment, offered by the Senator from Massachusetts (Mr. KENNEDY) for himself and other Senators.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with. I will explain it in detail, together with the Senator from Connecticut (Mr. WEICKER).

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

The amendment was ordered to be printed in the RECORD as follows:

On page 97, beginning wih line 4, strike out all through line 7 on page 98, and insert in lieu thereof the following:

"§ 142. Urban and rural public transportation

"(a) To encourage the development, improvement, and use of public mass transportation systems within urban areas and in such rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (1), (2), (3), (5), (6), and (7) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems in urban or rural areas as authorized in such paragraphs, for the acquisition and construction of rail facilities, exclusive or preferential bus lanes, traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and for the purchase of equipment including rolling stock, except that funds allocated in accordance with such paragraph 5 shall not be available for the acquisition or construction of rail facilities or the purchase of rolling stock."

On page 109, line 10, after "buses" insert "and rail equipment".

On page 109, between lines 12 and 13, insert the following:

"(c) Section 208 of title 23, United States Code, is amended by adding the following new subsection:

"'(e) Funds available for Indian roads and bridges shall be available for the purchase of buses and rail equipment to provide access to employment, health care, retail centers, education, and public centers. Such buses or rail equipment shall be operated in accordance with regulations jointly approved by the Secretary and the Secretary of the Interior.'"

On page 122, lines 23 and 24, strike out "operating vehicles on highways".

On page 123, lines 6 and 7, strike out "on highways".

On page 123, line 8, strike out "highway".

On page 123, line 13, strike out "other than rolling stock for fixed rail".

Mr. KENNEDY. Mr. President, the amendment is offered on behalf of the Senator from Connecticut (Mr. WEICKER) and myself, and by Senator BIDEN, Senator HART, Senator PELL, Senator PASTORE, Senator RIBICOFF, Senator BROOKE, and Senator HATHAWAY.

I ask unanimous consent to add the names of Senator PACKWOOD, Senator CASE, Senator JAVITS as cosponsors.

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

Mr. KENNEDY. Mr. President, this issue was considered by the Senate last year as an amendment to the Highway Trust Fund. I yield myself 5 minutes and will then yield to the Senator from Connecticut (Mr. WEICKER). I hope that we will then be able to get some kind of response from those who are going to oppose the amendment.

Mr. President, let me emphasize once again, that the bill now before us contains a series of highly important and valuable reforms in the highway aid program.

First, the committee bill would make revenues previously earmarked solely for urban highways available for developing a bus mass transit system including the purchase of buses.

Second, there is an eightfold increase in existing authorizations for the urban systems program, raising this program to $850 million. I would note that if enacted, this would be the first time a highway aid bill recognized the high financing share borne by urban residents over the past 16 years.

Third, the bill also permits a consensus of city, State, and Federal officials to permit a halt to interstate route constructions and to use a portion of those funds for other urban transportation projects.

Fourth, the committee bill permits the Secretary of Transportation to earmark a portion of the $350 million allocated to the "urban extensions" system for emergency bus transit programs in areas where automobile traffic is an obstacle to compliance with the air quality standards of the Clean Air Act of 1970.

Fifth, the bill does provide some recognition of rural mass transit needs with provision for a small demonstration bus transit program.

And finally, the bill recognizes the desirability of enabling large urban areas to plan for themselves and to implement those plans by passing through urban funds to urban areas larger than 400,000.

Similar provisions were urged by Senator WEICKER and me in S. 679, which was introduced earlier this session.

But this bill still falls woefully shy of its own objective, the objective of an efficient, balanced, safe and environmentally sane national transportation system.

For this bill rejects the lesson of history by denying to cities and States full flexibility in how they use the great bulk of trust fund moneys, outside the Interstate System.

Instead of seeking to remedy the past mistakes in the highway trust fund mechanism which have flawed the worthy objective of creating a national interstate highway system, this bill perpetuates those mistakes.

For it says to cities and States, you may not build rail mass transit systems, even though they may be your most urgent need. And it says to rural States, you may not build bus transit systems, with any of your rural fund moneys, even though that may be high on your list of priorities.

That is why we are presenting this amendment once more to the Senate.

To allay any fears, let me start by telling this body what it does not do.

It does not alter, shift, or change in any way whatsoever the allocations provided in the committee bill for each State. The State-by-State shares stay the same.

It does not permit rural funds to be spent in urban areas or urban funds to be spent in rural areas.

It does not touch a single dollar of the Interstate System.

It does not expand or contract or affect any of the planning requirements set forth in the committee bill.

It does not require a single cent to be spent for bus or rail transit.

But what it does do is the following: It says to every urban area which receives funding and to every State that receives funding, you are not imprisoned by an archaic concept of national transportation needs that sees highways as the only answer to the Nation's transportation needs.

It says to the mayors and the Governors, decide for yourselves whether your particular transportation need calls for bus or rail mass transit or new highway construction. You no longer have to feel threatened by the use-it-or-lose-it policy that has decreed more highways at the cost of more balance in our transportation system.

The amendment would authorize the use of urban fund moneys and urban extension funds in urban areas, and rural primary and rural secondary funds in rural areas for rail mass transit or bus mass transit along with their traditional purpose of building highways.

The amendment would also offer the same flexibility in funds for the rural mass transit demonstration program, for the national park roads program and for Indian reservation road programs.

The total amount of funds affected would be some $2.3 billion for each of the 3 years authorized by S. 502.

Passage of this amendment would shatter the practice of separate funding for separate modes of transportation. It would end a system in which the national interest has come in second best to special interests which see the highway trust fund as their private property. And it would call a halt to a Federal financing philosophy that has prevented a single city, State, or region from selecting the mix of road, bus, and rail services that it felt best to meet its transportation needs.

For we have permitted a crisis to develop, a crisis that the Department of Transportation has documented and that every rush-hour commuter has documented. In its first national policy statement, Secretary of Transportation John Volpe said:

> On the whole, the transportation system which has evolved, both consciously and unconsciously, represents an uneven fabric ill-suited to today's needs, and is, itself, a major contributor to the problems facing transportation today.

And the major penalties have been suffered by urban residents.

DOT statistics estimate that city residents have paid over 50 percent of the revenues into the trust fund but they received barely a third of noninterstate moneys. Overall, less than 10 percent of Federal-aid mileage is found in urban areas.

Cities have paid the indirect costs of the highway program as well. Each year some 55,000 persons lose their homes to the highway bulldozer. Each year, more land is given up to the auto and its accessories. Two-thirds of urban America is dedicated to repairing, parking, selling, and carrying the auto.

And each year, the invasion routes of commuters become more congested, more polluted and more frustrating. In the Boston metropolitan area—160,000 cars vie for 28,000 offstreet parking spaces. In San Francisco, 384,000 cars flood the city daily. In New York, motorists inch along at 7 miles per hour, actually slower in peak hours in the central business district than they did in 1900.

In cities across our land, the 16-year highway boom has left the worst possible debris—foul air that actually endangers the health of local citizens.

According to the Environmental Protection Agency, the highway-auto combination is identified as the chief culprit for over 40 percent of the Nation's air pollution and for over 80 percent of the air pollution in several major cities.

An EPA task force recently reported that local air pollution monitoring stations showed center city residents, particularly those living near heavily traveled streets and freeways, are exposed to levels of carbon monoxide fumes four and five times the safe levels of Government health standards. The report also concluded a major proportion of the high levels of lead in the blood of inner city children comes from swallowing quantities of lead residue expelled from automobile exhausts.

And so, as the committee report last September noted, some 67 cities will have to reduce auto traffic to meet Clean Air Act standards. These are not only the largest cities like Los Angeles and New York and Chicago, but Birmingham, Mobile, Phoenix, and Albuquerque. Cities spanning the entire continent are affected.

The failure to examine the concrete dream has produced federally financed highways that are so heavily laden with air pollution that health officials will not allow us to drive on them. EPA Director William Ruckelshaus' proposal for gasoline rationing to cut auto use in Los Angeles by 80 percent within the next 3 years demonstrates the extreme nature of the problem facing the country.

Not only would a diversion of traffic from roadways to subways reduce auto pollution in our cities, but it would reverse the rising pattern of oil consumption that already has produced a shortage of home heating oil this winter. A 25-percent switch from private automobiles to rapid transit could reduce demands for petroleum by almost a million barrels daily. Today we have some 24 million barrels less of gasoline in our stocks than we did a year ago. We face a serious gasoline shortage this summer. Yet, if we do nothing to provide options in the use of highway trust fund moneys, then we do nothing to alleviate the situation for future years.

The crucial question is whether we shall continue to promote almost total reliance on highways and private automobiles to meet transportation needs despite the environmental, social, and economic problems that follow in their wake.

Nor can we forget that more Americans were killed on our Nation's highways last year than were killed in Vietnam in a decade of war.

And when we view the Federal response, we know that it has been inadequate. Today, we have a backlog of more than $4.4 billion in urban mass transit assistance from the Nation's cities and we have additional growing needs for intercity rail transportation. Yet the administration has impounded some $300 million in urban mass transportation funds. It is scaling down its support of Amtrak. And now we learn that $20 million more for urban mass transit research is being impounded while the new budget actually proposes to increase SST research.

Nor is this solely an urban concern. In rural America, a progressively larger percentage of rural families are unable to bear the formidable costs of buying, maintaining and insuring an automobile. The Bureau of the Census reports that 22 percent of the households in the United States do not have an automobile. In many rural areas, the figure is closer to 40 percent.

And that is why the National Catholic Rural Life Conference is supporting this amendment. For they understand that too often it is the rural poor and the elderly who suffer most from their limited access to inadequate public transportation.

Thus, the Appalachian Regional Commission has reported that of the million households in rural or partly rural counties that spread across Appalachia, over 280,000 have no access to cars.

And without Federal support, systems of public mass transportation have virtually disappeared from rural America. Some 268 bus mass transit systems have disappeared and the number of passenger trains has dropped even more precipitously, from 20,000 in 1929, to 1,500 in 1960 and to 205 today.

That is why many Governors now are supporting flexibility in the use of trust fund moneys. At the recent Governor's Conference, there was a clear recognition that urban corridors are developing, many in rural States, where mass rail transit is seen as part of the answer to interstate transportation needs.

And it is the Governors who testified before the committee and urged greater flexibility in the use of trust funds. For the same reason, the representative of the National Legislative Conference indicated his belief that most State legislative leaders supported providing a full option of bus and rail mass transit in the use of trust fund moneys.

We realize the backlog of rural road projects will provide the certainty that most States will use all or a large portion of their rural road funds on the construction or improvement of highways. But there may well be situations where States will decide that an urgent transportation problem demands a mass transit answer. In those situations, we believe they should have the choice.

The same rationale argues for a similar option to be available in the use of Indian reservation road funds. We know of 10 reservations which have requested Federal assistance to provide bus service. None have been funded. We believe that the funds available to Indian reservations again should contain the flexi-

bility to allow them to determine their transportation priorities.

The same option is made available to the National Park Service and once again, there already is a clear record in the Park Service's own words of the need to restrict the massive invasion of automobiles that threatens to turn nature's remaining retreats into a natural disaster. Already, traffic is restricted in Yosemite, McKinley, and the Everglades National Parks and the Park Service informs me that there will be a growing need for additional mass transit service. While the committee offers the flexibility for the purchase of buses, it denies any consideration of any form of cable-car, monorail, or other fixed rail system that might be desirable. For that reason, we have added a full option once again in the use of these funds.

I believe the critical issue to be decided is whether we will give the mayors and the Governors new options to enable them to meet local transportation problems or whether we will keep denying them the opportunity to use trust fund moneys to meet locally determined transportation needs.

Passage of this amendment would mean that the highway trust fund would no longer be merely a concrete conduit. It would mean that the trust fund would no longer take the form of a club over the heads of State and city decisionmakers with the slogan "use it or lose it." Instead, it would offer a new slogan, "use it in the best way possible" to solve local transportation problems.

I think we can recall the statement by the former Secretary of Transportation which sums up the reasoning behind this provision. He said:

> We must stop the thinking that because I can get 70 or 80 or 90 percent federal funding for highways and I only have to put up 30 or 20 or 10 percent, then I use those highway dollars, whether it is the best way to solve my particular transportation problem or not . . .

Some have argued that whether or not bus or rail mass transit is the best answer to an area's transportation needs, the trust fund cannot be used for that purpose. I believe we have seen enough evidence in the past that this is a phony argument. The Congress has funded a variety of programs out of the trust fund, including replacement housing under section 117 of the 1970 Highway Act, ferry facilities under the 1960 highway act, training of highway department officials and even archeological salvage. And in this bill, the committee has authorized funds from the trust for operating subsidies to rural bus companies.

If all of these various programs can be funded out of the trust fund, then surely bus and rail mass transit can be funded as well.

And it is clear from the history of the trust fund that these taxes historically have not been highway oriented. In fact, 95 percent of trust fund taxes actually came into being long before 1956 and their revenues enabled the general fund to support a host of services. To use them now for rail mass transit surely would be in keeping with the intent of congressional policy, to build a viable national transportation system. And the trucker and the commuter and the shopper would surely not object if the result of using trust funds for mass transit were to clear the roadway in front of them of traffic.

Legally, there is no question of our power to provide this option, and the GAO and the American Law Division of the Library of Congress, and the General Counsel's Office of the Department of Transportation all have indicated their agreement that Congress has the power to authorize these programs from the trust fund.

The issue is not highways or mass transit and it never has been.

This amendment does not mandate a single dime to be spent for mass transit. The issue here is not highways or mass transit and it never has been. If this amendment passes, interstate funds still will be used to complete the Interstate System and noninterstate funds will be used to build highways. But cities will have the opportunity to set their own priorities and to spend their noninterstate moneys on those priorities, whether they are highways or mass transit. And States will have the same choice, a choice that has been denied them in the past.

Passage of this amendment will place Federal transportation financing on an even keel for the first time and will enable cities and States the flexibility they have been denied in the past to meet local transportation problems. If we seek a balanced transportation system in this land, then this amendment should be approved.

Now to summarize, I ask Senators to pick up the sheet on the Kennedy-Weicker amendment and see exactly what the amendment does and does not do.

Let us first see what the amendment does not do. The amendment does not affect the allocation of trust fund moneys among the States. The allocation of trust fund moneys would be just the same, and there is nothing in the amendment which will change it.

Second, it does not affect the earmarking of money in the committee bill between urban and rural areas. Those earmarkings in this legislation for rural construction will still be preserved, and the allocation of funds for urban areas will still be preserved. There is no change in the total allocation of resources between the urban and rural communities.

Third, it does not affect in any way the interstate highway authority or authorization. There is absolutely no effect on the Interstate Highway System.

Those who believe in the Interstate Highway System and the importance of its continuation will know that by voting for this amendment, they will still be voting for the continuation and the completion of the Interstate Highway System.

Finally, the amendment does not affect a single planning requirement contained in the committee bill.

All we are trying to do with this amendment is to let the States themselves and the local communities that know more about their transportation needs, I dare say, than the Department of Transportation develop their own balanced transportation system.

Not long ago, we heard on the portico of the Capitol that we in Washington are not the receptacle of all knowledge. I would agree with regard to the highway transportation system. What we can do is to complete the Interstate Highway System. What we should do and what the amendment does is to permit the other non-interstate resources of $2.3 billion to be allocated within the States, the way the Governors, the mayors, and others deem essential to meet balanced transportation needs.

Why should those who come from heavily urbanized areas be required to lay down more concrete when the result will be greater pollution, greater devastation, and greater deterioration of the quality of life in those communities themselves?

Why should we be denied the opportunity to develop as we wish in Massachusetts and other States? Why not let the Governors decide how they want to allocate the resources? Why do we have to restrict ourselves in 1973 with a formula that was devised 20 years ago?

That is essentially the thrust of this amendment. It is supported by a wide variety of different groups representing urban concerns as well as rural concerns.

Thus, I would hope, Mr. President, that the Senate would realize the importance of providing flexibility in this bill to permit those who come from States which are urbanized, as well as those which are rural, to decide for themselves how to develop their own transportation system. Because I believe their concern is how to move people and I do not believe they want to be required to lay down more concrete.

Mr. President I yield such time to the distinguished Senator from Connecticut (Mr. WEICKER) as he may need.

A BALANCED TRANSPORTATION POLICY

Mr. WEICKER. Mr. President, I commend the distinguished Senator from Massachusetts for this legislation.

Mr. President, last year I joined with Senator KENNEDY in an attempt to amend the highway bill, to provide the option of using trust funds for mass transit—mass transit rail, mass transit bus. A similar amendment by Senators MUSKIE and COOPER was passed by the Senate at that time.

Unfortunately, what was a successful fight in the Senate came to grief in the House.

What this means, quite simply, is that the Congress will today shape one of the most important transportation policies of our time.

It took the man on the street a long time to associate the soot in his eye with the word "pollution."

It never occurred to him to relate the murkiness of his rivers and streams to the word "environment."

Until recently he would never have tied the word "ecology" to such abominations as smog, litter, heat inversions, oil spills, wildlife slaughter, and shattering noises.

How times have changed. Today the environment "c'est tout."

Unfortunately, I have long hoped to see a similar awakening with respect to the Nation's transportation problems. And yet it has not happened. Why?

Because it has been creeping rather than instantaneous catastrophe.

Transportation is a city that has lost a park to an expressway.

Transportation is the elderly dying of respiratory disease because the air is gunked "up."

Transportation is our children who become statistics—57,000 fatalities on our highways each year.

Transportation is the couple who owned the corner newsstand before it was torn down for another expressway.

Transportation is the poor without cars to get to work.

When we realize what transportation is, we understand that the fight for an intelligent, balanced transportation policy is a fight all about life.

Mr. President, 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."

Our transportation system has become an indifferent, inefficient, destructive, and deadly "beast of national burden." It goes where the spirit of speculation moves it—and it is driven by the wheels of vested interest.

In 1906, traffic in downtown New York crept along behind horses at an average speed of 11.5 miles per hour. By 1966, it was creeping along at 8.5 miles per hour, behind the most powerful engines Detroit could mass produce.

I must ask, where is the concern for 57,000 killings on our highways each year? Perhaps this blood bath would be more newsworthy if the same results were accomplished by driving a bus, jammed with 156 people, into a brick wall—killing them all—once a day. We would then have to drive 35 more buses, each packed with 156 more people, into that wall everyday—to be maimed and disabled. This is not to mention the $14.3 billion annual cost of such madness.

What is the policy that causes all this?

It is a policy of superhighways, that consume open space at the rate of 40 acres per mile—100 miles take 5,640 acres out of the property tax base. It is highways that displace 50,000 families every year.

In fact, 62 percent of the land in Los Angeles is now earmarked for automobiles—in Boston it is 56 per cent, in New York it is 45 per cent.

It is a policy of inefficiency. Superhighways that require a 350-foot right-of-way get 70 percent of the national transportation budget—rail tracks that require a 30-foot right-of-way get 5 percent of the same budget. And yet one track will handle as many people as 10 to 20 lanes of highway—not to mention that passenger trains are 24 times safer than old highways, and 13 times safer than the new interstates.

It is a policy of pollution. 60 to 90 percent of the air pollution in our cities comes from automobiles—which means inner-city residents breathe air that is four to five times dirtier than suburban air. The decade of the sixties produced a 12-percent increase of carbon dioxide in the upper atmosphere of the Northern Hemisphere. There is no need to guess why.

It is the pollution of 7 million cars and trucks that are junked each year—and the 200 million tires that are discarded each year.

Mr. President, the amendment Senator KENNEDY and I have presented will bring the greatest degree of balance—and sense— to our transportation policies.

This amendment is not antihighway. It 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 preset 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 set aside for urban projects under the noninterstate portion of the highway bill 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 only those 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, where other types of transportation systems may be more convenient for hoards of visitors, or more accessible to lower income populations.

The amendment does not affect the allocation of moneys between States, as allocated in the highway bill recently reported out of the Public Works Committee.

It does not affect a single planning requirement as recommended in the bill 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, 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.

The Kennedy-Weicker amendment is reasonable, adequately financed—and should be the law.

Highways alone are a mobility, environmental, and safety disaster—and we have now become a nation of automotive lemmings.

There is no longer any reason for a Senator to advocate a particular form of transportation—transportation is not a question of States' rights.

Mobility is a national concept. It is like the wreck on the highway just ahead which backs up traffic for miles—so when New York chokes on its automobiles it is not long before New Jersey and Connecticut will grind to a halt, and then Massachusetts, and then Delaware, and then Maryland, and then——

Let us clear this highway trust fund off the highway and get America moving again.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I concur with the comments made by the Senator from Massachusetts and the Senator from Connecticut.

There is little I can add that would add to the substance of the debate which has taken place in this Chamber over the past two years regarding the highway trust fund and the need to fund mass transportation.

Having only recently been an elected local county official, there are several misconceptions which I would like to attempt to clarify regarding the whole question of mass transportation. First, is the misconception that the automobile has been the friend of the suburbs. One of the most important tasks of any local official is to plan the growth and development of his community. Such planning requires controls over concentrations of development or lack of concentration.

Unfortunately, the car, because of its mobility, permits people to spread at will and virtually forces the roads to follow it as the congestion develops. This fact makes coherent development practices more difficult. The automobile, unlike mass transit, removes investment decisions from local officials and gives them to each individual, so that the local government cannot use transportation to control growth in the same way that it can use sewer or water extensions where it controls the investment. The resultant sprawl has virtually eliminated the sense of community that so many Americans used to have and which I believe they still want.

Without overdramatizing, it seems to me that many of our suburban problems, such as increased crime, greater drug use, and the dissatisfaction of our youth, can be traced in some measure to the kind of community or, really, lack of community that we have built.

But it is not too late. In New Castle County, Delaware, which has a suburban

population of 350,000, we are struggling with planning and development of some of our last remaining open spaces. Our elected officials, our planners, and a great many of our citizens would like to see that development take place in clusters or village centers, each with its own community facilities and shopping centers. These community concentrations of population are admirably suited to mass transit. Mass transit is needed for this kind of living, because these new communities should not be clogged by cars as our center cities are already.

Finally, mass transit can guide the development of these communities by focusing transportation services in certain areas while diminishing the ability to just settle anywhere.

The second misconception we operate under is that fixed rail transportation is not feasible for some of our smaller urban areas.

I come from one of those areas, and we are seriously considering fixed rail systems. A fixed rail system may have viability if we can achieve village development, and at the same time we can help achieve the most desirable result. Further, we must plan ahead, bearing in mind that today's small urban areas probably will be tomorrow's large urban systems. Thus, the fixed rail system being considered in my State would take in some of the presently lightly developed, almost rural, areas.

Thus, when growth reaches these areas, there will already exist the possibility of good transportation and a coherent, planned development system.

The development of mass transit facilities in currently rural areas may be the backbone of orderly development in the future. But while discussing mass transit as a planning tool, it is important to stress that it can serve its purpose only if the funds are assured for its development when needed. It is important that we establish now the principle that funds—and ultimately adequate funds—will be available to our States and local governments to establish balanced transportation systems.

Thus, I am interested not only in the sums made available today for mass transit but also in commitments which the use of Highway Trust Fund moneys will make to the long-range concern for mass transit on the part of the Federal Government.

Without this long-range commitment to this principle, good, solid, local planning cannot take place.

In conclusion I believe that the use of all transportation funds and local planning tools is an overriding concern in developing our communities.

Transportation can and should be a good social program that will enhance the life of all our citizens. But there are many other arguments for the Federal Government to make the highway trust fund available, at the option of the local government, for mass transit purposes.

Please note that I do not wish to force any form of transportation on anyone. I simply believe that this is a matter of such overriding local concern that the decisions should be left to the local officials. The accomplishment of some of the foregoing goals will aid the remaining highway users because our highways will indeed become useable again instead of the rush-hour parking lots they are now.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 16 minutes.

Mr. KENNEDY. I withhold the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. I yield myself 2 minutes.

Mr. President, I am compelled to oppose the amendment offered by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. WEICKER). I am somewhat in sympathy with the philosophy contained in the amendment, but in my view the proposal would take us too far afield and into areas where there are few demonstated needs and fewer demonstrated solutions.

The problems of urban mass transit are well known to us all, and the Muskie-Baker amendment, which will be before the Senate later today, seeks to extend the scope of this bill to reach that urban problem by permitting urban areas to apply effective remedies.

I am aware that there are rural transportation problems in this Nation. My own State of Vermont has such problems. The bill before the Senate contains what I believe is the most orderly and most effective way to attack the problems of rural transportation. S. 502 contains authorization for $30 million annually to finance rural bus demonstration programs that, hopefully, will develop the proper course for our Nation to move in dealing with rural transportation problems.

We are all aware of our joint effort to make the best use of Federal dollars these days. I suggest that the pending amendment carries the potential for spreading those dollars too far and too thin at this time. For that reason, I oppose the amendment.

Mr. President, I am happy to yield to the distinguished Senator from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. President, we have just authorized some $3 billion for mass transit and, in addition, $400 million a year in subsidies for mass transit. The bill, itself, does a great deal for mass transit. So, Mr. President, I am called upon in this situation to oppose the amendment.

Last year, a similar amendment was offered by the same cosponsors and it was defeated by a substantial margin.

Senator COOPER, one of the coauthors of the Cooper-Muskie amendment said at that time:

> I believe we should limit the highway trust funds available for rail mass transit to those funds which are allocated to the urban system as defined in the highway act, that is, to systems in areas of 50,000 or more population.

The new amendment offered by the Senators from Connecticut and Massachusetts is altered in some respects from the amendment last year and from the amendment on which they testified this year before the Senate Public Works Committee. But it is still an unacceptable amendment.

In fact, Mr. President, this new amendment places before the Senate some new issues not even presented to the committee during its hearings.

Last year's Kennedy-Weicker amendment would have allowed rural funds to be spent in the cities on urban mass transportation systems. This year, the sponsors say, rural funds must be spent in rural areas, urban funds in urban areas. And it is at the option of State and local officials as to how these funds are spent—on rail mass transit, highways, buses, or otherwise.

Some $2.3 billion in funds under this amendment would be available at local option for a wide variety of transit purposes.

These alterations in the Kennedy-Weicker proposal, however, pose some new problems which this committee did not consider either in hearings or in markup.

If rural highway funds are to be generally opened to funding of rural mass transit, then I believe it is legitimate to ask if there presently exists any ongoing rural transportation program which would give the States or any level of government responsible for spending these funds an idea of the kinds of programs that will produce results. I submit that there is no such Federal program in existence.

That is why this committee determined that we should not proceed with a general rural transportation program until we have somebody of experience available, through demonstrations, which would give us some idea of what would be effective. For that reason, the committee authorized funds for rural transportation demonstration programs; we believe that is an essential first step.

If, on the other hand, we are given, as in the Kennedy-Weicker proposal, a general grant of authority to rural areas to use funds for rail or any other form of mass transit, I submit we are faced with a similar lack of experience in how it should be carried out. It should be remembered that we would not be dealing here with rail transit either within or between urban areas, as under the Urban Mass Transportation Act. That program is an ongoing program, and there is some justification in adding to its funding, as we just did in the Williams amendment.

However, rural rail transit is a different matter. It would not involve commuter traffic, but traffic of an interstate and regional character. How are the States to decide the problems of funding interstate rail activities? Who will have the responsibility? These are questions that must be asked. I for one have no idea of how much money would be involved in such operations or how funds could be distributed to private railroad operations.

These are questions not answered by the Kennedy-Weicker proposal.

There is yet another point that must be raised. The Kennedy-Weicker proposal would open up some $2.3 billion in

the highway trust fund to the support of mass transit.

This year, fiscal 1974, the estimated receipts into the highway trust fund total some $6.1 billion, and S. 502 authorizes only $5.8 billion of those funds to be spent.

That means if the Kennedy-Weicker proposal carries, almost one-half of the funds collected by the highway trust fund would be open to possible funding of mass transit activities.

I would remind my colleagues that we still have considerable highway needs for upgrading and construction in this country, particularly in the rural areas. To dilute the funds by this much, as this amendment suggests, would be very unwise.

My colleagues and I have tried to hold down the expenditures in this bill because we recognized our fiscal constraints and the tendency of the executive to impound the funds we have already authorized. We have recognized that many of our highway projects may well have to be deferred. But it is quite another thing to take this reduced authorization and then to open it up as broadly as this amendment suggests to the funding of mass transit.

That would tend to cripple a highway program that we have already cut back.

Mr. President, the proposal by the Senators from Connecticut and Massachusetts contains an idea with very wide ramifications and one which should not be put into operational use without more intensive examination than a limited floor debate can give it.

It certainly contains questions far beyond the range of this bill. To attach the Kennedy-Weicker proposals to a highway measure, even a measure with some limited highway mass transit provisions, is to do a disservice both to this bill and to the measure they are advancing.

I oppose the amendment and I urge the Senate to reject it.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, I listened to my good friend and colleague from Texas explain the amount of money being authorized on mass transit. He said that $3 billion was authorized on mass transit. That is over a 5-year period. We are talking about $6 billion in this bill for highways today against $3 billion over 5 years.

One-half of the money collected under the transportation fund is collected in urban areas and yet less than one-third of the non-interstate funds are being expended there. We are asking that we be able to expend the one-third the way we want to develop an adequate urban transportaton system. More money is being collected from the urban areas than is being expended there. It is being earmarked in this bill for highways and we are being told we cannot use it for vitally needed rail mass transit.

We are asking, "You are collecting more than one-half of your money in urban areas and spending less than one-third of the non-interstate funds there. At least let us spend it for mass transit, buses and highways if we want."

What is so difficult to comprehend and what is so complex in the legislative process to be able to have that accepted on the floor of the Senate?

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield to my friend from Rhode Island.

Mr. PASTORE. It is my understanding that this is a modification of the amendment of last year. Is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. PASTORE. In other words, the measure last year was much broader in range. As I understand this amendment the money allocated for rural purposes is the only money that can be used for rural transportation, and rural money cannot be used for urban transportation. Is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. PASTORE. Not too long ago, as a matter of fact, only last year, the Members of the Senate fell all over one another appropriating $30 billion to the States and to the cities for revenue sharing. The argument was made at that time that we should do it because the people who live at the grassroots understand their needs better than the Central Government in Washington. The theme today seems to be that these are priorities. What are the needs of this country, how do you best serve those needs, and what is the priority schedule to do it?

I do not have too much hope that this amendment will go too far. I will tell Senators why, because of the lobbying interests that are concerned with this money in the trust fund.

But what is the Senator from Massachusetts saying? He is saying that the money that is allocated for urban needs will still remain for urban needs and the money allocated for rural needs can be used for rural needs; and let the people in the rural areas decide for mass transit or more cement.

I do not buy the argument about pollution or anyone trying to degrade or derogate the Interstate Highway System. No one is contending that. All we are saying is that it is essential to let the people themselves decide their own needs with the money that goes into this. That is all it amounts to.

We are saying here, in a very paternalistic way, that we know the needs of the urban areas better than the people who live in the urban areas. That is the argument in opposition. Let the people in Washington decide what the urban needs are and what the rural needs are and let the people in those areas keep their mouths shut and let us do the job and allocate that priority.

I voted against the amendment last year because it went too far. Last year, Mr. President, you could have taken the rural money and put it into urban needs and placed the urban money into rural needs, and I was against that. But this year we are saying, leave the rural money in the rural areas and leave the urban money in the urban areas but let the people there decide if they want a bus or more macadam and cement so they can get to work more easily and more comfortably. That is all we are talking about.

I support the amendment.

Mr. KENNEDY. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Eleven minutes.

Mr. KENNEDY. I yield whatever time he may require to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, the Senator from Texas responded to a question and he cited comments made by Senator COOPER last year. Does this mean that the distinguished Senator from Texas is prepared to support what is this year the Muskie-Baker amendment?

Mr. BENTSEN. The comment was made to show that Senator COOPER did not even support this amendment.

Mr. WEICKER. Is it the intention of the Senator from Texas to support the amendment?

Mr. BENTSEN. Certainly not. The Senator from Texas did not support it in committee, as the Senator knows.

Mr. WEICKER. Well, the intimation occurred during the discourse by the Senator from Texas, was that somehow new issues were presented to the Senate by the introduction of this amendment. There is no new issue. The issue is the same, whether it is the amendment of the Senator from Maine and the Senator from Tennessee, or the Senator from Massachusetts and the Senator from Connecticut. There is nothing new here. The issue is clear. Is there to be a matter of choice or are the State and local officials going to be told how their money is to be spent?

We understand what the highway trust fund is. All of our energy, thoughts, and money have been directed solely to the area of highways. Now the time has come to find what other modes of transportation will unsnarl us from the traffic jams. The major thrust was in the urban areas. There is great need for transportation other than the automobile. This is the issue presented before the committee and this is the issue now being presented before the Senate.

I repeat, in presenting this amendment to the bill, what is involved here is mobility. Consider the arrogance of this lobby called the Highway Trust Fund Lobby. Who are they? They are the ones who sell the ingredients for a highway system. Our job is not to sell anything but mobility on the floor of the Senate. That is our job. They have the arrogance to suggest that when we pay our gasoline taxes we expect them to use it for highways. I dare say that there is not one person in 10 who knows what the gasoline tax is going to be used for. I dare say that there is not one in 10 who wants it to be used for highways only, rather than for other modes of transportation. Americans want to be able to move, and our legislative work here in the U.S. Senate ought to be geared toward that end. That ought to be the basis for our transportation policy.

So I would hope the Senate would look favorably upon this amendment. In any event, anticipating that which may come later, should we fail here by what I expect would be only a very narrow margin, I shall definitely support the amendment of the distinguished Senators from Maine and Tennessee. I hope the concept of flexibility will be established, as it was by the Senate, who last year had the courage to go ahead and establish a choice, and allow diversity in our transportation systems.

What a great moment. You talk about leading, about taking the initiative, about bringing back to the Senate the legislative branch of Government power. That is the way to do it—not by criticizing the President, but by coming up with a better alternative. We did that last year.

I hope we do it again this year.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Mr. STAFFORD. I am glad to yield 4 minutes to the Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. Mr. President, I do not want to be overly argumentative on this, but I do want to underscore the logic of what we have just done in authorizing a substantial sum of money to satisfy the needs of mass transit. I think we have this desire to crash down the trust fund as a matter of accomplishing the objective, rather than facing the needs of this Nation with respect to transportation.

I would like to throw some figures out that I think are very interesting, which were given in the testimony by Mr. John Winger before the House Foreign Relations Committee with respect to the energy crisis, when he touched upon the transportation problem. He said that less than 10 percent of the working force in the United States today is in central cities.

I think all our views respecting the need for mass transit are really based on the fact that we go to the large cities like New York, Boston, or Hartford, and find it difficult to get around. We can blame that problem on all sorts of reasons, but, of course, the leadership of those particular cities for the last 20 years must bear some part of the blame.

The fact is that less than 10 percent of growth in the United States today is in central cities between 1 million to 100,000. The major growth is in communities between 100,000 to 5,000. That is essentially where the growth in this country is taking place, with the related industrial and commercial activities along the highway networks of this country, in what we call strip cities. This has followed the industrial activities along with residential patterns that have followed along these strip cities. So you get all the money you can get for mass transit, but you are not going to serve the needs of the people of this country the way the needs are presently expanding under the plans that are now going forward.

So the committee tried to respond to the needs of this country rather than adopt a policy which would result in crashing down and distorting and destroying a program that has served this Nation well. In fact, I would say our greatest successes in this country have been in two areas. One was when our ego was put on the line in response to Sputnik. The other was with respect to the transportation system, when we tried to unsnarl the transportation needs of the country. The highway trust fund has worked well. In fact, the trust fund has worked so well that certain people want to invade the trust fund for other uses.

These are parallels in this situation. If the needs are there for mass transit, let us form a mass transit trust fund, and let this trust fund go to its completion, and when the program is completed, let us end it. I would say that in this effort to piggyback the program, we will not be addressing ourselves to the problem. I think it would be an unfortunate development as a policy of this country, and I hope we will not vote for it here.

Mr. STAFFORD. Mr. President, I yield 3 minutes to the Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, my distinguished colleague from Connecticut a moment ago spoke of the arrogance of the highway trust fund lobby and suggested that it consisted largely of people who sell goods and services for the construction of highways.

I wonder if it could not be charged that there is a lobby behind this mass transit movement from the people who sell rolling stock on railroads, who sell the rails or the ties, or what have you.

The fact remains that the highway user tax is probably one of the fairest taxes in this country, because the proceeds from that tax go to benefit those who pay the tax. It is fair and it is equitable. What the Senator from Connecticut proposes is totally inequitable.

We have just adopted an amendment to provide subsidies for the users of mass transit. We have just provided an operating subsidy for mass transit, and we will regret the day we did it, because we are encouraging poor management and inefficiency, and discouraging applying the cost of mass transit or passing it on to the people who use mass transit. Why cannot the people who use mass transit pay for it, instead of making the people who use the highways pay for mass transit?

I suggest that the highway user tax is probably the most fair and equitable tax in this country, and right now what is happening is that they are trying to get the camel's head in the tent, the foot in the door, and when that day finally comes, what will happen when the people who pay the gasoline tax recognize what did happen to it?

The Senator from Connecticut suggested that they did not know what was done with their tax money, but they will eventually know that they were paying taxes to subsidize somebody else to ride on a mass transit system. I submit it is not only inequitable and unfair, but it is immoral.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The point the Senator from Texas left out was that $4 billion was used from general revenues to lay down highways in the several States. That money was raised from general purpose taxes.

And he did not add that 95 percent of the tax funds that are raised to be put in the highway transportation funds came from taxes enacted before 1956, when they were paid into the general revenue funds. Yet, "we are robbing Peter to pay Paul" the opponents say. Just because the highway trust fund has been able to earmark their own boondoggle in the form or the highway trust fund, that does not give them a right to say that they have a right in perpetuity to use those funds for building highways. Congress authorized the program and Congress can change that authorization.

This is one of the arguments that has come out of the brochures of the lobbies, just as did the other myth, which appeared in an American Trucking Co. ad in an issue of Newsweek last week. It said, "What do highways do to the ecology?"

The answer was, "The ecological disruption is avoided by careful planning and careful building. Actually, more trees and shrubs and flowers have been planted than removed."

Whoever wrote that ought to come up to Massachusetts or Connecticut or to any other State and face the fact that they are dreaming.

I would ask how many landmarks have been razed, how many thousands of homes destroyed, how many scenic landmarks marred forever by highway construction?

Is careful planning and careful building what you call the Embarcadero Freeway in San Francisco, or I–95 in Boston, or the proposed route through New Orleans Vieux Carre that was stopped only by violent citizen opposition? And is ecological disruption avoided when we are told that 40 percent of the Nation's air pollution is caused by the auto and 80 percent of air pollution in urban areas? And that does not even mention the impact on our energy supplies, and the consequent increase in our consumption of fuel with its resulting ecological disruption.

Mr. President, when we heard the arguments made this afternoon over the concern that fewer jobs exist today in the inner city—I ask how those in the inner city are going to get to the suburbs to these jobs. Obviously, they would get the most benefit out of mass transit. Why is it not also mentioned that half of the people in this country with incomes of less than $3,000 a year do not have cars? How are they supposed to get to their jobs or go into the suburbs if they do not have cars and there is no mass transit?

Mr. President, I have heard the arguments about the rural communities. Forty percent of the people living in some rural communities do not have cars either. We could go right down the list and cover all groups, the elderly, people living in the inner cities or in the rural communities or in the hard pressed communities. They are all unable to take full advantage of the formula outlined in this program.

Mr. President, what we are interested in doing, as we have mentioned here, and

as I and the Senator from Connecticut (Mr. WEICKER) have time and again mentioned before the committee and on the floor, we are merely trying to give the kind of discretion to those in the States, the governors and the mayors, so that they might be able to enter into the development of transportation systems. That makes sense in their communities. We recognize that perhaps if the people in the States of Wyoming or West Virginia want to lay down more concrete for more highways, then that is all fine and well and good. Certainly the Senator from Massachusetts wants to give every opportunity under his amendment to let the people of West Virginia or Minnesota decide whether they want to do this. That is all we are attempting to do by this amendment, provide decisionmakers with the options they need to create a balanced national transportation system.

I would hope that the amendment would be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. Mr. President, I have no requests for speakers at the present time.

Mr. WEICKER. Mr. President, we have some time remaining. I have a few comments I would like to make.

Mr. KENNEDY. Mr. President, I yield the remainder of our time to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I cannot let the point raised by the Senator go unanswered. The highway trust lobby is a very well defined group. On our side, it is the people's lobby. It is not anyone who wants to sell railroad cars or buses. It is a people's lobby and they have had it.

We can look at those who come to visit us with respect to mass transit. It is those people who have to have no viable means of transportation because of economic reasons or for reasons of disability. It is those people who want to do away with pollution. It is those people who make up a people's lobby that we are speaking for.

However, to pick up on the comments of the Senator from Alaska and the Senator from Texas that the objective was to build highways, I would point out that this is not the objective. The objective is to have transportation systems to move people. In Connecticut, for example, we have reached the objective many times over insofar as the interstate highways are concerned. We do not need any more. We need mass transit systems, and we need them desperately.

The goal was to build more highways. However, the distinguished Senator from Massachusetts and I have a goal of creating transportation systems to move people; transportation systems that have within them many modes of transportation.

As to the point raised that this is a city issue, I reply that the problem is expanding. It is no longer just an issue for the cities. For example, in my State of Connecticut, the only people initially interested in mass transit were those in the southwestern part of Connecticut. Now the whole State of Connecticut is involved in mass transit. We have had too many interstate highways cutting across the middle and upper parts of Connecticut in places where no one dreamed people would get involved in mass transportation.

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

Mr. STAFFORD. Mr. President, in the interest of full debate, I would be very glad to yield 1 minute to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 1 minute.

Mr. WEICKER. Mr. President, I thank the Senator from Vermont.

What is involved here is not a problem of New York or Connecticut. We are simply trying to say that we want to benefit by our experience which has been a bad one, and see to it that those States that are still rural in nature not be left without a single transportation system as its population moves out.

The time to resolve that problem is now and not when the crowds are there and when the buildings are built. If anyone does not believe that is true, he can ask the people who have watched the metro system being built in Washington, D.C.

Mr. STAFFORD. Mr. President, I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. TOWER. Mr. President, it is appropriate, I think, to put things in perspective. The interstate highways and not the urban mass transportation system should be our concern.

We have to recognize that there is so much of the movement to the marketplace by highway that does not move through mass transit systems. The fact of the matter is that the urban mass transit benefits only those who live in those localities and who travel to and from the city and the outlying areas.

I have been in New York a number of times. I can understand why people who work in New York do not want to live there. I do not care much to visit there. However, if they want to live in Connecticut, New Jersey, or somewhere else, let them pay for it. For the most part the people who live in the rural areas are of sufficient affluence to pay a few extra pennies for the privilege if they prefer to work in town and live outside of town.

The fact of the matter is that these systems cannot now maintain themselves based on their current methods of operations and their current revenues.

We have already voted out of the general fund of the Government of the United States funds to subsidize these communities and contribute to their capital improvements. And by an amendment offered by the distinguished Senator from New Jersey—with whom I profoundly disagree—we have voted to subsidize as a Federal subsidy, the urban mass transit systems in the Northeast corridor. Everyone in the United States will subsidize those. However, a case cannot be made that urban mass transit systems—and particularly those in communities—are a greater national asset than the Interstate Highway System which moves not only people but almost everything else of importance in the country.

Mr. STAFFORD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Vermont has 10 minutes remaining.

Mr. STAFFORD. Mr. President, I yield so much of that time as he may wish to the distinguished chairman of the full committee, the Senator from West Virginia (Mr. RANDOLPH).

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I think it is wrong to attribute the words spoken or the votes cast on an issue of this kind to any lobby—to the rapid rail transit lobby or to the highway lobby.

I think every Member of the Senate realizes that this is a subject on which there are differences. It is not valid in debate for one side of this issue to raise its hand and pat itself on the shoulder and say, "I am with the people."

I could say, by the same token, that I am for the people. I could say "I am for the people" when I voted for $3 billion in 1970 for urban mass transit, when I cosponsored the legislation with Senator WILLIAMS. I could say "I am with the people" when I voted for $3 billion again today, making an additional effort in behalf of urban mass transit in this country. Mr. President, I can say, and I do say, that when I stand and oppose the amendment offered by the Senators from the States of Massachusetts and Connecticut, I do so because I believe the equities are with those of us who oppose the amendment.

I call the attention of the able Senator from Massachusetts to these facts:

Nearly 74 percent of all automobile trips are under 10 miles in length but they account for only about 25 percent of the total mileage traveled.

Trips over 50 miles in length account for only 2 percent of the trips but constitute also about 25 percent of the total mileage traveled.

The average length of trips in cities is greatest in those over 1 million population.

And I think this is important to remember:

Although lower income groups make a somewhat smaller proportion of their trips in automobiles than do higher income groups, it is important to note that low income groups still make a great majority of their trips by automobile.

Those with incomes under $3,000 made 76 percent of their trips by automobile, 14 percent by bus, 7 percent by truck, 0.7 by train, and only 0.1 by airplane.

Those with incomes between $5,000 and $6,000 made 81.6 percent by automobile, 9.6 percent by bus, 7.1 percent by truck, 1 percent by train, and less than .1 percent by air.

Those with incomes between $10,000 and $15,000 made 87.9 percent by car, 5.9 percent by bus, 4.7 percent by truck, 0.8 percent by train, and only 0.1 percent by air.

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

and other statistics from the Department of Transportation's 1972 Highway Needs Report, having to do with motor vehicle wage.

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

STATISTICS

INTRACITY PASSENGER AND FREIGHT TRAFFIC

Highways account for nearly all transportation within cities.

Over 98% of person trips within cities are by highway modes. (93% of those on highways are by private automobile and the rest by bus.)

Nearly all freight movement within cities is by truck on highways.

Only about 2% of travel within cities is by rail (or boat).

INTERCITY PASSENGER TRAVEL

*(Data for year 1969)*

Travel by automobile accounted for about 87% of 1,130 billion passenger miles traveled between cities.

Travel by bus—about 2.3% of the total. This is reduction from the peak of 8.8% reached during 1943–44 in World War II.

Travel by rail—about 1%.

Travel by commercial airlines—over 9 %.

Travel by water transport—about 0.3%.

GROWTH AND DISTRIBUTION OF HIGHWAY TRAVEL

Highway vehicle miles traveled increased 145% in last two decades.

Highway vehicle mileage—about 80% by passenger vehicles and 20% by trucks.

Urban travel by motor vehicles increased somewhat faster rate than did rural.

Forecasts indicate that by 1990 more than 54% of all highway travel will be in urbanized areas.

Passenger cars account for 85% of total travel on urban streets and 75% on rural roads

Nearly 74% of all automobile trips are under 10 miles in length but they account for only about 25% of the total mileage travelled.

Trips over 50 miles in length account for only 2% of the trips but constitute also about 25% of the total mileage travelled.

The average length of trips in cities is greatest in those over 1 million population.

Although lower income groups make a somewhat smaller proportion of their trips in automobiles than do higher income groups, it is important to note that low income groups still make a great majority of their trips by automobile.

Those with incomes under $3,000 made 76% of their trips by automobile, 14% by bus, 7% by truck, 0.7 by train, and only 0.1 by airplane.

Those with incomes between $5,000 and $6,000 made 81.6% by automobile, 9.6% by bus, 7.1% by truck, 1% by train, and less than .1% by air.

Those with incomes between $10,000 and $15,000 made 87.9 by car, 5.9 by bus, 4.7 by truck, 0.8 by train, and 0.1 by air.

Those with incomes over $15,000 made 89.2% by car, 6.4% by bus, 2.3% by truck, 1.4% by train, and 0.2% by air.

Thus more than 75% of all travel by all income groups was by automobile, and a large percentage of the rest of the travel was also on highways, either by bus or by truck.

TYPE OR CHARACTER OF HIGHWAY TRAVEL BY PASSENGER CARS

Travel to and from work or to a related business to earn a living accounts for 36.7% of all trips by passenger cars and totals 42% of all motor vehicle miles travelled.

Family business trips (shopping, medical, dental) account for 31.4% of all trips by passenger cars and total about 19.6% of all vehicle miles travelled.

Educational, civic, and religious trips are about 9.4% of all trips but total only about 5% of the miles travelled.

Social and recreational trips, including vacation travel, pleasure rides, visits to friends, etc., add up to about 22% of all trips and about 33% of the total mileage travelled.

AUTOMOBILE VEHICLE OPERATORS

Over 111½ million driver's licenses were in force in 1970. This is an increase of 79% in the last 20 years. In 1950 there were only 62½ million licenses in force. It is estimated there will be 161 million driver's licenses in force in the United States by 1990.

More than 90% of the males from age 21 through 59 are licensed to drive.

More than 80% of the females between age 26 and 29 have operators' licenses.

25 to 33% of the males in age groups from 21 to 59 drive more than 15,000 miles per year.

AUTOMOBILE OWNERSHIP

About 80% of the families in the U.S. own automobiles. This percentage has remained fairly constant since 1963.

Trend toward families to own more than one automobile:

1956—14% households owned more than one car.

1969—29% households owned more than one car.

Auto ownership is highest in the suburbs—88% of households.

Auto ownership lowest in central cities—67%.

RECREATIONAL TRAVEL

*(Important for Parkways, etc.)*

About 12% of all automobile trips are for recreational purposes.

In 1969 an estimated 11.6 billion automobile trips for recreation, generating a total of 150.3 billion vehicle miles, or 18% of total vehicle miles travelled.

Average American travels about 130 times each year for recreation purposes.

Vacations account for only 1% of recreation trips but about 13% of the miles travelled for recreation.

Recreation travel peaks on weekends, especially Sunday afternoon.

In 1950 there were 30 million visitors to National Parks. By 1969 this had risen to more than 158 million.

Factors contributing to increased recreation travel: (1) rising income levels; (2) more leisure time; (3) improved highways (Interstate, etc.); (4) publicity campaigns—"discover America."; (5) tourist promotions; (6) visits to scenic and historic places.

Mr. PELL. Mr. President, I am in full support of the principles which are basic to both the Kennedy-Weicker and Muskie-Baker amendments to the Federal-Aid Highway Act of 1973. I have cosponsored both of these amendments.

Essentially, these amendments provide for flexibility in the use of the more than $6 billion authorized out of the highway trust fund to improve transportation programs in our Nation.

Traditionally these funds have been used to improve our highways, but I have long believed that a more balanced use of these funds is most desirable. During the 92d Congress I cosponsored legislation to make this possible. It was passed by the Senate, but did not receive full approval by the Congress.

The amendments I have now cosponsored do not affect in any way the amount of funding involved for our States. However, they do provide for flexibility, so that the States can have an option and thus best determine their particular needs.

In my own State of Rhode Island consideration is being given to improved rail service in the Narragansett Bay area. This is an example of how flexibility in planning for the future can provide balance, as we seek to make mass transit viable for all concerned. The amendments I have cosponsored permit local options for both bus and rail transit.

A balanced transportation system involves a variety of choices. I strongly believe that these choices should be made available.

If we depend wholly on highways, we run the dangerous risks of increasing traffic congestion, air pollution, and the erosion of the inherent beauties of our countryside, for which my own State is justly renowned.

Mr. RANDOLPH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Vermont has 6½ minutes.

Mr. STAFFORD. Does the chairman wish any further time?

Mr. RANDOLPH. I will take it all, if I may.

Mr. STAFFORD. Mr. President, I yield the remaining time to the distinguished chairman of the committee.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, there was not a vote, last year, of 60 against this amendment and 18 for it because Senators were voting as a part of a lobby, either a rapid rail transit lobby or a highway lobby. The Members of the Senate were thinking these problems through and expressing themselves, just as they will today.

I think it is important to say to the Senator from Connecticut, "Senator, you have castigated road building; yet today in the State of Connecticut, by the action of the people of Connecticut, there are 228 highway projects now under construction."

And to the Senator from Massachusetts I say, "Senator KENNEDY, I think it is important also to remember that in the Commonwealth of Massachusetts there are 256 projects, that are now under way."

What I am saying is that rapid rail transit would be an adjunct, moving people into a city, either Hartford or Boston. Remember, my fellow Senators, that the persons who work in the buildings, the persons who provide the services in the complex of structures throughout a great metropolitan area, will never receive those items on which they work and which they use by rail transit. Those items will be brought to the front door, to the alleyway, or to the back door, and if there are those who ride by rail into the city, remember that the products and the items used in servicing the people of a great city will move by road, by highway. It cannot be any other way.

The cost, I say to the two Senators, would be astronomical, if Senators were to think of entirely reversing the mode of travel for the movement of products and people in this country.

So I say, Mr. President, that the cost of improved rail transportation is not something to be accomplished by the money available to a State through its

highway allotment. For example, how much in primary and secondary funds could Rhode Island use? The Senator from Rhode Island spoke earlier. $4 million.

How much can Connecticut use? $6.5 million.

How much can Massachusetts use? $9 million.

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

Mr. RANDOLPH. Just a moment, and I shall be glad to.

What would this buy in the way of rail service, and still meet the highway needs of the States I have mentioned? I am glad to yield to the Senator from Massachusetts.

Mr. KENNEDY. The point is, why not let the people of Massachusetts decide how they are going to expend that $6 million?

Mr. RANDOLPH. Is the Senator saying that there is not a need in this country for a highway trust fund? Is he saying there is not a need in this country for an airports and airways trust fund? Why does not the Senator from Massachusetts advocate an urban mass transit trust fund?

Mr. KENNEDY. If the Senator will yield further, he asked me that question before his committee, and I indicated that I think there ought to be a single national transportation trust fund with this kind of flexibility, so that we could develop balanced transportation for communities, for States, for regions, and for the country. So we have answered that particular question.

Mr. RANDOLPH. No, the question has not been answered, because earlier today I indicated that the trust fund will die in 1977, and then is the time to evaluate its future.

Mr. KENNEDY. The Senator indicated that Massachusetts would get $6 million. All our amendment would do would be to permit the people of Massachusetts to decide how that money would be spent rather than depend on an arbitrary restriction devised in 1956—for conditions then.

Mr. RANDOLPH. Well, remember, the Senator has referred to the people. The people in those States, we know, pay user taxes. They have had highway programs, and those moneys come from bond issues on which they vote directly. Today if we adopt this amendment or another amendment, we begin to put a stop to a program which is not completed but must be completed. I wish the Senator could realize that fact.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KENNEDY. Will the Senator yield 3 minutes on the bill?

Mr. RANDOLPH. Yes, if that can be done.

The PRESIDING OFFICER. Time cannot be taken from the bill. The time limit refers only to the amendment. There is no time limit on the bill, and all time on the amendment has expired. It will take unanimous consent to get additional time on the amendment.

Mr. BENTSEN. I ask unanimous consent that the Senator from Massachusetts be allowed 3 minutes for further debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, as far as completion of the Interstate System is concerned, there is no change. Our amendment does nothing that would threaten the completion of the Interstate System.

Second, if these States had gone ahead and had various bond issues or made long-term commitments or had obligations, then the States themselves can make that determination and decide, as far as they are concerned, that they are going ahead and build more highways. But if other States have a different view and if Massachusetts does not desire to make highways its number one priority, then, I still ask the Senator why he wants to mandate a formula that would require us to do so. I am glad to yield the rest of my time to the Senator. But I do ask unanimous consent that several letters of support be placed in the RECORD.

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

[Telegram]

WASHINGTON, D.C.,
*March 13, 1973.*

Senator EDWARD M. KENNEDY,
*Capitol Hill, D.C.:*

In behalf of 19 national environmental consumer civil rights and trade union organizations represented in the Highway Action collocation we would like to wholeheartedly endorse the Kennedy-Weicker amendment to permit the use of non interstate highway funds.

We believe that granting cities and States the option of selecting whatever nix of ground transportation modes that will best meet their particular needs is an essential and vital step we commend you and Senator Weicker for putting forward this bold and far-reaching proposal.

JOHN D. KRAMER,
*The Highway Action Coalition.*

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INSTITUTE FOR RAPID TRANSIT,
*Washington, D.C., March 13, 1973.*

Hon. EDWARD M. KENNEDY,
*Old Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR KENNEDY: The Institute for Rapid Transit has supported continually the use of highway funds for urban mass transit purposes. If a balanced transportation system is to be achieved in the urban areas, local officials must have the option to select the best system of transportation which meets their specific needs.

This flexible use, to be meaningful, should extend to highway funds apportioned to states and available to urban areas. Fifty percent of highway funds are generated in urban areas, an equal amount should be available to urban areas for their transportation needs, both highway and public transit. The Kennedy-Weicker amendment would achieve these objectives.

The IRT endorses your amendment and will do all we can to see its enactment.

Sincerely yours,

WILLIAM J. RONAN.

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[Telegram]

WASHINGTON, D.C., *March 13, 1973.*

Hon. EDWARD KENNEDY,
*Capital Hill, D.C.:*

The American Transit Association supports the principle of optional uses of the highway trust fund money. Balanced transportation can only result from such optional use. The Kennedy-Weicker amendment to the highway bill provides for the optional use of highway funds from several of the categorical highway funds—interstate, primary, and the urban system funds the needs of urban transit are of sufficient magnitude to call for additional funding from general revenue sources. The highway trust fund currently can not support both transit and highways the Kennedy-Weicker bill would provide partial funding for transit in the near future. The bulk of transit support must come from general revenue.

STANLEY H. GATES, Jr.,
*President, American Transit Association.*

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NATIONAL CATHOLIC RURAL
LIFE CONFERENCE,
*Washington, D.C., March 12, 1973.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR KENNEDY: We understand that this week the Senate will be considering S. 502, the Federal-Aid Highway Act of 1973, and that you will present an amendment to provide to states the authority to determine whether Federal Highway Trust Fund appropriations are to be used for highway construction or mass transportation purposes. We would support such an amendment because of the possible assistance it would provide to rural communities in need of public transportation facilities.

As you may be aware, rural America has never had the benefit of government assistance in meeting its public transportation needs as have the cities through the Urban Mass Transportation Administration. This is a remarkable oversight in view of the fact that a disproportionately large percentage of the transit dependent, particularly the aged and poor, reside in rural areas and of course must traverse large distances to obtain the community and social services which may be only blocks away in the city. For this reason we are particularly enthusiastic about the Rural Highway Public Transportation Program created in S. 502, Sec. 151.

The great contribution which would be made by your amendment would be the tying together of the highway and public transportation planning functions within the States. Too often the construction of new highways has meant a decrease rather than an increase in the availability of transportation to rural communities. The recent abandonments of thousands of miles of railroad lines and the concomitant increase in shipping costs for rural producers is one example of the consequences of poor transportation planning.

Communities throughout rural America are desperately trying to meet their transportation needs on their own. In case after case they are failing because they simply lack the necessary resources. The availability of Highway Trust Fund revenues for this purpose would be a tremendous step in the right direction.

Sincerely yours,

STEPHEN BOSSI.

Mr. RANDOLPH. The funds are distributed, of course, on the basis of highway needs. There is no formula by which we make distribution based on rail needs. One is clearly defined. The other does not exist.

The PRESIDING OFFICER. All time has elapsed. The question now is on agreeing to the amendment of the Senator from Massachusetts and the Senator from Connecticut (putting the question).

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY). The yeas and nays have been ordered, and the clerk will call the roll.

Mr. WILLIAMS. On this vote I have a pair with the Senator from Indiana (Mr. BAYH), who is necessarily absent. If he were here and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. FANNIN (after having voted in the negative). On this vote I have a pair with the Senator from Colorado (Mr. DOMINICK). If he were present, he would vote "yea." I would vote "nay." Having already voted in the negative, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Missouri (Mr. EAGLETON), and the Senator from Indiana (Mr. BAYH), are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) is necessarily absent, and his part has been previously announced.

The result was announced—yeas 23, nays 70, as follows:

[No. 36 Leg.]

YEAS—23

| | | |
|---|---|---|
| Abourezk | Hathaway | Proxmire |
| Biden | Javits | Ribicoff |
| Brooke | Kennedy | Roth |
| Buckley | Mathias | Scott, Pa. |
| Case | Packwood | Taft |
| Cranston | Pastore | Tunney |
| Hart | Pell | Weicker |
| Hatfield | Percy | |

NAYS—70

| | | |
|---|---|---|
| Aiken | Ervin | McGee |
| Allen | Fong | McGovern |
| Baker | Fulbright | Metcalf |
| Bartlett | Goldwater | Mondale |
| Beall | Gravel | Montoya |
| Bellmon | Griffin | Moss |
| Bennett | Gurney | Muskie |
| Bentsen | Hansen | Nelson |
| Bible | Hartke | Nunn |
| Brock | Haskell | Pearson |
| Burdick | Helms | Randolph |
| Byrd, Harry F., Jr. | Hollings | Saxbe |
| | Hruska | Schweiker |
| Byrd, Robert C. | Huddleston | Scott, Va. |
| Cannon | Hughes | Sparkman |
| Chiles | Humphrey | Stafford |
| Church | Inouye | Stevens |
| Clark | Jackson | Stevenson |
| Cook | Johnston | Symington |
| Cotton | Long | Talmadge |
| Curtis | Magnuson | Thurmond |
| Dole | Mansfield | Tower |
| Domenici | McClellan | Young |
| Eastland | McClure | |

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Fannin, against.
Williams, for.

NOT VOTING—5

| | | |
|---|---|---|
| Bayh | Eagleton | Stennis |
| Dominick | McIntyre | |

So Mr. KENNEDY's amendment was rejected.

Mr. BENTSEN. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.



## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider three nominations now at the desk.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The nominations on the Executive Calendar, as reported earlier today, will be stated.

## FOREIGN CLAIMS SETTLEMENT COMMISSION

The assistant legislative clerk read the nomination of Lyle S. Garlock, of Virginia, to be a member of the Foreign Claims Settlement Commission, with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## U.S. CIRCUIT JUDGE

The assistant legislative clerk read the nomination of Joseph F. Weis, Jr., of Pennsylvania, to be a U.S. circuit judge, Third Circuit.

## U.S. DISTRICT JUDGE

The assistant legislative clerk read the nomination of Herbert A. Fogel, of Pennsylvania, to be a U.S. district judge for the Eastern District of Pennsylvania.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that these three nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of these nominations.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of additional nominations which are now at the desk and that they be considered en bloc, but that the clerk state each nomination.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc, and the clerk will state the nominations.

## FEDERAL MEDIATION AND CONCILIATION SERVICE

The assistant legislative clerk read the nomination of Willie J. Usery, Jr., of Georgia, to be Director of the Federal Mediation and Conciliation Service, with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## NATIONAL CREDIT UNION BOARD

The assistant legislative clerk read the nomination of Lorena Causey Matthews, of Tennessee, to be a member of the National Credit Union Board for a term expiring December 31, 1978 (reappointment), with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The assistant legislative clerk read the nominations in the Department of Housing and Urban Development, as follows:

Floyd H. Hyde, of California, to be Under Secretary of Housing and Urban Development.

H. R. Crawford, of the District of Columbia, to be an Assistant Secretary.

Sol Mosher, of Missouri, to be an Assistant Secretary.

Michael H. Moskow, of New Jersey, to be an Assistant Secretary.

James L. Mitchell, of Illinois, to be General Counsel.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

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

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from California (Mr. CRANSTON) be recognized for not to exceed 5 minutes for the purpose of calling up a message from the House which I understand has been cleared on this side of the aisle and without the time being charged against him.

Mr. BAKER. Mr. President, reserving the right to object, may I ask the nature of the request?

Mr. CRANSTON. The measure is S. 7, the rehabilitation bill, which has been worked out with the House, and we are accepting the House amendments to the Senate version.

Mr. BAKER. Mr. President, I am reluctant to object to this, but I have spent much of today trying to negotiate accommodations for Senators who canceled meetings and want to be here in order to vote on the next amendment. I believe we are making substantial progress on the highway bill, and I most earnestly request that this matter be put off for another time.

Mr. CRANSTON. We have struck $200 million from this bill, and this might be the time to strike a blow for economy.

Mr. BAKER. It would be, except that we have the mind of the Senate focused on the highway bill. I will object, if I have to.

Mr. ROBERT C. BYRD. Mr. President, this is a privileged matter, it being a message from the House; but I recognize that the Senator is on sound ground in objecting to a time limitation.

I withdraw the request, and the Senator from California will not call up the measure at this time.

Mr. BAKER. I thank the Senator.

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## FEDERAL AID HIGHWAY ACT OF 1973

The Senate continued with the consideration of 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.

AMENDMENT NO. 4

The PRESIDING OFFICER. The clerk will state the next amendment.

Mr. HUMPHREY. Mr. President, I have a privileged matter.

The PRESIDING OFFICER. There is a unanimous-consent agreement.

Mr. MUSKIE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The next amendment is the amendment by the Senator from Maine, which the clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 97:

(1) amend line 5 through 8 to read:

"(a) To encourage the development, improvement, and use of public mass transportation systems for the transportation of passengers within urban areas,".

(2) on line 19, strike "and".

(3) after line 19, insert:

"(2) sums apportioned in accordance with paragraph (6) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within urban areas for the construction of fixed rail facilities and for the purchase of passenger equipment, including rolling stock for fixed rail; and"

(4) on line 20 strike "(2)" and insert "(3)"

(5) on lines 1 and 4, strike "highway"

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. I yield 5 seconds.

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## SCHOOL LUNCH COMMODITY DONATIONS—CONFERENCE REPORT

Mr. HUMPHREY. Mr. President, I submit a report of the committee of conference on H.R. 4278, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278) to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278) to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same.

HERMAN E. TALMADGE,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
CARL T. CURTIS,
ROBERT DOLE,
*Managers on the Part of the Senate.*

CARL D. PERKINS,
AUGUSTUS F. HAWKINS,
PATSY T. MINK,
LLOYD MEEDS,
IKE F. ANDREWS,
WILLIAM LEHMAN,
ALBERT H. QUIE,
JOHN M. ASHBROOK,
ALPHONZO BELL,
EDWIN B. FORSYTHE,
*Managers on the Part of the House.*

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the required printing of the conference report on this bill, H.R. 4278, by the Senate as a Senate report be waived.

The PRESIDING OFFICER. Without objection it is so ordered.

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## FEDERAL AID HIGHWAY ACT OF 1973

The Senate resumed the consideration of 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. MUSKIE. Mr. President, I yield myself 10 minutes at this time.

This amendment is cosponsored by Senators BAKER, BIDEN, BROOKE, BUCKLEY, CASE, CRANSTON, HART, HATFIELD, HATHAWAY, HUMPHREY, JAVITS, PASTORE, PELL, PERCY, PROXMIRE, RIBICOFF, STAFFORD, STEVENSON, and TUNNEY.

The Muskie-Baker amendment is a sensible proposal. It simply would give cities and States the flexibility to decide for themselves whether their allocations from the urban systems authorization of the highway trust fund should be spent for roads, or for alternative transportation systems.

This amendment would not provide mass transit facilities in rural areas; it would apply only to the urban systems section.

This amendment would not force cities or states to substitute mass transit facilities for highways; it merely would give the people of urban America a choice they are now denied.

This amendment would not divert trust funds from highways that ought to be built; it would allow cities to substitute alternatives for highways that should not be built.

Nor, Mr. President, is this amendment supported only by narrow interest groups; the Senate passed a similar version last year, the Nixon administration supports it, and a broad coalition of citizen groups including a majority of the Nation's Governors, the National League of Cities-U.S. Conference of Mayors, the United Auto Workers, and Common Cause has worked for its passage.

It has become clear to these and many other Americans that our current national transportation policies are badly out of step with our needs. Although we have set difficult goals for ourselves in conserving our fuel resources, protecting our environment, and improving the quality of urban life, we have preserved at the same time a closed-circle transportation policy which perpetuates highway construction as virtually the only solution to transportation problems that most cities and States can afford to choose.

Every year our metropolitan transportation problems multiply. Whether the problem involves moving workers to and from their jobs, moving goods and people around the city, or bringing essential goods and services to the urban population, more highways and more cars have become the only answer—even when they are obviously not the right answer. Before it is too late, we should take a hard look at the consequences of this policy and decide whether those consequences should be an inevitable part of our future. Before it is too late we should seek ways in which we can all move freely about our cities without endangering our health, destroying our communities, and wasting our resources in the process.

Highways and automobiles have revloutionized life in urban America; but they now threaten in several ways to destroy the urban life they helped to create.

First, highways and the cars that use them pollute the air of our cities and menace the health of the people who live there. This statement should come as no surprise to Members of this body, Mr. President. We were aware of the danger 3 years ago when we unanimously approved the Clean Air Act of 1970. We resolved then that protection of the public health was of primary and overriding importance. We explicitly excluded considerations of economic and technological feasibility in setting ambient air quality standards under that act. And for the same reasons we set a statutory deadline for the development of a clean car.

That was 3 years ago. Now the deadline for meeting the air quality standards

is only 2 years away; but as of today the air quality in 67 metropolitan areas constitutes a health hazard because of one or more auto-related air pollutants.

We were also aware in 1970 what the provisions of the Clean Air Act meant in terms of urban transportation systems. The Public Works Committee report forecast the kinds of changes that the new law would require:

As much as seventy-five percent of the traffic may have to be restricted in certain large metropolitan areas if health standards are to be achieved within the time required by this bill.

The committee report warned that—

Construction of urban highways and freeways may be required to take second place to rapid and mass transit and other public transportation systems. Central city use of motor vehicles may have to be restricted.

If cities could make the switch from automobiles to electric rail systems, one calculation estimates that for every 100,000 passenger-miles there would be net decreases of 8,000 tons of carbon monoxide, 1,600 tons of hydrocarbons, and 320 tons of nitrogen oxides.

On one hand, Mr. President, we have told the cities they must make changes in their transportation systems to protect the public health. But on the other hand we have withheld the funding flexibility that would make those changes possible. This is not consistent policy on our part, and it is a disservice to the cities and to the national policies we ourselves established. By finally granting that long-sought flexibility, this amendment would make it possible for the cities to fulfill both their responsibilities: protection of the public health and assurance of adequate transportation facilities.

Our second concern is that highways and automobiles have had as destructive an effect on our cities themselves as they have had on the health of the people who live in them. Highway construction divides our urban areas with ribbons of concrete—separating people from their jobs and from each other, destroying the integrity of communities, and encouraging suburban sprawl and other questionable land uses. As places of urban and suburban employment have become more and more dispersed, with access to them provided only by highways, more and more workers have been forced to rely on cars to get to their jobs. The available highways have in turn become more congested, forcing us to build more and more roads. We have now devoted so much of our urban living and working space to the automobile that up to 60 percent of the land area in our major cities is required for the circulation and servicing of our cars. The New Jersey Planning Department has predicted that within 30 years, transportation will consume one-third of the State's entire land area.

The heedless construction of urban freeways has run roughshod over the real transportation needs of city residents, displacing literally hundreds of thousands of people and businesses in the process.

On one hand, Mr. President, we have expressed our concern over the fate of our cities as places where people can live and work, and we have created programs and spent money to restore the urban environment. But, on the other hand, we have forced those same cities to build highways which defeat that objective. By allowing the cities to build mass transit systems they do need instead of highways they do not need, the Muskie-Baker amendment would restore good faith and good sense to our efforts to save our cities.

Our third concern, Mr. President, is that highways and automobiles which ravage our cities are at the same time helping to lead us to an energy crisis from which there may be no road back. Automobiles are the most wasteful common means of surface transportation; they use 5 times more fuel to transport a person 1 mile than does a bus, and 10 times more than a train or subway. In fact, automobiles effectively utilize only 5 percent of the potential energy from the fuel they burn.

At the current rate, transportation from the fuel they burn could deplete the entire proven Alaskan oil reserves in 7 years. But the Highway Action Coalition has estimated that if the automobile's use in urban areas alone was reduced by merely 25 percent, we could save 1 million barrels of petroleum per day—the equivalent of the full operating capacity of the proposed Trans-Alaska Pipeline. In light of the energy and fuels crisis of which we are all aware, our present extravagance is unacceptable.

On one hand, Mr. President, we have rung the alarm concerning the energy crisis, and we are seeking ways to reduce our fuels' consumption and increase our reserves. But on the other hand, our policies have the effect of pressing upon our cities the most wasteful and inefficient form of transportation that exists. The Muskie-Baker amendment would give the cities a choice, and begin to bring our transportation policies in line with our energy concerns.

In light of all these concerns, it is clear that Americans are paying a price for urban highways that we cannot afford. And many Americans who pay the price get nothing in return. For these citizens of urban America, the highway trust fund and the transportation systems it creates rob Peter to pay Paul.

In many American cities—including Baltimore, Milwaukee, Richmond, and Columbia, S.C.—nearly one out of every four dwellings have no car. Fifty-seven percent of households with incomes below $3,000 have no cars; 14 percent of those households reporting incomes between $3,000 and $10,000 have no car. Most of the 20 percent of Americans who have no car are poor, handicapped, young, or old—people who need mobility the most to gain access to adequate education, health care, job opportunities, and other necessities of life. The unemployment of at least one-half of the 1 million jobless handicapped is attributable to a lack of adequate transportation. In five Ohio cities, 54 percent of the households whose head is over 65 have no car, and 42 percent of those households reported a need for transportation beyond any available to them.

The Muskie-Baker amendment would help correct these inequities by amending the highway trust fund to make it more flexible and more sensible, to bring it up to date, and to revitalize it as a useful funding mechanism to meet our transportation needs.

In 1956, Mr. President, the job of building the interstate defense highway system was considered to be so big and so urgent that it was decided to provide annual revenues earmarked for that job from a fund with assured revenues. Therefore, the highway trust fund was established to focus revenues raised from highway-related taxes on specific highway purposes for a 16-year period. The primary purpose of the trust fund was the construction of the Interstate System, and the trust fund was to be terminated at the same time that the Interstate System was completed.

To establish the trust fund, the Congress drew on two sources of revenues: First, receipts from then-existing highway-related taxes, such as the gasoline tax which had been on the books and contributing revenues to the General Treasury since 1932; and second, receipts from new highway-related taxes, such as the tread rubber tax. Prior to 1956, the receipts from those existing highway-related taxes—those in the first group—had been in the General Treasury and had been used to fund a broad variety of Federal activities—even including foreign aid.

The Congress directed the receipts from all of these taxes, including those which had been in the General Treasury, to the new trust fund. The importance of the contribution to the trust fund from those existing tax revenues is illustrated by the fact that 92 percent of last year's trust fund receipts were derived from tax categories which had been on the books long before 1956, and which before 1956 had provided general revenue funds.

These General Treasury revenues were diverted in 1956 primarily to serve a specific purpose—building the Interstate System. Now, 80 percent of the Interstate System has been completed. Certain portions of it planned for urban areas will never be built due to many factors—new environmental regulations, revised local determinations as to transportation needs, and citizen pressure against new highway construction. No one questions that the remainder of the system should be completed as soon as possible.

The question now before us is whether—the original purpose being nearly completed—those General Treasury revenues presently in the trust fund should be applied to a broader purpose. Our responsibility in 1973 is to determine how those revenues should be spent in the future.

One option is to build only more roads, regardless of whether they are wanted or needed. Certainly with respect to the urban portion of the fund, Mr. President, the choice of that option would perpetuate the most glaring flaw in our transportation policy. It would make us the victims of the trust fund rather than the beneficiaries.

A second option is to return some of the trust funds to the General Treasury and to create a new public transit trust fund. This option has some arguments

in its favor; we have identified the need for mass transit funds for our cities, and this approach might help to provide those funds. But the arguments against this course of action are also compelling. This would be an arduous and risky approach; the competition for funds from the General Treasury is severe, and there is little likelihood that sufficient money to create a viable fund could be appropriated. Furthermore, this approach would not give the cities the kind of discretion and flexibility they need. We do not want to force the cities to build subways any more than we want to restrict them to highways. On the contrary, we want to give them the opportunity to build the transportation systems that best meet their needs.

And that, Mr. President, is our third option: Amending the highway trust fund in the manner we propose and thereby giving the cities the opportunity to build the transportation systems they think are best suited to their needs.

In 1965, Congress established this trust fund with General Treasury revenues and identified its primary purpose. The Congress never made that trust fund irrevocable, nor has the Congress ever waived the right to modify its purposes. In fact, the Congress has modified the trust fund's purposes in the past by using money from it for billboard removal and the relocation of junkyards. And this year, S. 502 would authorize trust funds for the relocation of railroad lines in Lincoln, Nebr., Elko, Nev., and Brownsville, Tex. The argument that the trust fund is sacrosanct fails in light of these precedents.

And if the trust fund were sacrosanct, Mr. President, areas of the Nation that do not need or cannot accommodate new highways—our cities, in particular—would not share in the benefits of the fund. That result would not be one that was intended by the Congress that created the trust fund in 1956.

In sum, Mr. President, Congress in 1956 brought together tax revenues from many existing sources and some new ones, and focused them through the highway trust fund on a particular problem of national proportion—building the Interstate Defense Highway System. Solving that problem, more than any other factor, was the primary purpose of the new trust fund.

Now, we are faced with another transportation problem that is national in scope. We have identified the dimensions of the urban transportation problem, and it is clear that those dimensions justify the Muskie-Baker amendment.

No trust will be violated. No money will be wasted. And no transportation project—highways or subways—will be built that does not make sense from the point of view of the people who must live with it.

This amendment will not provide automatically the ingenious new transportation systems we need for our cities, nor quick public acceptance of mass transportation as a substitute for the luxury and convenience of the private automobile. But the flexibility of funding must be our starting point, both to signify our willingness to change and to make it financially possible to do so.

In summary, Mr. President, no comments more eloquently describe the absolute need for flexibility than the statements of three of the Nation's mayors: Mayor Kenneth Gibson of Newark; Mayor Wes Uhlman of Seattle; and Mayor John Lindsay of New York.

I ask unanimous consent that their letters and accompanying material be inserted in the RECORD following my remarks.

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

FEBRUARY 26, 1973.

Hon. EDMUND S. MUSKIE,
*U.S. Senate,*
*Washington, D.C.*

DEAR ED: I have read with great interest your recent letter and attached proposed amendments to the pending extension of the Federal Aid Highway Act. I enthusiastically endorse and support your efforts to open up the trust fund for public transportation and increase the Urban System funding to $1-billion.

As you may know, Manuel Carballo, my First Deputy Transportation Administrator, recently appeared before the Roads Subcommittee of the Senate Committee on Public Works. On behalf of New York City and the National League of Cities-U.S. Conference of Mayors, he urged that Urban System monies be made available for rail as well as surface transit at the discretion of the localities. I am attaching a copy of his statement which represents my position on the pending legislation.

Ideally, we would prefer the creation of a general transportation trust fund. However, if such a fund were funded inadequately and thus failed to meet the cities' total mass transit and highway needs, we would be no better off than at present. Therefore, we urge that the Congress recognize the need for localities to be able to exercise discretion in the use of funds sufficient to meet their particular needs. New York City, for example, needs $132-million in FY 1974 alone if we are to do an adequate job in maintaining and rebuilding our street system. However, the best estimate of what we would receive under S. 502 is approximately $50-million, including the State matching share.

Our mass transit needs are even more staggering. We estimate our needs through FY 1977 at $2.3-billion, while we can expect to receive, at best, only $300-million over this same period from the $3-billion increase in UMTA contract authority proposed under S. 386.

Other aspects of the pending highway bill require attention. I urge that the distribution formula be based on "urbanized" rather than "urban" areas. The appendix to Mr. Carballo's statement explains in great detail the difficulties inherent in the distribution formulas as provided under S. 502.

I also ask the Congress to provide a guaranteed pass-through of Urban System funds to municipalities over 250,000; S. 502 provides such a guarantee only to "urbanized areas" of that size.

Further, I support your proposal to authorize the Secretary of Transportation to utilize up to 10% of annual trust fund revenues to provide "emergency" assistance for alternate transportation systems where pollution from autos is certified as a threat to safety. Assuming the opening of the trust fund for mass transit, this provision would enable cities like New York to use such funds in a rational way in order to improve air quality levels. In addition, I agree with the purpose of Section 1 of this amendment which requires the Secretary to withdraw approval of routes on the Interstate, Primary and Secondary Systems in areas where federal EPA finds pollution levels unsafe after 1975 and where the Governor and local governments jointly request such withdrawal.

This section, however, raises the same problem that we found with the guaranteed pass-through to "urbanized areas." A municipality of New York's size which seeks withdrawal of certain routes that run through its jurisdiction may be subject to the determinations made by other municipalities or local areas within its urbanized area through which such routes also run. I suggest this amendment be clarified to provide that municipalities over 250,000 be empowered to request withdrawal of urban routes jointly with the Governor of the State, and not be subject to veto by other members units of its urbanized area.

In addition, I support Section 3 of this amendment which empowers the Secretary to refuse approval of any new highway construction which federal EPA certifies will make the air unsafe under the Clear Air Act.

Finally, I endorse the amendment to the Highway Safety Act which establishes State-run programs for inspection of auto emission control systems.

I think the changes you have suggested will benefit the nation's cities as well as its suburban and rural neighbors. I am pleased to be able to endorse these amendments and urge your support for our proposal for a guaranteed pass-through of Urban System funds to municipalities over 250,000.

My Administration will continue to press strongly for these changes in order to achieve a truly balanced national transportation system. Please feel free to call on me or members of my Administration if we can be of further assistance.

Sincerely,

JOHN V. LINDSAY,
*Mayor.*

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STATEMENT BY MANUEL CARBALLO

Mr. Chairman, members of the Committee, I am Manuel Carballo, the First Deputy Transportation Administrator and Commissioner of Highways of the City of New York. I am also a member of the Transportation Steering Committee of the National League of Cities and am pleased to come before you today in behalf of the League, the United States Conference of Mayors, and Mayor Lindsay to discuss the pending extension of the Federal-Aid Highway Act, S. 502.

Consideration of this bill is of critical importance at this time, not only because of the considerable benefits that have resulted throughout the country under the 16-year-old federal Highway Trust Fund program, but also because of the distortions and imbalances that have resulted in a time of rapidly changing transportation needs.

At its best, the range of programs fostered under the Highway Trust Fund have a track record matched in impact and efficiency by few other Federal programs: high concentrations of funds, generated by a simple and equitable tax structure, and expended directly and efficiently to create a nation-wide highway system in a relatively short period of time.

But at its worst, the structure of these programs has tended to create distortions that must be corrected. Traffic congestion chokes many of our highways as mass transit needs have gone unmet. Auto exhaust fouls our air. Urban areas have received a share of the Highway Trust Fund which does not begin to reflect their population, need, or importance to the nation.

Both the mood of the country and the mood of the Congress appear to reflect the realization that this must be the year that the thrust of the federal highway program is re-examined—and rightly so. Our task, then, is to sustain the best elements of the highway program—its efficiency and high concentration of funds while re-directing its thrust to correct many of the imbalances that it has partly helped to create.

Clearly, the construction of a fast, safe and efficient Interstate System was a necessary and admirable objective and one we have essentially achieved. There is considerable doubt whether this objective would have been achieved had not a Highway Trust Fund been established to finance it. On the other hand, there is also considerable doubt whether the imbalance in our transportation system would exist to the extent it does if mass transit had gotten its fair share of the huge investment of federal dollars over the years and if the cities had had discretion over the use of such funds.

Although it is late, there is certainly time to focus our energies and our resources in bringing our transportation systems into balance. Clearly this means increased funding for mass transit.

To do otherwise threatens the very viability of urban areas. This is not a partisan issue. We can no longer afford to be highway advocates or mass transit advocates. We can only be "balanced transportation" advocates. Failure to redress the current imbalance in our transportation system benefits no one.

Today, new conditions dictate that cities must have greater flexibility with federal assistance programs than now available to enable them to address their particular conditions and priorities. It is the position of the City of New York, for example, that the best way to correct this imbalance is through the establishment of a General Transportation Fund. Our objective is to provide flexibility for localities regarding the use and distribution of such funds. Who, other than the localities, knows better what the needs are? In some cases this would mean priority for construction of highways; in others, the funds would be allocated for mass transit—subways, buses, people movers.

However, what we have before us today is not legislation to create such a fund but a highway bill.

We do, of course, strongly support the progressive step this Committee has already taken in broadening the uses of Urban System funds to include bus purchases. But the National League of Cities and United States Conference of Mayors urge you to go further and allow rail transit uses as well. Cities must have the ability to choose a mixture of highways, buses, and rail systems to meet their own local conditions. In furtherance of this policy, we most strongly urge S. 502 be amended to allow Urban System funding for rail projects, as well as for buses. This flexibility for local governments in planning and building a balanced transportation program is especially important in the face of limited availability of both highway and mass transit funds.

At the funding level proposed in this bill, however, many cities would be hard pressed to meet even their minimal highway needs, much less make a significant investment in mass transit—NYC is a case in point.

For this reason, it is essential that the urban systems authorization be raised to a level that would allow these cities to take advantage of this flexibility and meet their basic transportation needs.

The highway bill before us today, while providing more funds to urban areas than currently available falls far short of the cities' highway needs, particularly since the TOPICS program is now also to be funded from this source. In my own City, for example, our highway needs amount to $132 million in FY 1974 while the best estimate of what NYC can expect to receive under the bill is approximately $50 million (which includes the State matching share).

Similarly, urban mass transit needs are even more desperately under-funded.

As a representative of the National League of Cities and United States Conference of Mayors and the City of New York, I find it impossible to talk about a highway bill without, at least in the first instance, also discussing the Urban Mass Transportation Act and its relation to S. 502.

On February 6, testifying on behalf of the National League of Cities and United States Conference of Mayors before your colleagues on the Senate Banking, Housing and Urban Affairs Committee, I strongly endorsed S. 386 which increases UMTA contract authority by $3 billion through FY 1977, and would include an additional $800 million in operating subsidies over two years. I reiterate that support there today. But it must be observed that even that noteworthy legislation fails to provide sufficient increases in capital funds to meet the mass transit needs of our nation's cities. Nowhere is this fact more evident than in my own City of New York.

While our mass transit needs through FY 1977 are in excess of $2.3 billion, we can expect to receive at best only $360 million over this same period out of the proposed $3 billion increase in UMTA contract authority.

In the face of these kinds of shortages in funds for both urban highway and mass transit programs, it is even more essential that the authorization level for urban systems in S. 502 be increased and that the permissible uses for these funds be broadened to allow localities the option of choosing among highway and mass transit priorities. I would again stress that cities would not be choosing highways *or* mass transit, but their proper mixture of each.

Accordingly, the National League of Cities and United States Conference of Mayors call for a funding level of $1.5 billion annually for the urban transportation system. The Committee has proposed $650 million for the Urban System and $350 million for Urban Extensions. Secretary Brinegar has testified that the Administration will request $1.1 billion for the urban system in FY 74, then rising to $1.2 billion in FY 75 and to $1.35 billion in FY 76. We commend this strong commitment for urban transportation needs, particularly when the Administration's budget for FY 74 proposes only $800 million for urban system authorization in FY 74. However, we feel that this is not enough. Funds will be available as the nation's current priority, the Interstate System, is completed and the new priority of urban transportation needs is begun to be met.

Let us now look more closely at the specifics of the bill pending before us today. We of course applaud the opening of the Trust Fund for bus purchases, the increase in local control over route designation, urban transportation planning funds, Interstate transfer, the concept of a guaranteed "pass-through" and the increased funding for Urban Systems over current authorizations.

In several significant ways, however, we think that this legislation represents a retreat from the excellent bill reported favorably out of this committee last year.

You will recall that last year's bill, S. 3939, authorized $800 million for Urban Systems and an additional $50 million for a newly-created "Small Urban" System. Even that authorization level fell far short of meeting the pressing transportation needs of our urban areas—indeed we have called for *a minimum commitment of $1.5 billion this year* for the urban transportation system. But instead, we regret that the bill we are considering merges the Urban and Small Urban System and cuts the total Urban System authorization level by $200 million at a time when urban transportation systems are dangerously under-funded throughout the nation.

S. 502 would redefine the eligible recipients of Urban System money. Funds would be used for projects in any "urban" area, a municipality or place of 5,000 population or more, rather than the present "urbanized" area, an area with a central city of 50,000 or more. Senator Bentsen stated that this change was made in lieu of creating the "Small Urban System" in last year's bill and thereby adding another categorical grant.

We agree with his concern over proliferating grant-in-aid programs. But we question if expanding the Urban System at this time will be the answer. We also feel earmarking $50 million for small urban systems, of the $650 million urban system authorizations, is impossible to administer. We urge retention of the Urban System as a program for urbanized areas. Urbanized areas already have been developing their programs for Urban System projects. Many already have the institutional structures for planning and implementing a transportation program and relating it to other areawide concerns. Urbanized and metropolitan areas are the criteria for eligibility in numerous federal programs. Transportation needs are most acute in urbanized areas, having been deferred for other, non-urban priorities. To suddenly place smaller urban areas into the existing Urban System could cause major disruptions in program administration and funding of current and planned projects.

This is not to say that smaller urban areas do not have their own priority needs. Expansion of eligible uses of Primary and Secondary System funds for public transportaapply to small urban areas, may be the preferable alternative. Or the Committee may create a "small urban system" within the existing rural Primary and Secondary programs.

We thus propose the allocation formulas and "passthrough" mechanisms provided in the bill be modified. The bill provides that states shall receive Urban Systems funds based upon their share of the national "urban" population. Within the states, the formulas for distribution become unclear. Urbanized areas over 250,000 are guaranteed a minimum "pass-through," although Sec. 125, relating to those funds "attributable" to such urbanized areas, fails to clearly define "attributable." Consequently, it is difficult to ascertain the intent of the legislation. Our assumption is that the intent is to guarantee funds to urbanized areas over 250,000 in direct proportion of its share of its state's "urban" population (a highly difficult and confusing calculation to make, since almost 15% of the nation's "urbanized" population is non-"urban." This dilemma is discussed in the appendix to this testimony.) Such funds would be dispensed by a regional transportation agency, or in its absence, the State.

We would recommend several major changes with respect to these provisions: First, as proposed in last year's bill, that funds be distributed to the states on the basis of their urbanized population; and within the states, allocations be made on the same basis. This provides a consistent distribution formula that meet transportation needs throughout the nation. (See Appendix B for more detailed analysis).

Second, I would like to reiterate that the policies of the National League of Cities and United States Conference of Mayors, although supportive of a mandatory pass-through to urbanized areas, do not allow our support for the proposed restriction of pass-through authority of Urban System funds to areas of over 250,000. The League and the Conference are on record that funds should be allocated to all urbanized areas, the only restriction being their capacity to plan and implement projects on the Urban System.

The City of New York agrees with the concept of a guaranteed pass-through. It also agrees with the National League of Cities and United States Conference of Mayors that the provisions of S. 502 creating such a guaranteed pass-through are unacceptable and

unworkable. The City of New York differs, however, with the NLC and USCM as to the nature of the changes that need to be made in the bill before us. I have appended to my statement New York City's position on pass-through eligibility.

Other aspects of the bill require attention. We suggest that funds for planning under the Urban System be borne totally by the federal government, consistent with current planning funding on the Interstate System.

To limit red tape in the grant approval process, DOT should limit review of technical details of projects, and allow state and local agencies to certify that such federal standards as are necessary have been complied with. The new Chapter 1–A, Alternative Federal-Aid Highway Procedures, proposed in S. 502, addresses this red tape problem. However, it should not be a device for the states and their highway departments to by-pass the increased local control over Urban System projects that would be effected if S. 502 passed. The procedural and substantive gains and safeguards in present law, and as proposed in S. 502, must be preserved. They must be made explicitly applicable to any alternative procedures available to the states.

I would urge the members of the committee to review technical amendments and analysis submitted in the appendix.

*Conclusion: Criteria for a Balanced Transportation Program.*

The transportation needs of American's urban areas are indeed great. What kind of a balanced national program then do we require in order to begin to meet these needs?

We have thought a great deal about this question in the City of New York and we have consulted with officials of other cities at great length through our participation in the National League of Cities and United States Conference of Mayors.

Our position—which is supported by a great number of my colleagues across the country, through their national organizations on whose behalf we appear, and is embodied in the recommendations I have made today—is that Federal-Aid Highway legislation aimed at creation of a balanced transportation system should meet at least the following minimum criteria:

1. Increased funding for urban transportation systems, giving proper weight to the mass transit and highway needs of urban areas, thereby correcting the present severe imbalance.

2. Flexible Funding, providing state and local officials with the flexible use of Urban System funds to meet transportation needs as determined at the local level.

3. Adequate and assured levels of funding for urbanized areas. Local officials in these areas must be assured of an adequate level of funding by direct passthrough of funds attributable to the populations of these areas.

I ask the members of this Committee to consider the criteria and recommendations proposed today in making critical decisions that will affect the future of our nation's transportation system. The bill before you represents the first tentative step in this direction. Your approval of the changes we suggest would take us further toward the goal of a truly balanced national transportation system.

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APPENDIX A—SUPPLEMENTAL VIEWS, CITY OF NEW YORK

As outlined in the accompanied testimony, and for reasons explored more fully in Appendix B, the City of New York joins the NLC/USCM in urging this committee to return to the basic structure for state allocation and "pass through" or urban system funds which was contained in the excellent highway bill (S. 3939) which passed the Senate last year. These provisions would allocate to each state its share of Urban Systems funds based on its proportion of the nation's urbanized population, and to urbanized areas within the state on the same basis. The transportation needs of small urban areas (between 5,000 and 50,000 in population) not contained within urbanized areas would be met through a separate mechanism so as to avoid the irresolvable complications which arise in any attempt to merge the "urban" and "urbanized" concepts.

Even if such a change is made in S. 502, however, the "pass-through" provision assuring each urbanized area its fair share of the state's urban system funds provides very little added protection to large cities such as New York. The New York City Urbanized Area, for example, contains about 11.4 million persons, approximately 80% of the state's urbanized population. As a result, 80% of the state's urban systems funds would be "passed through" in one huge lump sum earmarked for the urbanized area, with no assurance or indication of how these funds are to be allocated within the area. New York City, with approximately 70% of the population of the urbanized area, would have no basis with which to undertake long-range planning for the use of the funds which are eventually to be made available.

We propose, therefore, that Sec. 125 of this bill be amended to provide a guaranteed pass-through to legally-constituted municipalities over 250,000 persons, reflecting its share of the urbanized population. It is our position that municipalities of this size, which often constitute the central cities of urbanized areas, be assured of the funds otherwise guaranteed to their urban and suburban neighbors under S. 502. Clearly, if the case is made for guaranteed funds to large "urbanized areas", the arguments are even stronger for guaranteeing such funds to equally large, single municipalities. Funds would flow directly from the federal government to each such municipality in proportion to its share of the urbanized population.

To deny a guaranteed pass-through to such municipalities, which presently have the capacity to plan and implement improvements on existing street, highway, and mass transit systems, effectively robs those municipalities of the opportunity and resources to undertake rational, long-range planning. To turn this responsibility over to the States or regional authorities actually takes away functions performed capably by these cities. If "home rule" means anything, it means control of a municipality's own streets and subway systems.

Essentially, we view this as a three-staged program. First, those cities over 250,000 should be provided a guaranteed pass-through immediately. Second, cities under 250,000, within urbanized areas, should receive funds through the mechanisms provided in the legislation, that is, through a metropolitan transportation agency, or in its absence, through the state. Thirdly, we propose that when such cities develop the capacity to plan and implement programs under the Urban System, they, too, should be guaranteed a pass-through of funds in direct proportion to their share of the urbanized population of the state.

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APPENDIX B—ANALYSIS OF STATE ALLOCATIONS AND "PASS-THROUGH" FORMULAS IN S. 3939 (1972) AND S. 502 (1973)

Last year's highway bill, S. 3939, would have distributed Urban Systems funds to each state based on its urbanized population, and would have assured each urbanized area within a state its fair share based on population. Recognizing that 20% of the nation's "urban" population lies outside urbanized areas, the bill further sought to assist these smaller communities with a new separate "Small Urban" System, more closely tailored to the needs of these communities (i.e., municipalities between 5,000 and 50,000 in population not lying within an urbanized area).

The bill before us this year, however, S. 502, apparently seeks to merge these two systems (Urban and Small Urban) by changing the allocation formula to an *"urban"* basis, while maintaining a pass-through provision for a portion of the funds to major *urbanized* areas. A careful analysis of the distinctions between the meaning of "urban" and "urbanized" areas, as used in this bill, would appear to suggest that such a merger can not be accomplished with a single allocation and distribution formula that bears any rational resemblance to sensible federal policy. The inconsistencies which appear in S. 502 and which, in fact, are inherent in any attempt to mix the urban and urbanized criteria for allocation and pass-through are discussed in considerable detail below.

I. DEFINITIONS

A. Section 106(c) of the bill defines an "urbanized area" as "an area so designated by the Bureau of the Census, within boundaries to be fixed by the Secretary in cooperation with responsible State and Local officials" (amending the existing definition in § 101(a) of title 23, U.S.C., which now simply reads: "an area so designated by the Bureau of the Census"). While the role of the Secretary vis-a-vis the Census Bureau is not clarified precisely with respect to the setting of these boundaries, this provision would presumably enable him to assure that each "urbanized area" designated for the purpose of receiving urban systems funds would lie within the boundaries of no more than one state. Note, for example, that the "urbanized area" designated by the Census Bureau for New York City is the "New York, N.Y.—Northeastern N.J." Urbanized Area, crossing state lines and including approximately 16.2 million persons—4.8 million in Northeastern N.J., and 11.4 million in New York City and its in-state surrounding suburbs. Most likely, the N.Y.C. urbanized area will be designated as the portion of that area lying within New York State, namely: all of New York City, plus parts of Nassau, Suffolk, Westchester, Rockland and Putnam Counties, containing a population of 11,369,576 (7,894,862 of which are located in N.Y.C.). But it is difficult to determine with certainty exactly what the New York City urbanized area is for the purpose of this bill, what communities it covers and how many people it contains, unless and until either Congress or the Secretary acts to clarify it.

B. The Census Bureau's designated "urbanized areas" generally contain at least one city of 50,000 inhabitants (or "twin cities" totalling 50,000 in population), but also include surrounding territory which meets specified criteria relating to population density and proximity (regardless of size), and thus often contain nearby towns or unincorporated places with population under 5,000. As a result, the population living in "urbanized areas" (50,000+ in population, and as designated by the Census Bureau and DOT) is *not* necessarily a subset of the population living in "urban areas" (which title 23 simply defines as municipalities over 5,000 in population). In fact, the two categories simply do not mix:

All cities greater than 50,000 in population are both "urban" and "urbanized."

All cities between 5,000 and 50,000 in population are "urban", but may *or may not* be part of an "urbanized area", depending on their population density and proximity to a larger city.

No town, city or other place smaller than 5,000 is "urban", but some still may be part of an "urbanized area", again depending on their density and proximity to a 50,000+ city.

As a result, Census figures show that 4.7% of the nation's "urbanized" population resides in unincorporated places or communities smaller than 5,000 (i.e., non-"urban"); and that 19.4% of the nation's "urban" population is located outside "urbanized areas."

II. APPORTIONMENT TO STATES

Section 113(b) of the bill amends the existing apportionment formula for urban systems funds (§ 104(b)(6) of title 23 U.S.C.) by distributing funds to each state according to its proportion of the national "urban" population, rather than the national "urbanized" population. This change in the apportionment formula seriously complicates the "pass-through" provision which has been included in the legislation to assure that local communities get their fair share of each state's allotments.

III. PASS-THROUGH TO LOCAL COMMUNITIES

A. The existing law allows the State (Highway Department) complete discretion as to how to allocate its Urban Systems funds within the state. The 1972 bill, S. 3939, sought to remedy this by requiring that each urbanized area within a state be allocated its share of the state's urban systems funds in proportion to its share of the State's urbanized population. This was entirely consistent with the apportionment formula, which also distributed the funds to states according to each one's share of the national urbanized population. For example, under this formula, the New York City urbanized area, with 79.7% of the state's urbanized population, would receive 79.7% of the State's urban system funds. The other 6 urbanized areas in New York State, with a total of 20.3% of the states' urbanized population, would divide the balance—each receiving a share in proportion to its population not lying in an urbanized area would have received separate allotments under the "Small Urban System."

Section 125(a) of this year's bill (S. 502), however, attempts to keep a pass-through provision based on "urbanized areas" in spite of the change in the apportionment formula from "urbanized" to "urban." This introduces considerable confusion and it is not clear precisely what the legislation was intended to achieve. Sec. 125(a) would set aside for pass-through that portion of each state's urban systems allotment which is "attributable to urbanized areas having a population of 250,000 or more." In New York State, this would include the N.Y.C. urbanized area (population 11.37 million) and four upstate urbanized areas (with a total population of 2.55 million). The combined population of these five major urbanized areas is 13,920,255—234,107 greater than the total "urban" population of the State. One can only determine, therefore, the portion of the state's urban systems funds "attributable" to these major urbanized areas by subtracting out the approximately 1.5 million persons who are part of the "urbanized" population but do not live in cities of 5,000 or more (i.e., "urban").

The pass-through formula in Sec. 125(a) would then allocate these funds among these major urbanized areas in proportion to their *complete* population (presumably *including* the localities which were subtracted out for the purposes of determining the amount "attributable").

Note further that, as drafted, Section 125 (a) would not fully allocate all the funds set aside for pass-through as "attributable" to these major urbanized areas. The bill currently reads: the funds "which are attributable to urbanized areas having a population of 250,000 or more shall be allocated among *such* urbanized areas within any such State in the ratio that the population within any *such* urbanized area bears to the population of *all* urbanized areas within such State." (emphasis added). As drafted, the allocation fractions would include the population of all "such urbanized" areas (namely 250,000+) in the numerators, and "all" urbanized areas (including those between 50–250,000 in size) in the denominators, thus adding up to a total of less than one. The word "such" should be inserted before the last "urbanized" in the sentence, if the allocation is going to be complete.

Even if the word "such" is inserted as recommended above, however, this committee must still consider the over-all unworkability of an allocation mechanism within each state ("urbanized") which is inconsistent with the apportionment mechanism for funds to each state ("urban"). For as the bill is currently drafted, Urban System funds would be apportioned to states in a fashion which disregards their "urbanized" population, and then part of these funds would be allocated within the states to major urbanized areas, almost 15% of whose residents do not live in "urban" areas and thus played no part in earning Urban System funds for the state in the first place.

It is on this basis that the term "attributable", as it appears in Sec. 125(a) of the bill, becomes difficult and confusing to define. For if the non-"urban" portion of urbanized areas are subtracted out for the purposes of "attribution", it makes little sense to include them as recipients of Urban System funds. And if they are barred the use of the funds (lest the fair share of other cities in the urbanized areas be diluted), it makes little sense to allocate the funds by urbanized area.

The only solution would thus appear to be a consistent formula for both state apportionment and local pass-through. In this way, if Congress elects to retain an apportionment formula which grants urban systems funds to states according to their urban population, then funds should also be allocated to urban areas within each state (with a guaranteed pass-through to large cities and State direction regarding the balance). And if Congress prefers to allocate the funds to urbanized areas within the states, then the apportionment formula for the distribution of funds to the states should be changed accordingly.

B. Insofar as S. 502 retains a pass-through formula based on "urbanized" rather than "urban" areas, another problem develops, for cities such as New York, as noted in Appendix A. The City's population is 7,894,862, or 69.4% of the population of the urbanized area. But the proposed legislation contains no provision assuring that the City will receive an equivalent share of the funds allocated to the urbanized area. The bill does provide (as did last year's S. 3939) that where there exists a suitable metropolitan transportation agency for the urbanized area (to be created by the State), the funds would be made directly available to such an agency. No such agency currently exists for the N.Y.C. urbanized area, however, and pending its creation, all decisions regarding the dispersal of funds within the urbanized area would be made by the State Highway Department under existing law and S. 502.

This dilemma will become particularly striking when and if the Muskie-Baker provision opening up Urban Systems funds for possible mass transit use is passed into law. In such circumstances, the State Highway Department would be in the position of deciding, for example, what portion of the N.Y.C. urbanized area funds (earmarked for pass-through under § 125(a) would go for N.Y.C. subways vis-a-vis suburban highways.

For this reason, we strongly urge Congress to consider some kind of provision to assure that within an urbanized area, any municipality larger than (e.g.) 250,000 in population be assured of funds in proportion to its share of the population of the urbanized area.

Alternatively, the problem could be solved by changing the pass-through provision in § 125(a) to an "urban" basis rather than "urbanized." That is, allocate a proportional share by population to every municipality larger than (e.g.) 50,000 or 250,000 rather than to every urbanized area of that size.

In either case, a metropolitan transportation agency could still be created to distribute the balance of the funds in the urbanized area and to co-ordinate planning and construction throughout the metropolitan area. These suggested provisions would merely assure that the large central cities would receive their "fair" share based on population out of the funds made available to such an agency; and prior to the creation of such an agency, it would allow major cities to undertake rational long-range planning with some assurance of the amount of urban systems funds to be made available by the State.

In summary, then, we recommend the following specific changes in S. 502 with respect to the apportionment and allocation of Urban Systems funds.

1. Sec. 106(c)—clarify the breadth of authority being granted to the Secretary to alter the Census Bureau's designation of an "urbanized area", particularly with respect to multi-state urbanized areas, e.g. "New York, N.Y.-Northeastern N.J."

2. Adopt an allocation formula within each state (Sec. 125(a)) consistent with the apportionment formula to each state (Sec. 113(b)) preferably by returning to an "urbanized" basis for both sections, as in last year's S. 3939.

3. If Sec. 125(a) is to be retained in S. 502, clarify the definition of the term "attributable" (if this is possible!) and add the word "such" before the last "urbanized" in the first substantive paragraph.

4. Add a new provision guaranteeing a direct pass-through to cities larger than 250,000 in population.

APPENDIX C

COMPARISON OF NEW YORK STATE AND CITY URBAN SYSTEM FUNDING UNDER S. 502 AND NLC/USCM/NEW YORK CITY PROPOSAL

[In millions of dollars]

| | State share | City share[1] | Total |
|---|---|---|---|
| S. 502: ($650,000,000 urban system authorization; distribution to States based on "urban" population; assumes distribution within States based on "urbanized" area's share of State's "urban" population) | 66.3 | 35 | 50 |
| NLC/USCM proposal: ($1,000,000,000 urban system authorization: distribution to States based on "urbanized" population; distribution within States also based on urbanized area's share of State's "urbanized" population) | 111.07 | 61.4 | 87 |

[1] Excluding State matching share. Based on New York City's share of its "urbanized area's" population.
[2] Total New York City allocation, including State matching share.

APPENDIX D

NEW YORK CITY HIGHWAY NEEDS AND FUND AVAILABILITY UNDER S. 502 (DEPARTMENT OF HIGHWAYS/DEPARTMENT OF TRAFFIC)

[In millions of dollars]

| Program | Fiscal years— 1974 | 1975 | 1976 | 1977 |
|---|---|---|---|---|
| Interstate (3,250 million): | | | | |
| NYS Federal apportionment | 125.4 | 125.4 | | |
| NYC needs | 35.0 | 154.0 | [1] 200.0 | 200.0 |
| Urban extension (350 million): | | | | |
| NYS Federal apportionment | 37.0 | 37.0 | | |
| NYS needs | 19.4 | 26.0 | 19.0 | 55.0 |
| Urban system (650 million): | | | | |
| NYS Federal apportionment | 66.3 | 66.3 | | |
| NYC Allocation of Federal funds (including State share) | [2] 50.0 | 50.0 | | |
| NYC needs: | | | | |
| Highways (750 miles) | 80.0 | 80.0 | 80.0 | 80.0 |
| Other | 20.5 | 20.5 | 20.5 | 20.5 |
| Topics | 31.8 | 19.8 | 12.4 | 8.4 |
| Total NYC needs (urban system) | 132.3 | 120.3 | 112.9 | 108.9 |
| Local streets construction (100 percent city): | | | | |
| NYC capital budget [3] | 50.0 | 50.0 | 50.0 | 50.0 |
| NYC needs | 68.0 | 68.0 | 68.0 | 68.0 |

[1] WSH equals $1,000,000,000 over 5 years.
[2] Assuming urbanized distribution within State and guaranteed pass-through to city based on its share of urbanized area's population.
[3] Department engineering costs, land acquisition, maintenance and resurfacing amount to another $40,000,000 a year in capital funds.

APPENDIX E

SUMMARY: NYC HIGHWAY NEEDS AND ESTIMATED FEDERAL FUNDING SHARES UNDER S. 502 ($650,000,000 URBAN SYSTEM AUTHORIZATION)

[In millions of dollars]

| | Fiscal year— 1974 | 1975 | 1976 | 1977 |
|---|---|---|---|---|
| Urban system: NYC expected allocation including State matching share under S. 502 ($650 total authorization) | 50 | 50 | | |
| NYC needs including TOPICS | 132 | 120 | 112 | 108 |
| Shortfall | 82 | 70 | | |

APPENDIX F

MASS TRANSIT: CURRENT FUNDING AND COMPARISON OF NEW YORK CITY NEEDS AND EXPECTED SHARE OF FEDERAL FUNDS UNDER UMTA EXTENSION (S. 386),[1] FISCAL YEARS 1974–77

[In millions]

| | |
|---|---|
| **NEW YORK STATE** | |
| Current funding: | |
| Expected NYS share under 1970 UMTA ($3,100,000,000 contract authority) | $387 |
| NYS obligated funds | 192 |
| NYS unobligated funds | 195 |
| Needs versus expected funding under S. 386: | |
| Expected NYS share | 375 |
| Total funds available for NYS fiscal years 1974–77 | 570 |
| **NEW YORK CITY** | |
| Current funding: | |
| Expected NYC share | [2] 310 |
| NYC share of obligated funds | 128 |
| Expected NYC share of unobligated funds | 182 |
| Needs versus expected funding under S. 386: | |
| Expected NYC share | 300 |
| Total funds available for NYC through fiscal year 1977 | 610 |
| NYC needs fiscal years 1974–77 | [3] 2,300 |
| Shortfall | 1,710 |

[1] S. 386 provides for $3,000,000,000 additional contracting authority. This, combined with the $1,000,000,000 of remaining contract authority under the current act, provides for a total of $4,000,000,000 in contract authority.
[2] Assuming NYC share is 80 percent of State share.
[3] Needs estimate is for fiscal years 1974–77 only and is subject to inflation (needs for 1972–73 not included).

MARCH 5, 1973.

Hon. EDMUND S. MUSKIE,
*Chairman, Subcommittee on Air and Water Pollution, U.S. Senate, Washington, D.C.*

DEAR SENATOR MUSKIE: I am pleased to forward, with this letter, my statement in support of the amendments which you have proposed to the Federal-Aid Highway Act. We believe that the passage of these amendments will be of invaluable assistance to urban areas such as Newark which presently suffer from disproportionate transportation funding.

I understand that your amendments, although defeated in committee, will be brought up for consideration on the Senate floor later this week. I am forwarding copies of my statement to Senators Williams and Case and hope that it will be of assistance to you in the days ahead.

Sincerely,

KENNETH A. GIBSON,
*Mayor.*

STATEMENT BY KENNETH A. GIBSON

The proliferating usage of the automobile within the last two decades has had a drastic effect upon urban areas. The quality of air, and the economic stability of many urban areas, has been dramatically altered. Such effects are a direct manifestation based on the funding priorities given to highways at the expense of mass transportation. This disproportionate ratio must be reversed if the basic problems resulting are to be alleviated.

The passage of the Clean Air Act in 1970 served notice of this Nation's commitment to the preservation of air quality consistent with health requirements. The Act recognized the deteriorating quality of air associated with the increased advances of technology and stipulates the need for redress with the coming decade.

Unfortunately, until additional measures are taken by Congress, the standards it has prescribed through the Clean Air Act will not be met in most urban areas throughout the country. Air pollution is presently most concentrated in cities, due, in large measure, to the significant number of automobiles entering during the daily working hours. 95% of all carbon monoxide and 67% of all hydrocarbon are generated by this excessive use of automobiles.

As outlined in the New Jersey State Implementation Plan to meet the standards of the Clean Air Act for example, the City of Newark currently has the highest carbon monoxide level in this air quality region, as well as one of the highest hydrocarbon levels. These levels are consistently in violation of standards set forth in the Clean Air Act.

During the year 1971, the standard for carbon monoxide over an eight hour maximum period was exceeded one-hundred and fifty-six times, at a level nearly three times as high as that permitted within the Clean Air Act. During this same year, the standard for hydrocarbons during the three hour period, 6:00 a.m.–9:00 a.m. was exceeded three-hundred and twenty-two times during that year.

The effect from prolonged exposure to carbon monoxide and hydrocarbons is already too well known. Long term exposure to carbon monoxide has resulted in a shortening in life span as well as permanent brain damage due to a shortage of oxygen to red blood cells. Exposure to hydrocarbons, in the presence of other chemicals, has resulted in damage to lung tissues.

Proximity to highways has also resulted in adverse health conditions for those residents who cannot afford to move away. Within fifty feet of a freeway, the air quality level is in excess of maximum standards. Within one-hundred and twenty feet of roadways, the air quality level can cause dullness of thought. Within one-hundred and fifteen feet of depressed freeways, the levels of noise present create an environment unsuitable for living.

Unfortunately, it is the urban poor, already victims of inadequate medical attention, who must be confronted by such situations daily. The realization that the effects from prolonged exposures are cumulative and synergistic in the presence of other poor sanitary and health conditions, has made the question of alleviation paramount.

The emergency of the automobile as the most viable means of transportation in recent years is due in large measure to the funding priorities of Congress towards transportation. From 1947–1970, $58 billion has been authorized towards construction, improvement, and maintenance of highways. At the same time, only $795 million have been spent for urban mass transportation.

The urban poor bear most of the costs of this disproportionate expenditure while receiving few, if any, of the benefits. Their economic stability is threatened by highway construction. Low income neighborhoods become target areas for new highways due to the low cost of land acquisition and demolition. Moreover, the homes that remain in the close proximity to the highways suffer a decrease in market value, often by as much as 25%.

The City of Newark welcomes the amendments to the Highway Trust Act as put forth by Senator Muskie. We view these amendments as potential acknowledgment by Congress of the need for a balanced transportation system to alleviate the conditions outlined above.

By permitting cities such as Newark the option of applying highway trust fund money towards mass transit, the grave problems outlined above can slowly be overcome. Without such funds, the re-ordering of transportation priorities cannot be done and air quality standards cannot be met in accordance with the law. Until this does happen, however, the problems inherent in the present transportation system will be only further exacerbated.

MARCH 2, 1973.

Hon. EDMUND S. MUSKIE,
*Old Senate Office Building, Washington, D.C.*

DEAR ED: Thank you for forwarding me a copy of your remarks on introduction of Senate Bills 738 and 739. As always, you have thoughtfully addressed yourself to a problem of great concern to the City of Seattle.

We are presently in the process of attempting to devise a plan to reduce automobile-caused pollutants. I am enclosing a copy of the plan as it was initially developed for a 1977 target date. In response to the recent D.C. Circuit Court decision, we are now developing a new plan to meet the 1975 target.

Your proposed amendments are right to the point. In developing our plans, we have learned that it is not technology or will which stands in the way of achieving clean air, but rather it is a lack of dollars and unwillingness on the part of the state and the surrounding suburbs to cooperate with the central city in solving the problem.

Let me give you two examples. First, the people of King County recently voted to impose upon themselves a tax in order to finance a regional bus transportation network. The Legislature had previously committed to match bus system revenues from the state general fund. In the Governor's 1973 budget this matching fund was so severely limited that the bus system will not be able to provide an alternative to the automobile travel. Second, we find that any effort to significantly restrict automobile use in the CBD may drive businesses and retail

stores into suburban areas where automobile use would not be restricted. This would only contribute to urban sprawl and a general increase in dependence on the automobile. Unless there is a general tightening down on automobile use throughout the entire Metropolitan area and alternative modes of transportatiton provided, we cannot win the battle.

Your proposals will go a long way toward providing the funds necessary to develop alternative means of transportation. They will insure that freeways which serve the suburbs will not be constructed which are destructive of the efforts to attain clean air in the central city. And, they will provide the means for reducing pollution at the source. I want to you to know that your proposals have my complete support.

Sincerely yours,

WES UHLMAN,
*Mayor.*

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[The City Council of the City of Seattle, 1101 Seattle Municipal Building]

NOTICE OF HEARING: IMPLEMENTATION OF NATIONAL AIR QUALITY STANDARDS

You are hereby notified that a joint hearing, conducted by the City Council of the City of Seattle and the State of Washington Department of Ecology, will be held on Thursday, February 8, 1973, at 7:30 p.m. in Room 1101, Seattle Municipal Building, 600 4th Avenue, Seattle, Washington, at which time there will be considered the selection of transportation control measures, which are proposed for inclusion in the Washington State plan for the implementation, maintenance and enforcement of primray and secondary ambient air quality standards, pursuant to the Federal Clean Air Act (42 U.S.C. 1856 et seq.). The measures to be discussed comprise a proposed plan for the reduction of carbon monoxide in the Seattle area.

After the City and the Department of Ecology have introduced a proposed plan, including a proposed timetable for implementation, together with evidence that supports the adoption of the plan, any person may introduce, either in person or by counsel, evidence, statements or counterproposals bearing upon the reasonableness of the proposed plan.

Written statements, maps, charts and other exhibits submitted in connection with the proposed plan or any counterproposal, as well as all statements taken down by a stenographer during the hearing, will become a permanent part of the hearing record.

Written statements, maps, charts and other exhibits regarding this matter may also be submitted to the Seattle City Council and the Department of Ecology at Room 1101, Seattle Municipal Building, prior to the close of the public hearing and will be made part of the permanent hearing record.

The proposed plan, together with all other information pertinent to the aforesaid proposal, is available for public inspection and copying at the Office of the City Engineer, Room 708, Seattle Municipal Building, Monday through Friday, 8:00 A.M. to 4:30 P.M. Questions and discussion relating to this project should be directed to Joe MacKechnie at the location and between the times stated above.

It is the purpose of this notice and of the hearing which it announces to provide for the fullest exchange of information and views, regarding the effect of this plan on the community, through full discussion and examination of the planning to date. This purpose is in consonance with the requirements for the preparation, adoption and submittal of implementation plans under Section 110 of the Federal Clean Air Act, as amended (42 U.S.C. 1856 et seq.) and as provided in the Code of Federal Regulations (40 C.F.R., Part 51).

JOHN A. BIGGS,
*Director, Department of Ecology.*

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FOREWORD

This Addendum to the Washington State Air Quality Implementation Plan (transportation elements) has two objectives. First, it is designed to enable the lay reader to acquire a general understanding about air pollution in order to make a better evaluation of the strategies eventually selected and to better enable the citizen to participate in the public hearing process. Second, it presents a plan for the reduction of air pollution emissions from transportation sources in Seattle. The reader is reminded that it is his primary duty to be critical of the ability of the plan to achieve this objective.

Evaluation and critiques of the plan may be presented to the City Council and the Department of Ecology in writing prior to February 8, 1973, or in person at a public hearing on that date.

The principal authors of this document have been Joe MacKechnie of the Seattle Engineering Department and Mike Ruby of the Department of Community Development. Others making substantial contributions to the drafting of this document have been John Raymond of the Department of Ecology, Jim Pearson of the Puget Sound Air Pollution Control Agency, Bill Popp of the Puget Sound Governmental Conference, and Douglas Howell of the Seattle Engineering Department. Special assistance in the preparation of the plan was given by William van Gelder and Kirk Jones of the Engineering Department and by Mike McNamara, Ron Shoemaker, Claudia Denney, and Arne Hagen of the Department of Community Development.

A critical role in the development of the plan was played by the Seattle Chamber of Commerce Clean Air Task Force, which was chaired by James H. Todd. This committee, a mix of businessmen and environmentalists, outlined the strategies that are herein presented. Assistance in the development of the plan was also given by Mrs. Janet Chalupnik of the Air Quality Coalition, Don Hoffman of the Washington State Highway Department, B'Young Ahn of King County, Henry Soderlund (METRO), and Dan Barash of Seattle's Office of Executive Policy.

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DRAFT ENVIRONMENTAL IMPACT STATEMENT

This Addendum to the Washington State Air Quality Implementation Plan is clearly a "major action significantly affecting the environment." Accordingly, the State Environmental Policy Act (RCW 43.21c) requires that a Draft Environmental Statement be developed and circulated to solicit comments on the proposed action.

Any such Draft Statement would only repeat the material contained herein. Therefore, this document is designated as its own Draft Environmental Impact Statement. The sections normally set forth in such a statement may be found as follows:

1. The Impact of the Proposed Action.
2. Any Adverse Environmental Effects Should The Proposal Be Implemented.
3. Alternatives to the Proposed Action.
4. The Relationship Between Local Short Term Uses of Man's Environment and the Maintenance and Enhancement for Long-Term Productivity.
5. Any Irreversible and Irretrievable Commitments of Resources.

Comments on this Draft Environmental Impact Statement should be submitted (in duplicate) to: Mr. John Raymond, Department of Ecology, Olympia, Washington 98501; and to Mr. Joe MacKechnie, Engineering Department, 708 Municipal Building, Seattle, Washington 98104, before February 8, 1973. Thank you.

SUMMARY

Pursuant to the Clean Air Act Amendments of 1970, the Director of the Environmental Protection Agency has directed the Governor of the State of Washington to submit by February 15, 1973 a plan for reducing the bon monoxide and photochemical oxidants levels of automobile-related pollutants, such as carbon monoxide and hydrocarbons.

In Seattle, excessive concentrations of carhave been recorded in the Central Business District. Even though the concentrations measured are currently not at dangerous levels they do exceed the federal standards established by the Environmental Protection Agency. In addition to the CBD, hydrocarbon problems could potentially occur in the region of Interstate 90 following the completion of that roadway in 1978.

Much of the downtown pollution problem will be eliminated over the next five years by the gradual replacement of older automobiles by newer, less-polluting automobiles. The METRO transit program will make a significant contribution by increasing the percent of bus riders from its present 17 percent to a projected 21 percent of all persons traveling into the Central Business District. A program presently under way to improve the synchronization of signal lights will reduce idling and make a small contribution to the reduction of pollutants.

Additional nostrums will be necessary to achieve the desired levels of air quality. It should be stressed, however, that draconian measures which would destroy Seattle's downtown as a regional retail and business center would be as undesirable as the present air pollution levels. In particular, it is important to avoid measures which overly discriminate against the CBD and favor suburban shopping centers and the relocation of business to rural areas.

There are essentially two ways to reduce automobile pollutants. First, by reducing the amount of emissions from each individual vehicle. Second, by reducing the amount each vehicle is driven.

The emissions from new cars are substantially less than from older cars. Cars sold before 1968 and trucks sold before 1970 did not utilize exhaust emission control. A simple device, costing less than $40, will reduce the carbon monoxide levels of an uncontrolled car by almost 60 percent. If these devices were required to be installed on all older cars, a significant improvement in air quality could be achieved. If an annual inspection of the device were also required, an additional improvement would occur.

Studies in the Los Angeles CBD have indicated that as much as 20 percent of downtown traffic is "unnecessary." Drivers shopping for a less expensive or more convenient parking space, taking a circuitous route to their destination or simply lost, release substantial pollutants and create congestion for no purpose. A program of locating directional signs to reduce downtown traffic by moving it more quickly to its destination would reduce air pollution by a significant amount. If a uniform schedule of parking charges were established, drivers would go immediately to the nearest empty lot. Under a local improvement district, a system of driver advisories to the best parking (and to various businesses) could be developed. Such a program would result in additional reduction in pollution.

The number of automobiles in downtown Seattle can be reduced both by increasing the proportion of transit riders and by increasing the number of occupants of each

car. If the present average of 1.4 occupants/vehicle among persons working in the CBD could be raised to 1.7, a reduction in the number of vehicles would occur. This could be accomplished through an intensive program of computer-matching of employee home addresses and work location. If incentives were added to the program its chances of success would increase.

A major element in the solution will be the increase in bus patronage above and beyond that presently programmed by METRO. If overall patronage could be increased there would be a sufficient reduction in the number of vehicles entering the CBD to complete the mission of reducing air pollution to acceptable levels. However, the increase in bus ridership by this amount cannot be accomplished without some added incentives to an automobile driver. Increasing the cost of parking and controlling the location and amount of parking within the CBD would be critical to the success of any program to increase bus use or promote car pools.

One proposal would be to give the City the authority to regulate the development of new parking lots and to set the rates on existing privately operated lots. Transit operating subsidies should be paid from the State Motor Vehicle Fuel Tax proceeds. Constitutional prohibitions in such payments should be repealed.

Another important element in increasing bus ridership is the creation of a downtown environment which the pedestrian finds enjoyable. Specifically, pedestrian oriented circulation and land uses should be promoted. This might include sidewalk widening, shuttle systems, weather and climate protection such as arcades, colonnades and open plazas, street trees and "street furniture" and other pedestrian amenities.

PART I: INTRODUCTION

(NOTE.—Figures referred to are not reproduced in the RECORD.)

An Emergency Episode Plan provides for public notification when air pollution levels begin to present dangers to health. At the lowest level of warning voluntary cooperation in leaving automobiles at home will be asked for. At higher levels, portions of Seattle will be sealed off to all except emergency vehicles.

Surveillance of air pollution levels will be improved by the installation of additional carbon monoxide and nitrogen oxide monitors.

*What is air pollution?*

The restoration and preservation of environmental qualities, such as the air we breathe, has in recent years gained the interest and concern of citizens throughout our nation and the world. Increases in population, urbanization, mobility, and consumption, common elements of large cities and daily living, have created a complex problem of air pollution which is now threatening the health and well-being of all of us. Many air pollution authorities agree much still is to be learned about the adverse effects air pollution has on the environment and public health. Yet, sufficient evidence has been assembled that supports the argument that air pollution can kill, can impair health, wastes essential natural resources and threatens the delicate balance of natural systems on which all life depends.

What is air pollution? Is it as serious as it sounds? The study of air pollution problems has been gathering momentum over the last ten years. General pollutant types, their sources and their impact on man have been identified and, recently, steps begun to bring them under control.

A general classification of pollutants could be as follows:

TABLE I-1.—CLASSIFICATION OF POLLUTANTS

| Major classes | Subclasses | Typical members of subclasses |
|---|---|---|
| Organic gases | Hydrocarbons | Methane, butane, octane, benzene acetylene, ethylene, butadiene. |
| | Aldehydes and ketones. | Formaldehyde, acetone. |
| | Other organics | Chlorinated hydrocarbons, benzopyrene, alcohols, organic acid. |
| Inorganic gases | Oxides of nitrogen. | Nitrogen dioxide, nitric oxide, nitrous oxide. |
| | Oxides of sulfur. | Sulfur dioxide, sulfur trioxide. |
| | Oxides of carbon. | Carbon monoxide, carbon dioxide. |
| | Other inorganics. | Hydrogen sulfide, hydrogen fluoride, ammonia, chlorine. |
| Particulates | Solid particulates. | Dust, smoke. |
| | Liquid particulates. | Mist, spray. |

Source: "A Citizen's Guide to Clean Air", the Conservation Foundation; Washington, D.C; January 1972; p. 83.

From the classification list of pollutants, six are major elements of air pollution: (1) Sulfur Oxides, (2) Particulate Matter, (3) Carbon Monoxide, (4) Hydrocarbons, (5) Nitrogen Oxides, and (6) Photochemical Oxidants. The appendix of this document provides a description of the source, nature and adverse effects on health of each pollutant.

The sources of pollution are generally divided into five categories: transportation, fuel combustion in stationary sources, industrial processes, solid waste disposal, and miscellaneous sources. The amount of pollution these five sources produce is usually given in millions of tons per year of the six major pollutants.

TABLE I-2.—NATIONAL EMISSIONS OF MAJOR AIR POLLUTANTS: 1969 (LATEST YEAR FOR WHICH FIGURES ARE AVAILABLE)

[In millions of tons per year]

| Source | Sulfur oxides | Particulate matter | Carbon monoxide | Hydrocarbons | Nitrogen oxides | Total |
|---|---|---|---|---|---|---|
| Transportation | 1.1 | 0.8 | 111.5 | 19.8 | 11.2 | 144.4 |
| Fuel combustion in stationary sources | 24.4 | 7.2 | 1.8 | .9 | 10.0 | 44.3 |
| Industrial processes | 7.5 | 14.4 | 12.0 | 5.5 | .2 | 39.6 |
| Solid waste disposal | .2 | 1.4 | 7.9 | 2.0 | .4 | 11.9 |
| Miscellaneous | .2 | 11.4 | 18.2 | 9.2 | 2.0 | 41.0 |
| Total | 33.4 | 35.2 | 151.4 | 37.4 | 23.8 | 281.2 |

Note: Sulfur oxides are expressed as sulfur dioxide and nitrogen oxides as nitrogen dioxide in this table. Source: Environmental Protection Agency.

Table I–2 is useful in that it provides insight to identifying the principal contributors to each type of air pollution problem and estimates the amount each source emits.

Statistics of this kind are impressive, but the knowledge gained has a very limited use. When the emission from the various sources have been combined with local topographies and meteorological conditions, the problem becomes far more complex and must be dealt with at the local level. The amounts of contaminating emissions that prevail and the means for controlling them are details that must be ascertained and considered for each source in each locale.

*What is being done about air pollution control?*

Our nation began meeting the challenge of cleaner air as early as 1955 when the first federal control act was passed. Although that act was restricted to research into the nature and extent of the nation's air pollution problem, it marked the beginning of an era where environmental qualities would soon be placed at a higher value. Since 1955, Congress has passed the 1967 Air Quality Act and the Clean Air Amendments of 1970. Together, these Acts have provided stronger legal tools for controlling air pollution and an even larger mandate for citizen participation. The central thought of the federal air pollution control program has been: ". . . the prevention and control of air pollution at its source is the primary responsibility of states and local governments."[1] However, if the states fail to meet their control responsibilities, the federal government, acting through the newly established Environmental Protection Agency (EPA) has a responsibility and authority to establish and enforce pollution controls. To date, and with the assistance of each state, EPA has designated air quality control regions, developed air quality criteria, defined national ambient[2] air quality standards, and has begun formulating state implementation plans to meet and maintain those standards.

NATIONAL AMBIENT AIR QUALITY STANDARDS

In 1971 EPA established national ambient air quality standards specifying the maximum levels to be permitted in the ambient air for the six principal and most widespread pollutants. The levels are specified as "primary standards" (required to protect public health) and "secondary standards" (further reductions in particulates and sulfur oxides required to prevent the many other undesirable effects of pollution). Table I–3 lists the current National Ambient Air Quality Standards for the six major pollutants. Also included are the standards adopted by our local air pollution control agency—Puget Sound Air Pollution Control Agency (PSAPCA):

[1] "The Clean Air Act;" Environmental Protection Agency; Washington, D.C. December, 1970.

[2] "Ambient" as used in "ambient standard" refers to the outdoor air (atmosphere). Thus, ambient standards are limits on the total amount of pollutant permitted in a region's air.

TABLE I-3.—AMBIENT AIR QUALITY STANDARDS

| | National | | | | | | PSAQCR |
|---|---|---|---|---|---|---|---|
| | Primary | | | Secondary | | | |
| Sulfur oxides: | | | | | | | |
| Annual average | 80 ug./m.³ | 0.03 p.p.m. | a | 60 ug./m.³ | 0.02 p.p.m. | a | 0.02 p.p.m |
| 30-day average | | | | | | a | 0.04 p.p.m. |
| 24-hour average | 365 ug./m.³ | 0.14 p.p.m. | b | 260 ug./m.³ | 0.10 p.p.m. | a | 0.10 p.p.m. |
| 3-hour average | | | b | 1,300 ug./m.³ | 0.50 | | |
| 1-hour average | | | | | | c | 0.25 p.p.m. |
| 1-hour average | | | | | | a | 0.40 p.p.m. |
| 5-minute average | | | | | | d | 1.00 p.p.m. |
| Susp. part.: | | | | | | | |
| Ann. geometric mean | 75 ug./m.³ | | a | 60 ug./m.³ | | a | 60 ug./m.³ |
| 24-hour average | 260 ug./m.³ | | b | 150 ug./m.³ | | b | 150 ug./m.³ |
| Carbon monoxide: | | | | | | | |
| 8-hour average | 10 mg./m.³ | 9 p.p.m. | b | Same | | | Same. |
| 1-hour average | 40 mg./m.³ | 35 p.p.m. | b | Same | | | Same. |
| Photochemical oxidants: 1-hour average | 160 ug./m.³ | 0.08 p.p.m. | b | Same | | | Same. |
| Nitrogen oxide: Annual average | 100 ug./m.³ | 0.05 p.p.m. | a | Same | | | Same. |
| Hydrocarbons: 3-hour average | 160 ug./m.³ | 0.24 p.p.m. | b | Same | | | Same. |

Note: P.p.m.=parts per million; ug./m.³=micrograms per cubic meter; mg./m.³=milligrams per cubic meter.

a=Never to be exceeded; b=Not to be exceeded more than once per year; c=Not to be exceeded more than twice in 7 days; d=Not to be exceeded more than once in 8 hours.

To the average person, it may be difficult to grasp the meaning from the values stipulated in Table I-3. Appendix A provides some insight as to the effects the six pollutants have on health and should increase one's feel for what are good and bad levels of air pollution. It is valuable to know the amounts of pollutant emissions in proportion to the amount of air—that is, the number of parts of the pollutant for each million parts of air (abbreviated ppm) or the number of milligrams of pollutant for each cubic meter of air.

This information is necessary when effectiveness in methods of controls is being assessed or when an evaluation of the danger present at any given time is being made.

Although the maximum pollution concentrations were established by the Federal Government, states may set more stringent standards to protect against further degradation of air quality which may already be below the standards. Primary standards must be achieved by 1975 and secondary standards within a reasonable time period. The Act provides for a two-year extension where technology or alternatives will not be available soon enough to permit compliance with the standards.

*Control regions*

EPA has divided the nation into air quality control regions, the areas for which the standards were designed. The nation is now divided into some 250 control regions and large states often contain several regions. Control region boundaries were established based on consideration of climate, meteorology, topography, urbanization, and other factors affecting air quality. The State of Washington has been divided into six quality control regions as indicated in Figure I-1; Seattle is in the Puget Sound Intrastate Region.

*State and Regional Agencies*

DEPARTMENT OF ECOLOGY

Prior to 1967, authority for air pollution control activities at the state level was vested in the State Director of Health. A state air pollution control board existed but its functions were mainly advisory. The Washington Clean Air Act of 1967 established a State Air Pollution Control Board with power to adopt regulations, issue orders, hold hearings, and assume jurisdiction over certain classes of air pollution sources. The State Director of Health became the statutory chairman of the State Board; the head of the State Health Department Air Quality Control Section was appointed executive director.

The more significant legislation adopted by the State Air Pollution Control Board includes: setting air quality standards for carbon monoxide (1969) and sulfur oxides, suspended particulate, fluorides and particle fall out (1970); and assuming jurisdiction over Kraft mills and aluminum plants. In 1968, the State Board assumed jurisdiction over motor vehicles "for the purpose of controlling air contaminant emissions resulting from the operation of such motor vehicles." The regulation prohibited the removal or by-passing of any auto emission control device required by federal law.

The Washington Environmental Quality Reorganization Act of 1970 created the State Department of Ecology (DOE), and transferred from existing state agencies those powers, duties and functions with reference to air and water pollution control and disposal of solid wastes to the Director of DOE. A seven-man Ecological Commission was created, but only for advice and guidance to the Director. To date the Director of DOE has adopted regulations assuming jurisdiction over sulfite pulping mills, establishing an emergency Episode Plan for the State; amending air quality standards adopted by the now-defunct State Air Pollution Control Board; establishing new air quality standards for photochemical oxidants, hydrocarbons and nitrogen dioxide; and establishing regulations for control of stationary air pollution sources in areas of the state not covered by regulations of local air pollution control authorities. These regulations were all adopted in 1972.

*Puget Sound Air Pollution Control Agency*

The first municipal air pollution control regulation in King County was adopted by Seattle in 1961. In 1966, King County joined with Seattle to form a countrywide air pollution control program. The Seattle-King County Director of Public Health became the enforcing officer. The County Commissioners, sitting as a County Board of Health, adopted countywide air pollution control regulations later that year. In 1967, the Washington State Clean Air Act was passed. Among many important features of the Act was one creating a multicounty air pollution control authority for King, Pierce and Snohomish Counties, effective June 8, 1967.

By the end of June, 1967, a governing body for the new authority had been named, a budget was adopted, and the authority named "Puget Sound Air Pollution Control Agency" (PSAPCA). In July, 1967, the Board of Directors (governing body) appointed an Air Pollution Control Officer; personnel of the air pollution control division of the Seattle-King County Health Department and Tacoma-Pierce County Health Department were transferred to the new agency.

The State Clean Air Act authorized enforcement of existing municipal or county air pollution control regulations until superseded by multicounty regulations. In March, 1968, the Agency's Board of Directors adopted Regulation I which, together with the Clean Air Act, became the primary law for control of air pollution from stationary sources in the counties of King, Pierce and Snohomish. Effective January 1, 1970, the Agency's authority to control air pollution was extended to Kitsap County.

Regulation I has been amended several times to date (December, 1972). Some of the more significant amendments were: setting a 10% process weight limit on sulfur compounds emitted from a manufacturing process; setting standards for sulfur dioxide emissions from fuel burning sources; adopting air quality standards equivalent to or more stringent than national secondary air quality standards; adopting the civil penalty powers authorized by the State Clean Air Act; and implementing the "one-permit" system as directed by the state legislature for regulation of open burning.

Commencing in 1969, the Agency developed a "compliance schedule" program that is proving effective in achieving over industrial air pollution sources, open burning, and incineration practices. As of June 30, 1972, 177 compliance schedules have been completed, and 77 were on active status. The Agency keeps a cumulative record of emissions reduction estimates accomplished through compliance schedules and other remedial measures. As of December, 1972, more than 49,000 tons/year of a wide variety of pollutants that were being emitted in 1967 have been removed from the air.

*Air pollution—Does Seattle have a problem?*

Normal day-to-day activities, fluctuating seasons and occasional scenic glances provide the local citizens with only a casual relationship and awareness of varying levels of air quality. Degrees of air pollution in Seattle are not always obvious to the city's residents and visitors outside of an occasional hazy day. However, careful measurements of Seattle's air quality do indicate that air pollution is a problem and the federal standards are being exceeded.

The Puget Sound region is fortunate in that monitoring pollution emission has been under way since the late 1960's. Monitoring programs have been carried out jointly by the Washington State Department of Ecology (DOE), the Puget Sound Air Pollution Control Agency (PSAPCA), and just recently the Environmental Protection Agency (EPA-Region X). Consolidation and interpretation of emission measurements have been a primary task of the Puget Sound Air Pollution Control Agency (PSAPCA). PSAPCA, in their annual report, display an emission inventory for five of the six major pollutants. Emission estimates from the area-wide sources (e.g. automobiles) and approximately 200 point sources (e.g. industrial plants) within the Puget Sound region are presented in Table I-4.

TABLE I-4.—1970 EMISSIONS INVENTORY FOR PUGET SOUND REGION

[Tons per year]

| Sources | Particulate | $SO_2$ | CO | HC | NOx |
|---|---|---|---|---|---|
| Fuel combustion | 15,598 | 23,310 | 8,399 | 4,623 | 27,059 |
| Residential-area: | | | | | |
| Bituminous coal | 54 | 60 | 245 | 54 | 9 |
| Distillate oil | 1,069 | 3,231 | 523 | 330 | 4,110 |
| Natural gas | 186 | 6 | 170 | 79 | 489 |
| Wood | 1,617 | 16 | 5,429 | 1,271 | 1,155 |
| Residual oil, LPG | 21 | 172 | 12 | 7 | 44 |
| Commercial-industrial-institutional: | | | | | |
| Bituminous coal point | 1,301 | 350 | 80 | 20 | 228 |
| Distillate oil: | | | | | |
| Area | 629 | 1,755 | 83 | 126 | 2,994 |
| Point | 141 | 420 | 19 | 28 | 679 |
| Residual oil: | | | | | |
| Area | 1,020 | 7,778 | 89 | 131 | 3,128 |
| Point | 1,299 | 9,391 | 100 | 154 | 3,524 |
| Natural gas: | | | | | |
| Area | 140 | 5 | 33 | 263 | 897 |
| Point | 316 | 10 | 61 | 604 | 2,028 |
| Wood: | | | | | |
| Area | 12 | 0 | 4 | 3 | 16 |
| Point | 7,783 | 116 | 1,546 | 1,540 | 7,709 |
| LPG: | | | | | |
| Area | 6 | 0 | 2 | 7 | 28 |
| Point | 4 | 0 | 3 | 6 | 21 |
| Industrial processes | 20,670 | 182,066 | 9,627 | 13,520 | 488 |
| Area | 608 | 1,804 | 64 | 3,579 | 14 |
| Point | 20,062 | 180,262 | 9,563 | 9,941 | 474 |
| Solid waste disposal | 4,891 | 59 | 23,782 | 5,100 | 566 |
| Incineration: | | | | | |
| On-site: | | | | | |
| Area | 349 | 48 | 476 | 286 | 80 |
| Point | 865 | 4 | 1,884 | 276 | 45 |
| Open burning: | | | | | |
| On-site: | | | | | |
| Area | 2,022 | 0 | 12,563 | 2,789 | 226 |
| Point | 270 | 2 | 758 | 64 | 31 |
| Dumps: | | | | | |
| Area | 6 | 0 | 42 | 16 | 3 |
| Point | 74 | 5 | 384 | 134 | 27 |
| Slash burning: Area | 1,305 | 0 | 7,675 | 1,535 | 154 |
| Transportation | 7,317 | 7,852 | 1,113,943 | 200,098 | 123,346 |
| Motor vehicles: | | | | | |
| Gasoline | 3,584 | 2,150 | 1,082,893 | 180,851 | 109,989 |
| Diesel | 558 | 1,003 | 7,240 | 1,448 | 7,573 |
| Off-highway usage | 35 | 21 | 10,318 | 1,745 | 1,058 |
| Aircraft | 2,211 | 1,177 | 10,995 | 6,152 | 1,383 |
| Railroad | 354 | 884 | 997 | 705 | 1,067 |
| Vessels | 574 | 2,617 | 1,460 | 1,077 | 2,257 |
| Evaporation losses | 0 | 0 | 0 | 8,109 | 0 |
| Liquid petroleum gas | 1 | 0 | 40 | 11 | 19 |
| Miscellaneous area sources | 1,475 | 0 | 8,675 | 23,876 | 174 |
| Agricultural burning | 170 | 0 | 1,000 | 200 | 20 |
| Wild fire | 1,305 | 0 | 7,675 | 1,536 | 154 |
| Evaporation losses | 0 | 0 | 0 | 22,140 | 0 |
| Total emissions | 49,951 | 213,287 | 1,164,426 | 247,217 | 151,633 |

Source: PSAPCA.

The most obvious conclusion derived from Table I–4 is that gasoline-powered vehicles account for the bulk of CO, HC, and $NO_x$ emissions while fuel combustion (stationary) and industrial processes account for most of the particulate and $SO_2$ emissions.

Knowing the amount (tons per year) and sources of emission is not sufficient in itself to determine whether or not there are air pollution problem areas within the Puget Sound region. It is useful for determining where to direct controls once a problem has been found; however, more definitive data such as concentration measurements are required for locating air pollution problems and defining control programs.

Monitoring stations throughout the Puget Sound region have made it possible to estimate the levels of pollutant concentrations. Seven sites in the Seattle area have provided PSAPCA with concentration measurements since January, 1970. The approximate location of those stations and the time period for which data has been collected are illustrated in Figure I–2.

The assessment of the air pollution problems for Seattle is based upon the data acquired at those seven locations, other research data provided by PSAPCA, the GCA Corporation of Bedford, Massachusetts (air pollution consultants for EPA—Region X) and Mathematical Sciences Northwest (air pollution consultants to the City).

Part V of this document provides a program for increasing the existing surveillance system.

*Particulates*

Under the earlier implementation plan which was filed with the Environmental Protection Agency on January 31, 1972, the Puget Sound region will meet the primary particulate standards before 1975. In order to meet the secondary standards, strategies must be developed which will continue to reduce the particulate problem of that area after all point sources are in compliance and before new industry is added. Strategies are presently being developed to meet this standard; however, it is not necessary to discuss those in this document at this time.

*Sulfur Dioxide*

The PSAPCA's standards for $SO_2$ are now more stringent than the National Ambient Air Quality Standards. Assuming that the single major source of $SO_2$ (i.e., industrial processes) meets the variance schedule on time, no problems in controlling this pollutant are expected by 1975.

*Nitrogen oxides*

Measurements taken by the Environmental Protection Agency's National Air Sampling Network have recorded violations of the Nitrogen Oxide standards in the Seattle CBD However, the measurement technique which was utilized has since been acknowledged by EPA to produce high readings. Measurements taken by the Puget Sound Regional Air Pollution Control Agency since February, 1971 by another, generally accepted technique have never recorded readings anywhere in the region in excess of the federal standards. EPA has not required Washington to provide strategies to reduce Nitrogen Oxides.

*Carbon monoxide* [3]

For the Seattle area, carbon monoxide concentrations have been observed at the seven monitoring sites for the highest one-hour and eight-hour concentrations. The national one-hour standard of 35 ppm was reached or exceeded once at I–5 and Dearborn (October, 1970) and once at the City Municipal Building (February, 1972). At the City Municipal Building high concentrations are consistently experienced during working hours all four seasons. The concentration increases sharply to an early morning maximum at about 8 AM local time, remains at high levels throughout the middle of the day, increases to the maximum for the day at about 4 PM local time, and decreases abruptly thereafter to a fairly uniform evening level. As would be expected, the lowest concentrations are experienced between 2 AM and 5 AM local time, when traffic flow is at a minimum. The daily variations experienced at I–5 and Dearborn and at Westlake Mall are roughly similar to the daily variation at the Municipal Building, but the amplitudes of the curves are greatly reduced. Also, concentrations at I–5 and Dearborn remain relatively high throughout the evening. Concentrations at Duwamish, McMicken Heights, and Food Circus remain low at all times of the day.

Of the recent measurements, only the Municipal Building readings exceeded the federal eight-hour standards of 9 ppm. Between August, 1971 and July, 1972, the federal eight-hour standard was exceeded 726 times. The highest concentrations usually occurred between 6 AM and 6 PM; the highest eight-hour between 9 AM and 5 PM (see Figure I–3).

Table I–5 lists the highest and second highest one-hour and eight-hour average concentrations observed in Seattle between January, 1970 and July, 1972.

[3] The interpretation of CO data contained herein was extracted from G.C.A. Corporation's draft Transportation Implementation Plan for Seattle. Additional data and findings can be found in that report being distributed by the EPA—Region X Office.

TABLE I–5.—SUMMARY DATA FOR ESTIMATING REQUIRED REDUCTIONS IN CO EMISSIONS

| Station, sampling period, and averaging time | Concentration (p.p.m.) | | | Reduction required, percent based on— | |
|---|---|---|---|---|---|
| | Highest | 2d highest | National standard [1] | Highest | 2d highest |
| I–5 and Dearborn,[2] July 1970 to October 1970: | | | | | |
| 1 hour | 35 | 28 | 35 | 0 | 0 |
| 8 hours | 21 | 20 | 9 | 57 | 55 |
| Municipal building, July 1971 to July 1972: | | | | | |
| 1 hour | 38 | 31 | 35 | 8 | 0 |
| 8 hours | 21 | 20 | 9 | 57 | 55 |

[1] Not to be exceeded more than once per year.
[2] Used in implementation plan.

Source: Environmental Protection Agency—Region X.

It would have been necessary to reduce the levels of carbon monoxide by 57 and 55 percent on the two worst days in order to avoid violating the primary standards. The central assumption of the plan here presented is that the levels of air pollution are directly proportional to the amount generated at the surface. Thus, a reduction of carbon monoxide generated by traffic of 57 percent is assumed to result in reducing the carbon monoxide in the air by 57 percent.

The regulations of the Environmental Protection Agency permit the calculation of maximum allowable levels of pollutant emission either by such a proportion calculation or by a more sophisticated "diffusion model" (36 F.R. 15490). The diffusion model utilizes specific information on the local topography, meteorology and the location of specific stationary and mobile (automobiles, etc.) sources to predict the actual concentration of the pollutant at a given time and place. Such models require a substantial data base to develop.

Since there is a lack of ambient air quality monitoring data available to adequately define the air pollution problem in the City of Seattle. Part V of this document recommends a surveillance and analysis program for improving the reporting, monitoring, and interpretation of air pollution data. Such a program will permit the development of a diffusion model for future revision of this plan.

However, the data that has been collected to date does indicate that a carbon monoxide problem exists in the Central Business District of Seattle. The Environmental Protection Agency has located two additional monitoring stations in the Seattle CBD to check the validity of the I–5, Westlake Mall and Municipal Building sites. The data collected over the next three months should provide the opportunity for verifying the data listed in Table I–5.

With respect to carbon monoxide sources, motor vehicles were estimated to produce approximately 93 percent of the carbon monoxide emitted in the Puget Sound Intrastate Air Quality Control Region in 1970. Any strategy to control carbon monoxide must therefore emphasize control of carbon monoxide from motor vehicles.

*Photochemical oxidants and hydrocarbons*

The barely understood pollution products of photochemical processes, the chemical changes due to sunlight, are commonly lumped together under a general heading of photochemical "smog" (Los Angeles type). The sun plays a major part because its energy can be absorbed by nitrogen dioxide ($NO_2$) in the presence of some hydrocarbons.

Photochemical oxidant production is often a function of the hydrocarbon to $NO_x$ emission ratio, and thus a reduction in hydrocarbons will aid in reducing photochemical oxidant production. Based on the federal primary one-hour standards for carbon monoxide and photochemical oxidant which were set with health effects in mind, photochemical oxidant is approximately 250 times as potent as carbon monoxide.

The national standard for the highest one-hour concentration of total oxidants was exceeded 85 times at the I–5 and Dearborn site during a four-month period (July to October, 1970). This oxidant data was not corrected for nitrogen dioxide, however. At other sites in Seattle, the standard was exceeded six times at the Duwamish site (only a two-month sample period is available at this time), and three times at the Food Circus for the sample period beginning January, 1970 and ending May, 1972.

Table I–6 lists the highest and second highest one-hour average oxidant concentration of the day for each month at each oxidant monitoring site. Given the oxidant values and knowing the ratio of oxidants produced to hydrocarbons emitted, the percent reductions required in HC emissions were tabulated (also included in Table I–6).[4]

[4] Ibid. 3

TABLE I–6.—SUMMARY DATA FOR ESTIMATING REQUIRED REDUCTIONS IN HYDROCARBONS EMISSIONS

| Station, sampling period, and averaging time | Oxidant concentration (p.p.m.) | | | Reductions in hydrocarbons required percent based on | |
|---|---|---|---|---|---|
| | Highest | 2d highest | National standard [2] | Highest | 2d highest |
| I—5 and Dearborn,[1] July 1970 to October 1970: 1 hour | 0.16 | 0.15 | 0.08 | 53 | 48 |
| Food Circus, January 1970 to May 1972: 1 hour | .11 | .10 | .08 | 26 | 18 |
| Duwamish, June 1972 to July 1972: 1 hour | .13 | .10 | .08 | 38 | 18 |

[1] Used in implementation plan. Only values measured between 0900 and 1600 P.s.t. were considered.

[2] Not to be exceeded more than once per year.

Source: Environmental Protection Agency—region X.

As with CO, strategies must be directed toward control of automotive hydrocarbon emissions if the federal standards are to be met. The Federal Motor Vehicle Emission Control Program has been projected by the GCA Corporation as being sufficient to reduce the hydrocarbon emissions to acceptable levels.

*Can Seattle's air be cleaned up?*

Regional and State programs have been developed to control most of the pollutants emitted from stationary sources; however, a clean air implementation plan for mobile sources has not been previously developed.

Following promulgation of the National Ambient Air Quality Standards by the EPA Administrator on April 30, 1971 (36 F.R. 8186) each state, within nine months, was required to adopt and submit to the Administrator, a plan which provides for the implementation, maintenance and enforcement of national ambient air quality standards within each air quality control region of the state.

The State of Washington submitted its implementation plan on January 28, 1972. At that time a request was made for a two-year extension for attainment of the standards for carbon monoxide, nitrogen dioxide, and photochemical oxidant in the Puget Sound Interstate Air Quality Control Region, and carbon monoxide in the Eastern Washington-Idaho Interstate Air Quality Control Region.

The State of Washington was advised on May 31, 1972 through publication of regulations in the Federal Register (37 F.R. 10842) that this extension was granted and that no later than February 15, 1973, a transportation control plan must be submitted:

"52.2479 Transportation and land use controls:

"(a) To complete the requirements of 51.11 (b) and 51.14 of this chapter, the Governor of Washington must submit to the Administrator:

"(1) No later than February 15, 1973, the selection of the appropriate transportation control alternative and a demonstration that said alternative, along with Washington's presently adopted source emission limitations for hydrocarbons and carbon monoxide and the Federal Motor Vehicle Control Program, will attain and maintain the national standards for photochemical oxidants hydrocarbons) in the Puget Sound Intrastate Region and for carbon monoxide in the Washington portion of the Eastern Washington-Northern Idaho Interstate Region by June, 1977. By this date (February 15, 1973), the State also must include a detailed timetable for implementing the legislative authority, regulations, and administrative policies required for carrying out the transportation control alternative by June, 1977.

"(2) No later than July 1, 1973, the legislative authority that is needed for carrying out the required transportation control alternative.

"(3) No later than December 30, 1973, the necessary adopted regulations and administrative policies needed to implement the transportation control alternative."

The subsequent parts of this document provide a plan which exhibits a potential for meeting the above requirements and improving the air quality of the Seattle area.

*1977 air quality levels*

The previous sections of this document have introduced to the reader known facts about air pollution and how pollution relates to Seattle's air quality. The sections that discussed carbon monoxide, photochemical oxidants and hydrocarbons—using today's air quality (1971 data) and comparing it to the 1975 federal standard—demonstrated that if the standards were imposed now, areas of Seattle would exceed the carbon monoxide standard by an estimated 57 percent and the hydrocarbon standard by 53 percent (computed from highest 1971 measurement on several occasions during the year). Because the federal standards for the State of Washington are to be met by 1977, it becomes necessary to look at air quality relative to that time. Projecting today's problems into the future enables governmental agencies and private organizations an opportunity to gauge the magnitude of the future problem and to evaluate control strategies for achieving the federal requirements by 1977.

Given the limited data base and the difficulty of making any accurate projections into the future, the only reasonable estimates of the 1977 air pollution levels in Seattle have been made by two consulting firms under contract to the Environmental Protection Agency (EPA). These firms are the G.C.A. Corporation of Bedford, Massachusetts, responsible for assessing the severity of the existing and future levels of air pollution, and A. M. Voorhees and Associates of Seattle, Washington, responsible for analyzing the relevant transportatin characteristics. These firms were retained by EPA to identify potential control strategies in the event the Administrator of EPA disapproved the State (DOE) plan or portions thereof, or should the State fail to submit a plan or portions thereof.

The methodology presented in the G.C.A. Corporation's draf report of December, 1972 and their evaluation of Seattle's 1977 air quality is representative of the current state of the art. For these reasons, their methodology and estimates of the 1977 air quality levels for Seattle have been adopted as part of this document. The following is a summary of sections two and three of the G.C.A. report. (If more definitive information is required, a copy of the report can be obtained from the EPA—Region X office located in Seattle, Washington.)

Methodology

Computation of vehicle-miles of travel (VMT) within high traffic density areas of the Puget Sound Control Region for the estimation of vehicle emissions and subsequent evaluation of air quality is the first step toward developing transportation control strategies that will achieve air quality standards for carbon monoxide and oxidants by 1977. The steps in the procedure include selection of critical areas by inspection of traffic counts, calculation of vehicle-miles of travel for 1971, and projection of vehicle-miles of travel to 1977 based on recent growth trends.

Vehicle-mile data for the Puget Sound Region were developed by the Washington State Highway Department and the Puget Sound Governmental Conference. These data, however, were either for the region as a whole or were for specific facilities within the region. Therefore, a methodology had to be developed to provide data on vehicle miles of travel for small areas within the region where air pollution emissions were high and air quality was poor.

One-square-mile grids were plotted on USGS maps at a scale of 1:24,000. Using a twenty-four hour average daily traffic (ADT) flow map produced in 1969 for the Puget Sound Region by the Puget Sound Governmental Conference, areas of greatest traffic concentration were selected for coverage with these mile-square grids. Initially, 19 square-mile grids were analyzed in the Seattle, Tacoma and Bellevue area. In taking areas of one square mile, some much smaller areas of high traffic concentration are not clearly illuminated as potential pollution problems. These areas will require a more fine-grained analysis during future studies for revisions in the implementation plan.

Data was collected from screen line and arterial traffic counts so that the hourly traffic profile could be evaluated. Figure I–4 shows the profile for the Seattle Ship Canal Crossings. For each grid square, the emissions in grams were estimated using the Environmental Protection Agency's curves that relate grams emitted per vehicle-mile to average speed. The emissions calculated for grids where air quality measurements were available were adjusted by the ratio of the measured air quality to the federal standards. The adjusted emissions total was used as a base to test other grids.

In order to ensure that calculations of vehicle-miles of travel were available for all potential "hot spots" of poor air quality, additional grids were added to the system until it appeared that coverage was achieved where the grids with high emission levels were surrounded by grids with emissions below critical level. The Seattle level total was increased to 50 grids as shown in Figure I–5.

For estimating 1977 vehicle miles of travel the following assumptions were used:

1. The distribution of vehicle miles of travel by type of vehicle is the same as 1971.
2. The daily traffic profile is the same as 1971.
3. The implementation of the METRO bus system, starting in 1973, will cause patronage to increase by 1977 more than 23 percent in Seattle, and over 600 percent in the suburbs. A copy of "A Transit Plan for the Metropolitan Area," which details the plan for the development of the METRO Transit System, adopted by the Metropolitan Council, is attached to this document.
4. The King County Domed Stadium will be open in the fall of 1975 just south of downtown Seattle. It is assumed that few events will begin or end during weekday peak hours. (A City ordinance may be necessary to insure the validity of this assumption.) Unless Saturday VMT grows excessively by 1977, it is assumed that an analysis of weekday travel under non-stadium conditions would provide a reasonable evaluation for the grid zone.

Using the above assumptions as guidelines, 1971 and 1977 total daily vehicle-miles of travel were calculated for the one-mile-square grids of Seattle and are exhibited in Figure I–6.

*Estimation of Carbon Monoxide Levels*

Emission densities were calculated by G.C.A. for all 50 one-mile square zones for 1971 and 1977 using:

1. The total daily vehicle-miles of travel for each square mile grid.
2. The average speeds on various streets in the grid.
3. Non-vehicular emissions accounted for 4 percent[5] of the total for King County. For the Seattle Central Business District (CBD), 2 percent of CO was estimated to be from non-vehicular sources.
4. It is assumed that the Federal Motor Vehicle Emissions Control Program will have been achieved by 1975 and 1976. This program stipulates that new motor vehicles manufactured in 1975 must emit 90 percent less carbon monoxide and hydrocarbons than 1970 models. By 1976, emissions of oxides of nitrogen must be reduced 90 percent from the 1971 model level. It is assumed that auto manufacturers will meet this requirement on time. If not, the 1977 estimates will be recalculated and additional control measures may be adopted. An estimate of the emissions from each model year of light duty and heavy duty vehicles were made by GCA.
5. The estimates of the increase in bus ridership as a result of the METRO transit plan.

Computing the kilograms of CO emitted/maximum 8-hour period/square-mile (kgm/8hr/mi²) for each of the grids yielded the values illustrated in Figure I-7. The 1971 value of 14,301 kgm/8hr/mi² in the Seattle CBD is assumed to correspond (with the inclusion of 292 kgm/8hr/mi² due to stationary sources) to the air quality measurements of 20–21 ppm (measured at the Seattle Municipal Building). When this is reduced by 55 percent to meet the primary standard, the allowed emission level from mobile sources can be calculated.

Comparing this value to the values in Figure I-7 one finds the primary CO standards being satisfied throughout the City by 1977 with the exception of Seattle's CBD.

TABLE I–7.—*CO Data for CBD Zone (Zone 21)*

| | *kg/8hr/mi²* |
|---|---|
| 45% of 1971 emissions (CO) | 6567 |
| Stationary sources | −292 |
| CO standard to be met | 6275 |
| Estimated 1977 CO emitted by vehicles (using assumptions) | 8032 |
| Maximum to meet CO standard | −6275 |
| Remaining to be reduced by additional transportation controls | 1757 |

To achieve the 8-hour average CO standard throughout the CBD will require an additional reduction in CO emissions from motor vehicles of about 1800 kgm/8hr/mi². The 1-hour average CO level would be well within the primary standard throughout the city with the implementation of strategies to meet the 8-hour standard.

Estimation of Oxidant and Hydrocarbon Levels

The following basic assumptions were used by G.C.A. in estimating 1971 and 1977 hydrocarbon emission densities:

1. The assumptions used for estimating 1977 CO concentrations also apply to estimating hydrocarbon concentrations.
2. The local air mass of concern is the one having the highest hydrocarbon content. Its source is the central Seattle region defined by Zones 7 through 29, where maximum vehicular emissions occur.
3. Hydrocarbons from non-vehicular sources are uniformly distributed throughout the city of Seattle.
4. The amount of hydrocarbon emissions within Seattle is directly related by population to total emissions within King County.

Figure I–8 shows the 1971 and 1977 three-hour hydrocarbon emissions densities calculated for the Seattle area from mobile sources. For the 23 square mile area (zones 7 through 29) the following was derived:

TABLE I–8.—HC DATA FOR CENTRAL 23 ZONES

Estimated 1977 HCkg/3hr/23mi² emitted by vehicles (using assumptions), 3063.

National HC Standard (kg/3hr/23mi²), 4089.

1977 National HC Standard is satisfied.

The data available at the present time indicates that photochemical oxidants and hydrocarbons in the Seattle area will fall within the national standards by 1977 without the imposition of special transportation control strategies.

In late 1978 a new Interstate freeway is expected to be completed in a corridor connecting Interstate 5 and the Lake Washington Bridge (Interstate 90). Studies conducted by Mathematical Sciences Northwest, a consultant to the City of Seattle, indicate that there is sufficient reason to believe that soon after opening, the potential for hydrocarbon levels in excess of the Federal Primary Standard will exist over a substantial portion of the valley between Mount Baker Ridge and First Hill.

The ridge system engenders stable atmospheric conditions, slow wind speeds and frequent inversions. Extensive data from nearby Boeing Field showed air stability patterns D and E 86 percent of the time with prolonged stagnation periods from 1 to 5 days 71 times in a 36-month period.

Given the calculated pollutant emission levels and the known meteorological data available, this area is sufficiently presumptive of potential violation of standards to warrant the development of a diffusion model to evaluate the air quality problems which might be anticipated in 1978 and the potential results of possible solutions. Such an investigation will be conducted by the City of Seattle and the results will be contained in the next Semi-annual Report.

PART II: CITIZEN INVOLVEMENT

*The evolution of a plan*

On April 30, 1971 the Environmental Protection Agency (EPA) set the "National Ambient Air Quality Standards" for the six major air pollutants. Within nine months thereafter each state was required to adopt and submit a plan which provided for implementation, maintenance and enforcement of the federal standards by 1975 within each air quality control region. Prior to the original submission of the Washington Implementation Plan on January 18, 1972, hearings were conducted in both Seattle and Spokane. The Seattle hearing was held on January 5, 1972, at which time approximately 60 persons attended (speakers and non-speakers).

[5] An estimate of local stationary source contributions.

Following the State's submission of the plan to the federal government, EPA approved all but four parts of the plan on May 31, 1972. One of these was the control of transportation emissions. EPA requested the preparation of a more detailed transportation control plan by the State for EPA's review by February 15, 1973.

In formulating the Seattle area transportation control plan, two processes were initiated. First, EPA retained a private consulting firm to develop transportation control strategies for Spokane and Seattle areas, in the event the State did not present a plan for controlling CO, $NO_x$ and HC. That effort began on August 20, 1972 and was completed during January, 1973. During the course of that study, several meetings were held by EPA to report the progress to various governmental agencies. A representative of the Air Quality Coalition, a Seattle organization, attended some meetings. Additionally, one of the consultant's staff met with various public officials for discussions of strategies.

The second planning effort was generated by the EPA study. The work being done by the consultants for EPA, the exposure of the general public to the requirements of the federal program through the media, and the desire by local governmental agencies to accept the responsibility for meeting the challenge of controlling air pollution spurred on the organization of two committees. The first was formed by the Seattle Chamber of Commerce with a membership including representatives from the Central Association, the Seattle Chamber and community groups. In parallel, Wes Uhlman, Mayor of Seattle, invited local, regional and State governmental agencies to participate on a technical committee. The A. M. Voorhees consulting firm was retained by the Department of Ecology to assist in evaluating strategy alternatives. Using the EPA/G.C.A. plan and the recommendations of the Chamber Committee, the technical committee prepared this implementation plan.

During the course of formulating the Seattle area plan, attempts were made to inform the public of the plan development and its content prior to its completion. An informational meeting was held with the Transportation Policy Advisory Committee of Puget Sound Governmental Conference on December 5, 1972. A similar meeting was held with the Seattle City Council Transportation Committee on December 12, 1972 and the King County Council on December 15, 1972. During the months of November and December 1972, numerous newspaper articles explained the air pollution problem in Seattle and what the requirements are of the Federal Air Quality Act for correcting the problem. During January 1973 news articles were published outlining the details of the plan being proposed for submision to the EPA.

On January 8, 1973 a one-hour "public meeting" was televised by KCTS–TV, Channel 9. This program followed the format of a public meeting with a panel of "experts" explaining the problem and proposed solutions and a studio audience asking questions and making comments. Approximately one-half hour was allotted to questions and comment by the audience. In addition to answering questions from the studio audience, a telephone number was announced for the viewing audience to call and ask questions of several engineers and technicians who were instrumental in developing the proposed plan. More than 45 calls were received. The complete program was video taped to be broadcast again on January 11, 1973. The League of Women Voters and the Air Quality Coalition played a major role in organizing the KCTS–TV program.

Public notice of the formal hearing on the transportation addendum to the State Implementation Plan was required to be given 30 days prior to the formal hearing. On January 9, 1973 the hearing for February 8, 1973 was publicly advertised as a joint hearing sponsored by Seattle's City Council and the Department of Ecology.

At this time a public meeting is scheduled on January 17, 1973 by the Seattle City Council Transportation Committee and a public seminar is scheduled for February 3, 1973 by the Air Quality Coalition. Presentations of the implementation plan have been requested by the Municipal League, the American Society of Civil Engineers and other community and professional organizations.

*Continued citizen involvement*

These six steps are suggested to citizens as a preparation for participating in the hearing scheduled for February 8, 1973: [6]

1. Know what is meant by air pollution,
2. Know what the air pollution problem is in the Seattle area,
3. Know who the responsible agencies are for the Seattle vicinity and the State of Washington,
4. Know the existing air pollution laws,
5. Prepare a critique of the proposed plan, and
6. Use the critique as testimony at the hearing.

Part I of this document should provide adequate insight to each of the above steps. If additional information is needed, the Environmental Protection Agency—Region X of Seattle has valuable documents for public use and study.

Following the formal hearing on February 8, 1973 and the receipt of public critiques, the plan must be submitted by the Governor to EPA by February 15, 1973. Within four months from the date of submittal, the EPA must approve or disapprove the plan or a portion thereof. Legislative authority that is required for carrying out the transportation control alternates must also be demonstrated by December 30, 1973. While the hearing of February 8, 1973 is the time for a critical look at the plan, it is apparent that continued citizen involvement is needed to ensure that the elements of the plan will be implemented. Figure II–1 further illustrates the steps for adoption of an Implementation Plan.

Revisions

The plan can be revised from time to time, as may be necessary, to take account of:

(1) Revisions of national standards,

(2) The availability of improved or more expeditious methods of attaining such standards, such as improved technology or emission charges or taxes, or

(3) A finding by the Administrator that the plan is substantially inadequate to attain or maintain the national standard which it implements.

Revisions of the rules and regulations included in the plan would be adopted after reasonable notice and public hearings. Those revisions can be described in the semi-annual report, described in the following section.

Reports

Two types of reports are required, a quarterly report and a semi-annual report:

(a) On a quarterly basis commencing with the end of the first full quarter after approval of the plan, the State will submit to the Administrator (through the appropriate Regional Office) information on air quality. The quarters of the year are January 1–March 21, April 1–June 30, July 1–September 30, and October 1–December 31.

(b) On a semi-annual basis commencing with the end of the first full semi-annual period after approval of the plan, the State will submit to the Administrator (through the appropriate Regional Office) reports on progress in carrying out the applicable plan. The semi-annual periods are January 1–June 30 and July 1–December 31.

(c) The reports required by this section will be submitted within 45 days after the end of each reporting period.

Therefore, over the next four years, there will be substantial opportunity for citizen review of the program. If the plan herein recommended proves not to be adequate, new strategies must be developed and submitted for public reaction as a part of the revision. If the plan is more than adequate to provide the desired levels of air quality, various strategies might be deleted.

PART III: TRANSPORTATION CONTROL PROGRAM

*Introduction*

There are a number of techniques that can be used to work toward reducing air pollution and achieving acceptable ambient air quality levels. Various strategies being tried in other parts of the world were presented in December, 1972 in a report by the 22-nation Organization for European Economic Cooperation and Development (OECD). The report stated that more than 70 cities in Western Europe have barred autos from key downtown areas among other efforts to curb growing air pollution problems. In Vienna, bus only zones have been designated in downtown areas during the hours from 10:30 AM to 7:00 PM; delivery trucks are allowed to function only in the mornings (7:00 AM to 10:30 am); and plans are being developed to provide expanded car-free zones. In Goteborg, Sweden, only trolley cars and buses are allowed to cross the downtown area with all other traffic using a "ring road" leaving and entering specific downtown precincts by special routes. In West Germany staggered work hours have been adopted by 2,000 firms. Marseilles tested a total ban on downtown parking while traffic was allowed to move freely; the net result was a 40 percent reduction in carbon monoxide emissions. The most significant finding of OECD was that in these European cities "there was firm evidence that automobiles can be kept out of limited areas without hurting retail sales downtown."

In the United States, the techniques are similar to those being used in Europe with variations according to the characteristics of the individual problems. Portland, New York, Washington, D.C. and other cities confronted with air pollution problems are adopting measures such as annual emission inspection programs and improved transit service to reduce the CO, HC and $NO_x$ emissions. Washington, D.C. has also included a car pool locator service, downtown parking restrictions, and the installation of advanced control devices on pre-1975 autos and light duty trucks. Perhaps one of the most extreme and yet to be approved strategies is the "gas rationing" proposal being made by the Environmental Protection Agency for the South Coast Air Basin in California.

It should be stressed that draconian measures which would destroy Seattle's downtown as a regional retail and business center would be as undesirable as the present air pollution levels. In particular, it is important to avoid measures which overly discriminate against the CBD and favor suburban shopping centers and the relocation of businesses to rural areas.

The air quality and traffic data available at this time are not sufficiently refined to enable precise and accurate calculations of all the effects of various strategies advanced to correct the air quality problem. Substantial additional data must be developed in order to better evaluate future revision of this plan.

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[6] "Action for Clean Air: A Manual for Citizen Participation in State Implementation Plan Proceedings;" Natural Resources Defense Council, Inc.; September 1971; pages 9–14.

*Selection of strategies*

In developing this implementation plan, staff were often confronted with a bombardment of pet strategies for controlling air pollution. As a base for starting the strategy selection process, the recommended strategies of the GCA Corporation plan were reviewed and parts adopted. A sampling tool known as a "desirability matrix," was also employed for the purpose of determining which strategies had the greatest potential. In assembling the array of ideas, it became apparent that various concepts could be grouped or classified under a general strategy heading. The three basic groups formulated were: (1) Emission and Energy Controls, (2) Transportation Controls, and (3) Person Trip Controls.

When the final list was assembled, 135 ideas had been tabulated. Under *Emission and Energy Controls,* strategies listed ranged from controlling air pollution at the source (i.e., new fuels, retrofit, inspection programs, etc.) to gas rationing and processing polluted air. Under the second group, *Transportation Controls,* strategies included ideas on ways to increase transit patronage, improving traffic flow, restricting off-street parking, discouraging the use of the auto and increasing the facilititation of alernate means of travel (e.g., pedestrian walkways, bike lanes and facilities, auto-free zones. The third class, *Person Trip Controls,* addressed those strategies which focused in on land use controls such as limiting population densities, staggered work hours/days, providing better communication systems, and many others.

Based on the intuitive estimates of (1) desirability, (2) economic impact, and (3) social impact, scores were compiled for each of the 135 strategies. The population of individuals sampled included seven environmentalists, ten businessmen, eight transportation and land use planners, and three design engineers. Though this population was limited, it did constitute a varied cross-section of interests and professions. Appendix B contains the list of the 50 most desirable strategies based upon the composite score of the 28 persons sampled.

From that list, strategies were selected and evaluated relative to their effectiveness in reducing CO emissions, the cost, and the time it took to implement each. Strategies which could not be "on-line" by 1977 were eliminated. Strategies which could only affect a small number of the total person trips in the CBD were eliminated. Strategies which had only a very short-term impact were eliminated. Strategies which required either public or private expenditures which were large relative to the degree of reduction in emissions they yielded were eliminated or revised to improve the ratio. Table III–1 summarizes the strategies selected and indicates the estimated amount that carbon monoxide emissions can be expected to be reduced in the CBD when each strategy is fully implemented. The total reduction of 1800 kgm/8hr/mi² meets the goal calculated in Par. I. This package of strategies will enable Seattle to achieve air pollution levels which meet the federal primary standards by 1977.

TABLE III–1.—*Summary of Recommended Control Strategies*

1. Retrofit and Inspection:

(a) Installation of control device on uncontrolled vehicles (light duty and heavy duty).

(b) An annual inspection of certain vehicles. 680 * kgm/8hr/mi².

2. Traffic Signal Optimization, 430 kgm/8hr/mi².

3. Car pool program, 80 kgm/8hr/mi².

4. Uniform parking rates and driver advisories, 280 kgm/8hr/mi².

5. Increase transit ridership, 380 kgm/8hr/mi².

The sections which follow define more thoroughly each of the proposals outlined in Table III–1. The actual calculations of the numerical reductions reported are contained in Appendix C.

*Retrofit*

Beginning with the 1968 model year, all new cars (1970 for trucks) have been required by Federal law to meet standards for the amount of pollutants in the exhaust. However, due to the nine-year average lifetime of automobiles, in 1972 uncontrolled (pre-1968 light duty, pre-1970 heavy duty) vehicles accounted for approximately 61% of the vehicle population in King County. In 1977 these uncontrolled vehicles will still account for some 18% of the vehicle population.

The emissions from uncontrolled vehicles can be reduced substantially by the installation of an "Air Bleed to Intake Manifold" device. Tests by EPA attribute a 58% reduction in carbon monoxide to this device. EPA further states that it can be expected to retain its initial effectiveness with periodic inspection (an annual inspection test of the retro-fitted vehicles is required by EPA). This device is discussed in detail in the EPA publication, "Analysis of Effectiveness and Costs of Retrofit Emission Control Systems for Used Motor Vehicles." A very similar device was on many of the early (1966-1967) emission control systems used by the manufacturers in California.

The estimated retail cost of such a device is $40. Installation costs and the cost of readjusting the engine might add another $20. This cost will be a significant fraction of the total value in 1977 of a pre-1968 vehicle, although it may be only a fraction of the total maintenance expense for that year.

The retrofitting of such older uncontrolled vehicles will bear hardest on those least able to pay. However, the State of Washington has filed suit against the principal domestic automobile manufacturers for conspiring to delay the research, development and installation of effective pollution control devices. The principal relief sought is the installation, at the expense of the auto manufacturers, of the appropriate devices on uncontrolled vehicles throughout Washington. This matter is set for trial beginning on March 13, 1973 in the United States District Court for the Central District of California, where it is consolidated with several other similar actions.

As the legal actions already initiated may not be resolved in the favor of the people, legislation will be proposed (see Appendix D) such that installation may be required by the Director of the Department of Ecology on all uncontrolled vehicles at the time of ownership transfer, or during 1976 (according to a staggered schedule). This is intended to reduce to the minimum possible the impact upon individual citizens. It is recommended that the legislature consider means to soften the economic impact of retrofit on the public by such means as a one-time bounty for older, uncontrolled vehicles which are scrapped.

*Vehicle Emission Inspection*

EPA regulations require that whenever an Implementation Plan proposes a retrofit program, it must also propose an inspection program. This is intended to ensure that the promised reduction in emissions will continue into the future, in order that the lower pollution levels of 1977 will be maintained. The inspection program required by EPA must meet the following criteria:

1. An annual inspection using a dynamometer to simulate actual driving conditions.

2. The inspection standards must be consistent with the reduction in pollutants claimed in the Implementation Plan.

3. All failed vehicles must be retested after correction to ensure compliance.

4. A program to ensure vehicles are not intentionally adjusted after inspection so that they would no longer comply with the inspection standard must be initiated.

Because the inspection system specified by EPA has never been used in practice, a very careful step-by-step implementation would be needed to minimize public impact. The program will begin with a required annual inspection of all vehicles owned by units of government in King County and fleets of three or more vehicles.

The experience with this initial program will serve as a basis to project the costs and benefits of such a program. At the present time, the initial cost of such a facility is estimated to be $50,000, with an annual operating cost of $25,000. Extra maintenance on the part of the vehicle operators might average $20 a year beyond normal good practice. Vehicle owner costs need to be known and perhaps limited before a general inspection begins.

Subsequently, all vehicles first registered and all used vehicles offered for sale would be required to pass an inspection. Additionally, all vehicles retrofitted pursuant to this plan would be required to pass an inspection following retrofit and annually on the anniversary month of their retrofit. No vehicles would be permitted to operate on the public roads until they pass their inspection.

These programs will bear most heavily on automobile dealers who do not now adjust or maintain vehicles for minimum emissions. With this added incentive it is assumed that they will begin to obtain the necessary equipment and train their mechanics. The public would be only minimally inconvenienced.

*Conversion to gaseous fuel*

In an effort to encourage the use of non-polluting gaseous fuels, the Legislature of the State of Washington has deleted the normal taxes on propane and liquid natural gas. However, the Act provided a cut-off of July 1, 1975.

In order to maintain the existing benefit beyond that date and, possibly, to expand it slightly, legislation will be proposed to eliminate the cut-off date and to eliminate the restriction on applicability to only fleet vehicles.

*Traffic signal optimization program (SIGOP)*

For pre-1975 controlled and pre-1968 uncontrolled vehicles, emissions are inversely related to speed.

Clearly, if unnecessary stops can be eliminated, emissions can be substantially reduced. Seattle is presently engaged in a project to revise the timing cycles in its CBD signal system to reduce the number of such stops using a traffic signal optimization computer program (SIGOP) developed by Peat, Marwick, Mitchell and Company under contract to the Bureau of Public Roads. Its purpose is to determine optimum cycle lengths, phase splits, and coordination of traffic signal displays in a grid network. Using data on traffic characteristics and network geometry, SIGOP expresses the data in terms of delays, stops, and system cost. System cost is computed by the program as weighted sum of delays and stops. A mathematical technique is applied which minimizes the combination of delays and stops specified.

Indications are that the SIGOP program will provide usable signal timing patterns which, system wide, are comparable to or better than the timing patterns developed over a long period of time by manual trial and error methods presently employed.

* It should be noted that at present EPA regulations do not permit the assignment of a value to the emission reductions gained from retrofit or inspection of heavy-duty vehicles. Should such regulations change, there would be an increase in this value.

To date, approximately three-fourths of the project has been implemented. By June 15, 1973 the results will be available for evaluation. The expected performance of the system is an increase in average speeds in the Seattle Central Business District by two miles per hour through reducing stops in the CBD by approximately 33 percent[7] and reducing delays in CBD by 10 percent.[8] It is important to remember that the program is experimental, and a major product of the operation is an evaluation of what improvements actually result.

*Car Pool Program*

Beyond the programs previously discussed, it is necessary to eliminate approximately 40,000 vehicle trips per day from the CBD in order to achieve the federal primary standards for air quality. Since a large percent of automobile trips into the CBD carry only the driver, it is possible to significantly decrease the number of vehicles by increasing the average vehicle occupancy. If the present average occupancy of 1.4 occupants/vehicle (for CBD employees) could be increased to 1.7, then 9,000 trips could be eliminated.

A method to encourage car pool use is to develop a system through which drivers can contact potential riders. Done on a large scale, such a matching system would need to be computerized to be efficient and rapid. Geocoding would be a definite aid in a computerized matching system as it would greatly simplify the actual matching process. The availability of the Census Department's DIME file for the Seattle metropolitan area, and the ADMATCH program makes geocoding of addresses feasible.

An effective car pool matching system would have to include a collection system for gathering the necessary data from potential drivers and riders, the computer software and hardware necessary to do the matching, and a distribution system to inform drivers and riders of possible matches. The system could initially start on a small scale, e.g., dealing with all the City employees working in the Municipal Building. Thus, everyone's destination would be the same, and matching could be done on the basis of origin.

Initially only one-time matches would be made, i.e., possible drivers would be matched on the basis of origin and arrival—departure time and the working out of details would be left up to the individuals involved. The system could later be expanded to include the other city and county offices, which in Seattle are all located across the street from each other. Other common destinations, such as groups of office buildings, could be included as the system is extended. The system for collecting input data could possibly operate within these groups of buildings or common destinations.

In setting up the system, data definition would be necessary. That is, decisions would be necessary regarding what items of information would be required for input in order to effectively match drivers and riders. Before the necessary computer programs could be written, refinement of the matching process would also be required. Analysis would be necessary to determine the parameters, i.e., for a potential driver-rider match, how close destinations should be, would matching be done solely on proximity of origins, or should route of travel be considered, etc. The question of imposing a user charge or making the system a public service would also have to be considered. Some type of security measures would probably be necessary to guard against abuse of the system.

Some types of incentive to encourage people to use car pools would be necessary to achieve high levels of participation. For example, the Seattle Blue Streak Bus Rapid Transit Demonstration Project presently has exclusive use of the downtown Cherry-Columbia reversible lane on-off ramp for I-5. It might be possible to extend the exclusive use of this ramp to car pools as well as transit. Likewise, other on-off ramps of the reversible lanes or regular lanes might be closed to all except car pools and transit.

An essential incentive would be the provision of reserved parking for car pools, for example within or near the Municipal Building or in the County Parking Garage in stalls presently reserved for administrators, executives, and government vehicles.

At the heart of the problem lies the availability and cost of parking. At present, parking availability and rates encourage using automobiles for commuter work trips. If parking costs are increased (either through restricting the supply or by regulating the rates) a real incentive is created to participate in such a program. At present, some 29,700 spaces exist in the CBD with 8-hour rates in some lots in the outer edges as low as 50¢.

An approach which would remedy these problems is legislation which would give the City the authority to regulate parking, both through competition and through the setting of rates. A bill setting out such authority is being introduced into the current session of the Legislature (see Appendix D). Another is a proposal to designate parking as a "Conditional Use" in the two central CBD land use zones, and thus require City Council approval of each new parking lot, which would come before the City Planning Commission. An alternative approach might be the requirement of a special permit, similar to the Shorelines permit, for the development of parking throughout the CBD and CBD fringe. Before any regulation of parking development or rates can be implemented, a parking plan for the CBD which responds to land use, transportation and economic factors, as well as air pollution, must be developed. The Parking Plan and, hence, any regulation of parking rates would require recognition of the fact that different structures and lots have radically different amortization rates.

Some parking is provided to employees and executives as a fringe benefit. The Air Quality Planning Committee of the Metropolitan Washington Council of Governments is reported to have suggested a court test of the IRS rules which allow businesses to deduct such expenditures as a legitimate expense. Such an action should be joined by the City of Seattle.

*Uniform parking rates and driver advisories to parking facilities and destinations*

Little is known about the need for better informational signing to reduce the search for parking spaces or if shopping for more inexpensive parking contributes significant excess travel in the CBD. The one-way street pattern and driver unfamiliarity with Freeway access routes most likely contribute to additional travel. In 1968, Los Angeles found that 22 percent of downtown travel during peak periods was "search for parking" travel.

A system of informational signs to privately owned parking lots and businesses should be developed, which might eventually include signs indicating the nearest reservoir of unoccupied stalls. Such a system could be financed through a local improvement district. Legislative authority for the initiation of such a district currently exists.

The parking legislation discussed previously would give the City more direct authority to construct parking structures on the periphery of the Central Business District. One such structure, adjacent to I-5 is presently in the final design stage. Such structures, when coupled with proper transportation links to major destinations, would provide parking spaces easily available to drivers which would eliminate driving through the CBD.

This legislation also provides the authority for the City to establish uniform parking rates, which would reduce "searching" travel. On-street (metered) parking is currently far less expensive than off-street parking, and to suggest a signing system without consideration of this discrepancy tends to defeat the effectiveness of the advisory program. The present street meters are near the end of their economic life, so an adjustment in the short-term parking rate structure could be coordinated with the replacement of city meters.

*Increase transit ridership*

The METRO Transit program, approved by the voters of King County on September 19, 1972, has already resulted in a significant increase in transit ridership, especially in the suburban portions of the county. Estimates generated in the course of developing the transit plan indicate that by 1977 as much as 35 percent of the work-oriented trips into the CBD will be by transit. Non-work oriented trips are estimated to divide at 15 percent transit riders.

A substantial increase in bus ridership over and above that plan is necessary to meet the needs of this Implementation Plan. Acceptable air pollution levels can be achieved if the work-oriented trip mode-split (number who arrive by bus vs. number who arrive in automobiles) is increased to 50 percent and the mode-split for non-work oriented trips is increased to 21 percent. This would place average mode-split for CBD trips at approximately 32 percent, up from the METRO Transit plan estimate of 21 percent and the 1971 average of 17 percent. This is not wholly unrealistic; the modal split for CBD trips exceeded 40 percent in 1962.

Such an increase in transit ridership would mean approximately 8,000 additional riders in the peak hours. This would fill 200 more transit buses. However, if a program of staggered work hours can be implemented, the present 45-minute long peak travel period could be doubled, allowing the same riders to be carried on the existing transit fleet. Should transit ridership expand beyond the capacity of the present fleet, it is assumed that METRO Transit will acquire the necessary additional vehicles.

Three factors influence the choice between the automobile and transit: relative convenience, relative speed and relative costs. The METRO Transit plan estimates assume significant improvements in each of these categories. Under the Transportation Improvements Action Program (TIAP) the City of Seattle will conduct studies and develop plans for transit-related improvements as follows:

Phase I: Basic Market and Planning Data

1. Transit Patron-Origin and Destination Data.
2. Patronage Volume (Detailed Flow Map).
3. CBD Patronage and Transfer Volumes.
4. CBD and University District Total Volume Studies.

Phase II: Finding Operational Deficiencies

1. Non-user Survey.
2. Speed and Delay Studies.
3. Terminal Delays—CBD.
4. Develop Modal Split Model.

Phase III: West Seattle Freeway Bus Lanes

Phase IV: CBD Distribution System

1. Express routing—wrong way transit lanes.

[7] Stops: Total stops of both peak-hours of one day (2 hours total).

[8] Delays: Total delays of both peak-hours of one day (2 hours total).

2. CBD shuttles and local service.
3. CBD shelters, orientation and conversion systems.
4. CBD Terminals, Modal Interface, People Movers.
5. Coordination with Personal Rapid Transit Studies.

Phase V: Express System
1. Line Haul Express Planning.
2. Park 'n Ride Lots.
3. Transfer and load point improvements.

Phase VI: Management and Finance
Phase VII: Special Services
Phase VIII: TOPICS System Improvements
Phase IX: Scheduling Improvements

The Urban Mass Transit Administration (UMTA) has recently approved a grant for the funding of Phase I of the TIAP program. It is assumed the remainder of the program will be funded in subsequent applications.

If the modal split estimated in the METRO Transit plan is to be improved, we must go beyond the TIAP efforts. Following the three factors mentioned above, programs should be implemented to improve transit patronage. First, the installation of additional Park 'n Ride lots. Some sites inside the city, such as West Seattle, could serve as terminals for local service and provide express bus service to the CBD over exclusive busways. Second, increases in service frequency on local routes in Seattle (approximately 54 percent of trips into the CBD originate in Seattle, south of 100th Street and north of Spokane Street). Classic transportation planning theory assigns a very strong interaction between improvements in frequency of service and increases in ridership.

Operating subsidies for improved transit programs should be supplied from the State Motor Vehicle Fuel Tax. A resolution seeking a vote of the people to repeal the State Constitution's prohibition on the diversion of such funds to transit operation expenses will be introduced into the current session of the Legislature (see Appendix D).

*Improve pedestrian environment*

One important corollary to increasing the use of car pools and transit is the creation of an urban environment which the pedestrian finds enjoyable. Specifically pedestrian-oriented circulation and land uses should be promoted. This might include sidewalk widening, shuttle systems, weather and climate protection (such as arcades and colonades), open spaces, street trees, street "furniture" and other pedestrian amenities. At the present time the City of Seattle is developing several programs which will seek to achieve these ends.

*Public Education*

Because these strategies will require changed behavior patterns, an extensive public education campaign should be initiated to inform the public of the nature of the problem and the need for the selected strategies and to encourage the public to participate in the program.

*Maintenance of Standards*

The Clean Air Act Amendments not only require that the Implementation Plan propose a means of meeting the Federal standards, but they also require that these standards be maintained in the face of growing traffic volumes.

The Puget Sound Governmental Conference has projected an increase in CBD traffic volumes of 30 percent by 1990, assuming that no significant fuel shortages (and consequent disproportionate increases in gasoline costs) occur and that the transportation control strategies contained herein, other than the METRO Transit plan, are not implemented.

By 1990, less than 5 percent of all vehicles will be pre-1975 models. This means that emissions from mobile sources will be decreased 94 percent by 1990.

If the Primary Standards are indeed met by 1977 as proposed in this Plan, the ambient air quality will remain slightly better than required by the Primary Standard in 1990.

ALTERNATIVES

Rejected alternatives were often more appealing intuitively than when subjected to analysis. The following sections discuss some of the more popular (with various groups) strategies which were subsequently discarded in developing the plan.

Construct CBD Off-Ramps from Alaska Way Viaduct

Analysis of travel patterns indicated that there would be a reduction in east-west traffic from I–5 to the Waterfront and some reduction in north-south traffic from the Aurora exit at Denny Way. Because the resultant gain in air quality was small, that benefit in itself could not justify the estimated expense of constructing additional ramps.

Convert all fleet vehicles to gaseous fuels

While it does result in significant reductions in pollutants in 1973, the gain does not carry forward into the future, as all post-1975 automobiles are required to meet emission standards which are roughly equivalent to the emission from gaseous fueled vehicles. As fleet vehicles are newer than the total automobile population, there would be no significant gain by 1977. Additionally, the benefit-cost ratio was very poor.

Build a Regional Rapid Transit System in CBD

A study of the feasibility of a PRT system in Seattle (funded by UMTA) is underway. At this time, the study has not determined the best corridor for PRT development. Should a corridor in the CBD be selected, and should such a system be capable of being in operation by 1977, then the potential positive effects on air quality should be analyzed and included in subsequent revisions of this plan.

Develop Peripheral Parking and Bus Shuttle System

The construction of the King County Domed Stadium at the south end of the CBD would permit the development of a peripheral parking-shuttle system such as has been operating from the Seattle Center for several years. This is not without merit, but it would not affect a large enough number of person trips without direct ramps from I–5 and I–90. These do not appear feasible by 1977.

Interstate 90

Although the increased traffic in the corridor due to the opening of I–90 may well result in local air quality in excess of primary standards, the exclusive bus lanes (7-year contract) will provide a significant transit service which will generally strengthen the METRO Transit program. This is essential to solving the CBD air quality problem.

Provide Free Bus Service

During the evaluation of the METRO Transit plan, a computer model test was made assuming free transit service. It was found that it did not achieve a significant increase in patronage, while losing substantial fare box revenues. METRO Transit fares are already among the lowest in the nation (as a percentage of average income). Local free service does deserve additional study.

I–5 Ramp Metering and Surveillance

Calculations made by A. M. Voorhees and Associates in the course of conducting the study for EPA indicated that such a system could be expected to improve flow on the Freeway, but could also be expected to divert substantial traffic to city arterials which would move at a slower speed and create as much pollution as was eliminated by the Freeway improvements. Development of ramp metering would permit the installation of preferential bus ramps. This alternative should be given additional study.

Extend Retrofit Program to All Pre-1975 Vehicles

The cost of a control system to bring a pre-1975 vehicle into compliance with the federal emission standard is expected to exceed $300. This is considered to be an excessive burden on the individual citizen.

Extend Annual Inspection to Include All Vehicles

While this would have some valuable side-effects if it were to include a safety and noise inspection as well, the cost of such a system, the logistic difficulty of testing and implementing such a system by 1977 and the poor experience in some other states makes this an unattractive candidate.

Establish Auto-Free Zones in CBD

Vehicle travel tables indicate that the air pollution problem is not localized in any one portion of the CBD. The establishment of an auto-free zone would benefit only those who happen to be in the zone or work in an office facing into it. The CBD is physically too large to make the entire area an auto-free zone.

Lid Interstate 5 Through the CBD

One theory holds that air pollution in the CBD rises ("urban heat island effect") but is replaced by polluted air flowing down hill from the Freeway. Thus, if Interstate 5 from, roughly Olive Way to Columbia Street were to be enclosed by the construction of a lid, the polluted air could be exhausted and dispersed through high stacks. If exhausted at a high level, it would be distributed over a large enough area that the concentration would not be harmful. This strategy was rejected because the initial engineering analysis indicated that there would be too many "holes" in the lid to make the evacuation of the gases economically feasible.

Exclusion of Certain Vehicles From the CBD

If uncontrolled vehicles were banned from the CBD, or if truck traffic were prohibited or discouraged (by not being allowed the use of loading zones during day-time hours), large reductions could be achieved. Applications of these strategies was rejected because it is too discriminatory and would have an adverse economic impact on the CBD.

*Compliance schedules*

The following outlines the anticipated anniversary dates for implementing the various elements of the proposed strategies:

Retrofit

July 1, 1973: Legislature provides authority to Department of Ecology for requiring retrofit.

December 30, 1973: Department of Ecology adopts regulations implementing program.

March 1, 1974: Department of Ecology certifies eligible retrofit control systems.

March 1, 1975: Retrofit required at time of ownership transfer on all uncontrolled vehicles (light duty and heavy duty) registered within defined geographic area.

March 1, 1976: All uncontrolled vehicles must retrofit according to the last number of the license plate October=0, November=1, etc.).

Vehicle Emission Inspection

July 1, 1973: Legislature provides authority to Department of Ecology for requiring inspection.

December 30, 1973: Department of Ecology adopts regulations implementing program, including motor vehicle exhaust emission standards for carbon monoxide.

March 1, 1974: All government and fleet (3 or more) vehicles in King County must

pass an annual inspection at a State operated facility.

March 1, 1975: All used vehicles offered for sale and first registered within defined geographic area must pass an inspection at the State operated facilities. Initiate program of spot-checking dealers' lots to insure that vehicles are not intentionally detuned. All retrofitted vehicles must be inspected annually on anniversary of retrofit.

SIGOP

June 15, 1973: Complete project. Issue evaluation.

Car Pool Program

July 1, 1973: Legislature provides authority to City of Seattle to regulate parking.

Initiate consultant selection process for developing an experimental program to test various elements of the system.

December 30, 1973: City budget adopted with adequate funding to support first phase effort.

City adopts ordinances to regulate parking and adopts CBD parking plan.

July 1, 1974: Initiate experimental program and begin evaluating effectiveness. Begin development of expanded program. Determine manpower and resource needs to establish full-time service.

July 1, 1975: Implement full-scale program which includes most CBD employees in eligible population (assuming experimental program successful).

Uniform Parking Rates and Driver Advisories to Parking Facilities and Destinations

July 1, 1973: Legislature provides authority to City of Seattle to regulate parking.

Prepare prospectus for conducting a study to determine cause and magnitude of "search" type trips.

December 30, 1973: City adopts ordinances to regulate parking and adopts CBD parking plan.

Conclude study and evaluate findings. Initiate plan formulation and establishment of local improvement district.

July 1, 1974: Complete plan. Formally develop local improvement district.

July 1, 1975: Execute program.

Increase Transit Ridership

July 1, 1973: Legislature provides authority to City of Seattle to regulate parking and submits constitutional amendment to vote of the people.

Funding applications for TIAP submitted to UMTA.

Studies initiated to determine sites for additional Park 'n Ride lots.

December 30, 1973: City adopts ordinances to regulate parking and adopts CBD parking plan.

July 1, 1974: Additional funding applications for TIAP submitted to UMTA.

Plans for development of additional Park 'n Ride lots initiated.

July 1, 1975: Additional funding applications for TIAP submitted to UMTA.

Acquisition and construction of additional Park 'n Ride lots initiated.

*Program for Long-Range Planning*

Role of Agencies

Different agencies in the Puget Sound region will play a role in the long-range planning for air quality control. These agencies include local agencies such as the City of Seattle, as well as regional, state and federal agencies.

On the regional scale, the Puget Sound Governmental Conference will have a strategic planning role as the agency responsible for regional long-range transportation and land use planning in the central Puget Sound region. In addition, PSGC has the responsibility for reviewing all applications for federal funding of civil projects under the requirements of the Metropolitan Cities Development Act of 1966. Under this act, PSGC reviews projects and certifies as to compliance with regional policies, plans and programs. Further detailing of PSGC plans, policies, and programs to include air quality requirements would ensure that future federally funded studies and projects are compatible with air quality requirements of the central Puget Sound region. The Puget Sound Air Pollution Control Agency, the State Department of Ecology, and the Environmental Protection Agency would be necessarily involved with PSGC in specifying the long-range air quality requirements and in helping to define those PSGC plans, policies, and programs where these requirements would be incorporated.

Further, under the National Environmental Policy Act of 1969 and the State Environmental Policy Act of 1971, agencies are required to submit environmental impact statements with regard to all decisions, including private developments under certain conditions, which "significantly affect the environment." In the future all agencies preparing and reviewing the draft impact statements will have to develop an increased awareness and understanding of air pollution considerations.

Impact of New Transportation Technology and Planning Concepts

With the development of cleaner internal combustion engines, the reductions in air pollution per vehicle will be substantial. Offsetting this is the steady forecasted increase in vehicle travel. By 1990, for instance, vehicle miles of travel in the CBD of Seattle are estimated by the Puget Sound Governmental Conference to increase some 30 percent over 1977 levels. This estimate assumes a modest amount of growth in employment (from 70,100 in 1970 to 105,400 in 1990) and an all-bus transit system as described in the 1980 METRO Transit Plan.

Clearly, considerations other than the 1977 control strategy program are going to be necessary for long-range decision making in the City of Seattle.

The most likely future development that will significantly impact transportation systems and air quality is the emerging energy crisis. Many oil industry sources and federal studies are predicting that the world's known and anticipated oil reserves will be depleted by the end of this century, given our present consumption rate. The crisis will probably follow a classic pattern of significant increases in the cost of fuel and then radical changes to new technology. This will most probably result in sophisticated mass transportation systems and the application of many concepts now well understood in the laboratory.

Several concepts merit attention:

(1) Telecommunications (i.e., picture phones and advanced video systems using laser holograms) can impact considerably the need to travel for business trips. There is every reason to believe that this means of interaction may substitute for a measurable amount of the business travel in the Central Business District. This innovation can also result in a decrease in growth rates of high density nodes by making possible more use of one's home as an office. Decentralization will remove the inconvenience of daily peak hours commuting through highly congested corridors and thus reduce overall travel and resultant air pollution.

(2) A "Personal Rapid Transit System" for the CBD of Seattle offers a high potential for reducing vehicular travel in the core area of the CBD. A logical follow-up on development, more regional in scope, would be a fixed guide-way mass transportation system. This might even include very high-speed ground transportation through the Puget Sound-Willamette corridor from Vancouver, British Columbia to Eugene, Oregon. This offers the highest potential for reducing area wide transportation-created air pollution.

(3) Long range goods movement and passenger transportation planning will definitely need to be coordinated to develop comprehensive transportation plans for the mobility of the region. Combining the movement of freight on fixed right-of-way with mass rapid transit in the denser urban areas will result in a considerable reduction in the amount of truck traffic.

PART IV: EMERGENCY EPISODE PROGRAM

*Introduction*

Occurrences of excessive levels of air pollution are referred to euphemistically as "episodes" by EPA. Without some procedure being implemented to control or reduce the level of air pollution in a specific area, an episode could result in air pollution levels which would constitute "imminent and substantial endangerment to public health." The federal government through EPA requires that all states formulate a plan specifying the procedures to prevent such air pollution episodes.

EPA has divided these episodes into four stages. The first stage, "Forecast," is activated whenever an Air Stagnation Advisory is issued by the National Weather Service. This is a warning that a high air pollution potential exists due to possible climatic conditions.

The second, or "alert," stage occurs whenever adverse meteorological conditions and pollutants approach levels at which preventive action becomes necessary. At this stage voluntary action by the public to reduce unnecessary driving will be requested with encouragement to use public transportation facilities.

The third, or "warning," stage occurs when indications of further deterioration in air quality are expected and more restrictive controls are required (short-term health effects possible). Voluntary actions will continue but in those affected areas some restrictive traffic control measures must be put into effect.

The final, or "emergency," stage occurs when air quality contiues to deteriorate to a level where the most stringent control actions are necessary to protect the public health from substantial harm. The banning of all vehicles from entering the area and even the closing of businesses are possible control measures.

TABLE IV-1.—*Episode criteria*

STAGE*, POLLUTANT CONCENTRATION**, AND ACTION TO BE TAKEN

Forecast: (Receipt of NWS air stagnation advisory or indication that a high air pollu-

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*"Air Pollution Forecast": An internal watch by the Department of Air Pollution Control shall be actuated by a National Weather Service advisory that Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric condition.

"Alert": The Alert level is that concentration of pollutants at which first stage control actions is to begin.

"Warning": The Warning level indicates that air quality is continuing to degrade and that additional control actions are necessary.

"Emergency": The Emergency level indicates that air quality is continuing to degrade toward a level of significant harm to the health of persons and that the most stringent control actions are necessary.

**The Stage is established when any one of the designated concentrations is reached and meteorological conditions are such the pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken, or in the case of oxidant, to recur on the following day.

Source: Environmental Protection Agency

tion potential will exist). Notify all appropriate traffic control agencies.

Alert: 15 ppm CO (8-Hr. Avg.) or 0.1 ppm Oxidant (1-Hr. Avg.) or 0.6 ppm $NO_2$ (1-Hr. Avg.) or 0.15 ppm $NO_2$ (24-Hr. Avg.) Voluntary reduction of all necessary driving and encouragement of utilization of public transportation and facilities. Preparations for warning level measures.

Warning: 30 ppm CO (8-Hr. Avg.) or 0.4 ppm Oxidant (1-Hr. Avg.) or 1.2 ppm $NO_2$ (1-Hr. Avg.) or 0.3 ppm $NO_2$ (24-Hr. Avg.). Minimizing traffic in traffic control areas through rerouting and detouring procedures. Continuing alert measures and possibly prohibiting certain motor vehicle operations.

Emergency: 40 ppm CO (8-Hr. Avg.) or 0.6 ppm Oxidant (1-Hr. Avg.) or 1.6 ppm $NO_2$ (1-Hr. Avg.) or 0.4 ppm $NO_2$ (24-Hr. Avg.). Stopping of all but emergency motor vehicle operation.

Table IV–1 outlines EPA's adopted (36 F.R. 15503) episode criteria for each stage, the standards which empirically define each stage and a brief outline of action which should be taken to control pollution concentrations from increasing to a more critical stage.

Each important pollutant has a system which is to be implemented at various stages so as to control and reduce the emission of that pollutant.

In the Puget Sound Region, detailed programs called Source Emission Reduction Plans (SERPS) have been formulated for the control of sulfur dioxide and suspended particulate matter from industrial sources. The Washington State Air Quality Implementation Plan has considerable detail on these procedures. This addendum provides the details of episode procedures for control of motor vehicle generated pollutants (i.e., carbon monoxide, oxidants, and hydrocarbons).

*Emergency episode plan*

Emission estimates presented in Part I indicate that of the total inventory of air pollutants approximately 95 percent of CO, 81 percent of HC, 81 percent of $NO_x$, 4 percent of $SO_x$, and 15 percent of the particulates are caused by the various transportation modes. Therefore, if an immediate reduction in CO, HC, and $NO_x$ is required to curtail an emergency situation, then it must be made through programs emphasizing the emergency control of emissions from motor vehicles.

It is generally expected that high levels of air pollution from motor vehicle emissions will be limited to a small area. Assuming this is correct, emergency control measures might then be classified in the following manner:

(1) those which reduce emissions generated by the vehicle engine

(2) those which restrict the number or size of emission sources

(3) those which restrict or increase the mobility of the source.

One must also keep in mind that these strategies must be aimed at curtailing the advance of any progression to the next higher stage, with emphasis placed on preventive action rather than remedial action after the fact. Each strategy will then become more restrictive as air quality declines until control measures become effective.

The following sections outline proposed guidelines recommended by the Department of Ecology for instituting an Emergency Episode Program. Those guidelines are being presented at this time as potential elements of the program. Over the next few months these elements will be refined and expanded so that a more definitive system can be implemented. A presentation of the Emergency Episode Program in its final form is anticipated at the end of the first semi-annual reporting period (February 14, 1974).

*Communications*

The contingency plans for emergency episodes must include provisions for communications procedures for contacting public officials, major sources, and news media. A proposal for a short range program to be implemented during episodes is illustrated in Figure IV–1. Estimated costs to implement this system are included as part of the proposed system for continuous surveillance outlined in Part V: Surveillance Program.

*Emergency traffic control area (ETCA)*

In order to maximize the flexibility and effectiveness of emergency control measures for motor vehicle traffic, it is necessary that these controls be limited to small, well defined, areas where high pollution levels are concentrated. In other words, there would be little reason to ban the use of automobiles in West Seattle or Ballard during an "emergency" episode in the CBD. Emergency measures would be required only in those areas where hazardous pollution levels exist.

It is assumed that Seattle's Central Business District is the ETCA in which emergency emission control strategies are to be first implemented. In refining the surveillance system and establishing a clearer picture of Seattle's air pollution problems, it will perhaps be necessary to redefine and expand the ETCA zones or establish other, separate, ETCA zones. Upon receipt of more precise surveillance data, the following criteria will be used to designate what the ETCA's should be:

1. Boundaries should coincide with major streets, highways, or other geographical features generally well known to the public. Maximum attention should be given to defining boundaries that are easily communicated by the public information media.

2. Consideration should be given to the location of mass transit routes, major traffic patterns, and population concentrations.

3. Consideration should be given to this assumption in defining not only the core area ETCA, but also in designating adjoining areas. In some cases a concentric arrangement, each ETCA partially or totally surrounding the previous one, might be considered.

4. The number of ETCA should be minimized in order to make the plan as uncomplicated as possible.

Based upon the "Episode Criteria" defined in the previous table (Table IV–1), the different episode stages require varying degrees of action. The procedures recommended for each episode stage present generalized strategies and responsible agencies. These must be addressed in greater detail within the next year before they can be successfully implemented.

*Forecast stage*

This stage occurs upon receipt of an Air Stagnation Advisory from the Meterological Support Unit of the National Weather Service. Upon declaration of forecast conditions:

1. PSAPCA, DOE, EPA Region X are notified.

2. PSAPCA begins additional surveillance of conditions.

3. No specific actions with regard to motor vehicles will be required.

*Alert stage*

This stage occurs when the pollution levels detailed in Table IV–1 are reached. Upon declaration of an Alert condition:

1. The public is notified through various media of the conditions and the necessary steps to be taken. Public health officials, City engineering departments and public transportation officials will be notified of their responsibilities.

2. The public will be encouraged to utilize public transportation and curtail or eliminate the use of private motor vehicles within the designated Emergency Traffic Control Area.

3. Public transportation systems will provide additional services to encourage greater use of public transportation.

4. Preparations are initiated to take warning measures, if necessary.

5. Additional monitoring pollutant levels instituted.

*Warning stage*

Upon declaration of this stage:

1. The public is notified through various media of the conditions and the necessary steps to be taken. Public utilities, public health officials, City engineering departments and public transportation officials, will be notified of their responsibilities.

2. Continue Alert measures.

3. Motor vehicles carrying fewer than three persons are to be prohibited from entering or operating within the designated ETCA. Exceptions would be public transportation, emergency vehicles, commercial vehicles and through traffic remaining on Interstate or primary highways.

4. If ordered by DOE, operation of all private vehicles within the ETCA may be prohibited.

5. Maximum public transportation will be provided, possibly at no cost.

6. Prepare to take emergency measures as required.

*Emergency state*

Upon declaration of an emergency:

1. The public is notified through various media of the conditions and the necessary steps to be taken. Public utilities, public health officials, City engineering departments and public transportation officials will be notified of their responsibilities.

2. All non-emergency use of motor vehicles within the ETCA is prohibited.

*Communications manual*

A basic tool of the Emergency Episode Program will be a Communications Manual for use by those persons who must react and implement the controls of each episode stage. This manual will include, as a minimum, for each episode stage:

1. Persons and organizations to be contacted including individual names and telephone numbers.

2. Actions to be taken by each official involved in implementing the Plan.

3. Sample announcements by the media and press releases.

PART V: SURVEILLANCE PROGRAM

*Introduction*

At present the ambient surveillance system for carbon monoxide consists of one continuously recording instrument in the downtown area of the City of Seattle and one at 6770 East Marginal Way South, both operated by the State Department of Ecology. Short term monitoring has been performed for carbon monoxide by the Puget Sound Air Pollution Control Agency at the Westlake Mall and at I–5 and Dearborn. These sites are shown in Figure I-2.

To base a decision as to whether a problem exists on the data from a single station is, of course, open to challenge. On the other hand, no criteria have been established as to what an adequate number of stations would be or where they should be located.

It is not possible to totally monitor an entire area thought to be affected. However, computerized atmospheric diffusion modeling, as discussed in Part I, can provide a vital supplementary effect since it permits the estimation of the pollutant concentrations at points not served by monitoring instruments. With diffusion models, a more refined estimation of the severity of the problem can be made than is possible with the use of proportional formulas. It is possible that adequate air quality monitoring would show that the extent of transportation controls needed is different from that presently contemplated.

The need for real-time communications during episodes is illustrated by the following example. On October 16, 17, and 18, 1972, during a forecast stage, there were 16 occa-

sions when the federal episode alert level for carbon monoxide was reached or exceeded at the James Street monitoring station in Seattle. The sensor used at this station is not connected to a real-time system, and it was not possible to implement the notification strategies detailed in Part IV.

*Surveillance system*

A minimum of seven nondispersive infrared CO monitoring stations will be operated continuously in the Seattle area, three of which would be located in the CBD. In addition, ten nitrogen oxide monitors will be established in the Puget Sound Intrastate region to provide comprehensive monitoring. At present no hydrocarbon monitors which meet EPA specifications are available.

Meteorological and air quality data must also be available to meteorologists and air pollution engineers. These data must then be interpreted and made available in usable form to the responsible control strategy authority.

PART VI: INTER-GOVERNMENT COOPERATION AND RESOURCES

*Introduction*

The task of controlling air pollution, because of its magnitude, cannot be expected to be carried out by a single agency. Since air pollution is an area- or region-wide problem its solution is dependent upon a multitude of responsibilities, skills and coordination. While the City of Seattle can implement various strategies, the City cannot be expected to bear the full burden of the economic impact within its own business community, nor can the City be expected to provide a surveillance system and sophisticated predictive air pollution and transportation models for evaluating strategies and air pollution. If an effective air quality improvement program is to be implemented the City and the Department of Ecology must involve other agencies in the solutions.

In developing this document, two committees and a private consultant were the resources which the City and DOE depended upon. Although such committees are essential to an on-going program and should retain their important role, the function provided by the consultant should ultimately be replaced, in kind, with staff personnel and resources equipped to implement the plan over the next five years.

Systems management provides many techniques which are useful for designing a mechanism by which many groups and elements can be coordinated and monitored. With a system defined, resource requirements can be determined and the elements of the control program implemented. Using available management tools for the air quality program, three basic systems can be identified. Those are: (1) Program formulation and initiation, (2) Program monitoring, updating and revisions, and (3) Program implementation.

Program Formulation and Initiation

*Part II: Citizen Involvement* has described the steps utilized in formulating this plan. Figure II–1 of Part II outlines past events and future activities. Attainment of required legislation, the formulation of regulations and administration policies and the adoption of the proposals of the plan herein by EPA are unfinished events that remain to be completed in the initiation phase. The resources depended upon during ths phase will include citizen organizations, the Inter-Government Technical Committee, and local and state legislative bodies.

Program Monitoring, Updating and Revisions

The process illustrated in Figure VI–1 provides a means by which program control and effectiveness can be monitored, evaluated, updated and revised. As is indicated in Figure VI–1, many agencies are involved in the various parts of that process.

The first element involves weather surveillance and air pollution monitoring. The Department of Ecology is presently seeking a revision of its current fund grant from EPA in order to provide the surveillance described in Part V. One output from the monitoring system will be the quarterly air quality report.

If monitoring indicates the strategies are working to improve air quality then the program will continue without revision. However, if the air quality does not appear to be responding to the plan, the City and DOE must take steps to expand the program and include other strategies.

If, and when, new strategies are developed, public hearings and EPA approval are required before this plan can be amended. Upon adoption of the new strategy, implementation, monitoring and review will continue in a cyclic manner until the air quality goals are achieved and maintained.

Program Implementation

The third system is the implementation of the control strategies recommended in *Part III: Transportation Control Program.* Table VI–1 provides a summary of work to be completed for each strategy, estimated cost for the first two years, potential funding sources and agencies responsible for implementation. EPA (36 F.R. 15493) request projections of the extent to which resources will be acquired at 1–, 3–, and 5–year intervals. Table VI–1 represents the first two years of the implementation program. To proceed with estimates for those strategies such as carpools, transit incentives, and parking controls without knowing the details and results of the first two years of study and experience would be difficult to justify. Therefore, cost estimates beyond the first two years are being deferred until more meaningful estimates can be made.

TABLE VI–1.—PRELIMINARY COST ESTIMATES TO IMPLEMENT STRATEGIES (1973 DOLLARS)

| Project | Description of work to be performed | Total estimated project cost | Potential funding sources | Responsible agency |
|---|---|---|---|---|
| Retrofit | Obtain legislation (March 1973); adopt regulations; retrofit uncontrolled vehicles (March 1974). | Cost included as part of vehicle emission inspection. | EPA, State, general fund | DOE. |
| Vehicle emission inspection | Obtain legislation (March 1973); adopt regulations and emission standards: governmental fleet vehicle inspection program/implementation; inspect all retrofit vehicles (March 1975). | $1,000,000 | do | DOE. |
| Surveillance system | Acquire funding; install new monitoring stations; modify and adopt existing system; traffic data collection. | Application made to EPA to reallocate grant. | do | PSAPCA, DOE, EPA, city of Seattle. |
| SIGOP | ⅔ implemented (January 1973); complete implementation; refine system; evaluate effectiveness (July 1973). | Funded | | City of Seattle. |
| Car pool program | Obtain parking legislation; prepare prospectus for experimental program; apply for funding; select consultant for design of experimental program; implement and operate experimental program for 1 year; evaluate effectiveness (July 1975). | $250,000 | UMTA, METRO, ing County, EPA. | City of Seattle with assistance from other governmental agencies (i.e. int Co., WSD, PSGC). |
| Increase transit ridership | Funding applications; transit studies; construction of new transit Park 'n Ride lots; improve in-city headways. | TIAP: Phase I and II, $320,000; METRO: Unknown at this time. | UMTA, METRO revenue sales tax, EPA, motor vehicle fuel fund. | METRO, city of Seattle. |
| Uniform parking rates | Obtain parking legislation (March 1973); develop parking plan; implement new rate structure; revise meter system (June 1974). | $100,000 | City general fund, EPA, HUD | City of Seattle. |
| Driver advisory system | Prospectus and consultant selection (December 1973); prepare findings and prepare a plan for advisory systems; establish a LID; execute program (July 1975). | $150,000 | EPA, LID, city general fund | City of Seattle and private business. |

APPENDIX A—GENERAL FACTS ABOUT SIX MAJOR POLLUTANTS

Source: "A Citizens Guide to Clean Air"; The Conservation Foundation; Washington, D.S.; January, 1972.

WHAT WE KNOW ABOUT OXIDES OF SULFUR

Major source: fuel combustion.

Minor sources: chemical plants, metal processing, trash burning.

Nature: Sulfur is a nonmetallic element found in coal and fuel oil. When these fuels are burned, sulfur joins with oxygen in the air to form gaseous oxides of sulfur, including dioxide ($SO_2$) and sulfur trioxide ($SO_3$).

Effects: Sulfur oxides, in combination with moisture and oxygen, can yellow the leaves of plants, dissolve marble, and eat away iron and steel. They can limit visibility and cut down the light from the sun. They can affect man's breathing: at sufficiently high concentrations, sulfur dioxide irritates the upper respiratory tract; at even lower concentrations, when carried on particulates, it appears able to do still greater harm by injuring lung tissue.

Conclusions found in the federal criteria document: The criteria *Resumé* for sulfur oxides reports that increased mortality occurred when the annual geometric mean was as high as 115 micrograms per cubic meter. Adverse effects can be detected when $SO_x$ pollution exceeds certain levels for short periods of time. These effects are especially evident in the case of sulfur dioxide. Levels of 300 micrograms per cubic meter of $SO_2$ for three or four days have been associated with a variety of adverse health effects.

WHAT WE KNOW ABOUT PARTICULATE MATTER

Source: Pollutants can exist as solid matter, liquid droplets, or gas. Both the solid and liquid matter are called particulates (which simply means particles in the atmosphere). Solid particulates consist of dust, smoke or fumes; liquid particulates are mists and sprays. Particulate pollution results from many kinds of industrial and agricultural operations and from combustion products, including automobile exhausts.

Effects: Particulate matter in the respiratory tract may produce injury by itself, or it may act in conjunction with gases, altering their sites or their modes of action. Particles suspended in the air scatter and absorb sunlight, reducing the amount of solar energy reaching the earth, producing hazes and re-

ducing visibility. Particulate air pollution causes a wide range of damage to materials. It may chemically attack materials through its own intrinsic corrosivity or through the corrosivity of substances absorbed or adsorbed by it. Merely by soiling materials and thereby necessitating more frequent cleaning, particulates can accelerate deterioration.

Conclusions found in the federal criteria document: The criteria *Resumé* reports that adverse health effects were noted when the annual geometric mean for particulate matter reached 80 micrograms per cubic meter.

WHAT WE KNOW ABOUT CARBON MONOXIDE

Major source: Internal combustion engines in motor vehicles, primarily the automobile.

Minor sources: various industrial processes, solid waste disposal.

Nature: Carbon monoxide, an invisible, odorless, and tasteless gas, is formed when any carbon-containing fuel (gasoline, coal, and so on) is not completely burned to carbon dioxide ($CO_2$), but only half-way to carbon monoxide (CO). Because of its characteristics, the internal combustion engine, especially in cars, is responsible for by far the largest fraction of man-made emissions of carbon monoxide.

Effects: Compared to other common air pollutants, carbon monoxide has a unique mechanism of action. It does not irritate the respiratory tract but rather passes through the lungs directly into the blood stream. There it combines with the red blood cell's hemoglobin, the substance that normally carries oxygen to all the tissues of the body. Because hemoglobin binds carbon monoxide over 200 times as strongly as oxygen, a low concentration of carbon monoxide in the ambient air has a greatly magnified effect on the body. Since the heart and brain are the two tissues most sensitive to oxygen deprivation, they show the most serious effects from carbon monoxide exposure. Thus at high concentration (1000 ppm and more), carbon monoxide kills by paralyzing normal brain function. At much lower levels, effects on these two tissues are also the predominate ones (see below).

Because of its unique mode of action, carbon monoxide is not known to have adverse effects on vegetation, visibility, or material objects.

Conclusions found in the federal criteria document: The criteria *Resumé* reports that exposure to 35 mg/m³ (30 ppm) will, after a few hours, inactivate about 5% of the blood's hemoglobin, thus lowering its oxygen content. This loss can impair performance on certain psychomotor tests, indicating a significant effect on brain function. At higher exposures, excess strain is put on patients with heart disease. Exposure to 12–17 mg/m³ (10–15 ppm) for several hours also affects the brain by altering time interval discrimination. In addition, there is some very preliminary evidence that at even lower weekly average levels of carbon monoxide (9–16 mg/m³ or 8–14 ppm), people hospitalized for heart attacks have increased death rates.

WHAT WE KNOW ABOUT PHOTOCHEMICAL OXIDANTS

Nature: Photochemical oxidants are several different pollutants (notably ozone and a group of chemicals called peroxyacylnitrates or PAN) which can come from several sources. All of those pollutants share three properties;

1. They are all formed by the chemical reaction of other pollutants ("-chemical").

2. The reactions forming them proceed much more rapidly in areas with intense sunlight ("photo-").

3. They are extremely reactive chemical substances, acting as oxidizing agents ("oxidants").

Among the most effective combinations for producing this class of pollutants are the oxides of nitrogen and reactive hydrocarbon (organic) vapors. Los Angeles, with its sunny climate and high number of cars, offers extremely good conditions for the production of photochemical oxidants, and in fact this pollution comprises the main part of that city's infamous smog. It is not confined to Los Angeles, however. The constituents of photochemical smog can now be readily detected in many metropolitan areas.

Effects: The various components of photochemical oxidants can have several adverse effects. First, they can directly affect the lungs and eyes of people, causing respiratory irritation and possibly changes in lung function, as well as subjective eye irritation. They are extremely toxic to many kinds of plants, affecting primarily the leaves. In addition, they can physically weaken such materials as rubber and fabrics.

Conclusions found in the federal criteria document: The criteria *Resumé* for photochemical oxidants reports impairment of the performance of student athletes occurred over a range of hourly oxidant levels from 60-590 $\mu g/m^3$ (0.03-0.3 ppm). Increased frequence of attacks in some people with asthma have been observed when hourly averages, as determined from peak measurements, were 100-120 $\mu g/m^3$ (0.05-0.06 ppm). Eye irritation occurs in people at once upon exposure to about 200$\mu g/m^3$ (0.10 ppm); this is roughly equivalent to an hourly average of 60-100 $\mu g/m^3$ (0.03-0.05).

Adverse effects on vegetation have been noted at levels of about 100 $\mu g/m^3$ (0.05 ppm) maintained for four hours. Damage to materials, while clearly observed at levels present in many cities, has not been accurately quantitated at this time.

WHAT WE KNOW ABOUT HYDROCARBONS

Major source: internal combustion engines in motor vehicles, primarily the automobile

Minor sources: evaporation of organic solvents (from painting, dry cleaning, etc.), agricultural burning, gasoline marketing

Effects: At levels of hydrocarbons currently measured in urban areas, no adverse human effects are known to be caused by the hydrocarbons in isolation. However, as discussed in the section on photochemical oxidants, hydrocarbons are an extremely important component of photochemical oxidants, whose effects have been observed. Thus the effects of photochemical oxidants can be, in part, traced back to the hydrocarbons. These, outlined earlier, include respiratory irritation, plant damage, and damage to materials.

Certain specific hydrocarbons do have other effects. Ethylene, for example, damages plants; it can inhibit growth and cause the leaves and flowers to fall.

Conclusions found in the federal criteria document: The criteria *Resumé* clearly states that damaging levels of photochemical oxidants are directly related to concentrations of hydrocarbons in the air which are, if alone, without effect. The *Resumé* states that hydrocarbon concentrations (excluding methane) of 200 ug/m³ (0.3 ppm as carbon) for three hours may produce photochemical oxidant levels of up to 200 ug/m³ (0.10 ppm) a few hours later. If the relationship holds true at lower levels of photochemical oxidant known to be damaging, the hydrocarbon concentration that may be associated with adverse effects is about 100 ug/m³ (0.15 ppm).

WHAT WE KNOW ABOUT OXIDES OF NITROGEN

Major source: fuel combustion

Minor source: chemical plants

Nature: Nitrogen gas, normally a relatively inert (unreactive) substance, comprises about 80 percent of the air around us. At high temperatures (and also under certain other conditions), it can combine with the oxygen in the air to form several different gaseous compounds collectively called the oxides of nitrogen ($NO_x$). Nitric oxide (NO) and nitrogen dioxide ($NO_2$) are the two most important.

Effects: Until recently, it has been difficult to obtain equipment that can detect the oxides of nitrogen in polluted air. Therefore, less is known about these effects than is known, for example, about the effects of oxides of sulfur. Nevertheless, it is clear that the oxides of nitrogen can, at certain concentrations, cause serious injury to vegetation, including the bleaching or death of plant tissue, the loss of leaves, and a reduced growth rate. Oxides of nitrogen can also cause fabric dyes to fade and fabrics themselves to deteriorate. Nitrate salts, formed from the oxides of nitrogens, have been associated with the corrosion of metals. Finally, $NO_x$ can reduce visibility.

Certain members of this group of pollutants are known to be highly toxic to various animals, as well as to man. High levels can kill; lower levels affect the delicate structure of lung tissue. This leads, in experimental animals, to a lung disease that resembles emphysema in man. Exposure to $NO_x$ lowers the resistance of animals to such diseases as pneumonia and influenza; the same may possibly occur in man. Exposure to high levels causes humans to suffer lung irritations and potential damage. Exposure of people to lower levels has been associated with increased respiratory disease.

In addition, oxides of nitrogen, in the presence of sunlight, can react with hydrocarbons to form photochemical oxidants.

Conclusions found in the federal criteria document: The criteria *Résumé* states that a higher incidence of chronic bronchitis has been found in children living in areas where daily averages of $NO_2$ varied from 118 to 156 $\mu g/m^3$ (0.062 to 0.083 ppm) and where nitrate salts in the air were also at elevated levels. Adverse effects on plants have been observed when $NO_2$ levels exceed 470 $\mu g/m^3$ (0.25 ppm) for several months. Corrosion and damage to electrical equipment has occurred when elevated levels of nitrate salts and $NO_x$ levels of 124 to 158 $\mu g/m^3$ (0.066 to 0.084 ppm) were present. Limited evidence suggests that somewhat higher levels of $NO_x$ (roughly 214 $\mu g/m^3$ or 0.11 ppm) in the morning hours may be associated, under certain conditions, with the production later in the day of photochemical oxidant levels harmful to human health.

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APPENDIX B—POTENTIAL TRANSPORTATION STRATEGIES TO REDUCE SEATTLE CBD AIR POLLUTION

This list displays the 50 most desirable strategies based upon intuitive estimation of (1) desirability (2) economic impact and (3) social impact. Work sheets listing 135 possible strategies were evaluated by:

| | |
|---|---|
| a. Environmentalists | 7 |
| b. Businessmen | 12 |
| c. Transportation and Land Planners | 6 |
| d. Design Engineers | 3 |

This population, though limited, constitutes a representative mix of interests and professions.

1. Provide better transit transfer information.

2. Provide a shop 'n ride transit incentive plan.

3. Build more transit shelters and information signing.

4. Better progressed signals to increase flow of all traffic (e.g. SIGOP).

5. Encourage fleet vehicles to use new power vehicles (e.g. LPG & LNG fuel).

6. Pursue means to encourage construction and use of smaller vehicles.

7. PRT through Seattle CBD between Seattle Center and stadium.

8. Experiment with new power systems and vehicles; test effectiveness on government

fleet; proceed with programs to encourage private industry and business to use new systems once they have been proven effective by governmental agencies.

9. Build more outlying park'n ride lots.

10. Reinstate electric trolley or similar low polluting vehicle as CBD shuttles.

11. Encourage auto industries to continue developing and installing air pollution control devices on new vehicles.

12. PRT between major east-west parking complexes.

13. Exclusive bus lanes (e.g. 2nd and 4th Avenue wrong way transit service).

14. Increase CBD shuttle service.

15. Reduce cost, as an incentive, to increase the use of non-leaded or low-lead fuels (e.g. reduce gas tax 2¢ a gallon on low-pollutant fuel.)

16. Construct CBD peripheral parking lots (on fringe of CBD) with shuttle system serving internal CBD.

17. Improve transit equipment for comfort, speed and privacy.

18. Provide a flexible transit transfer program.

19. I–90 implementation.

20. Improve public information signing to and from parking nodes of CBD.

21. Remove or restrict on-street parking during peak hours to improve transit flow.

22. Connecticut Street improvement (stadium).

23. Limit horsepower on vehicles.

24. Provide compatible transit service to augment staggered work hours and/or days.

25. Promote and enhance in-town living.

26. Enforce existing visible emission law.

27. For transit routes progress signals to benefit transit flow.

28. CBD transit free fare zone.

29. Increase transit advertising.

30. I–5 freeway ramp metering and surveillance and driver information.

31. New signals, intersection improvements, street widening, etc. (TOPICS program).

32. Transit Mall (e.g. 3rd Avenue and 1st Avenue).

33. Drive auto to park and ride lots, get free ride to CBD.

34. Remove on-street parking during peak periods only to increase streets' carrying capacity for all vehicles.

35. Priority lane and ramp usage for car pools on freeways and city streets during peak periods.

36. Seattle Center traffic control system improvements.

37. Reroute low usage buses to express routes to carry peak loads.

38. Increase the amount of open space in CBD (i.e. more parks).

39. Sponsor an inspection program (experimental) on government fleet vehicles only; identify problems and refine program, then apply program on a statewide level.

40. Intensify efforts on new studies to generate a better understanding where demands are and transit service can be improved.

41. Combine retro fit inspection with safety inspection.

42. A joint governmental and/or private agency program for matching up carpool partners (carpool matching program).

43. Establish governmental demonstration transit user subsidy programs in discount rate for employees who use transit and not auto. If effective, encourage private agencies to adopt program.

44. Instead of individual charges for ecah transit ride, bill users through a credit card reader system.

45. Provide student, elderly, underprivileged special transit fare program.

46. Encourage all vehicles to use new power systems and fuel sources.

47. Adopt a program to retrofit all vehicles.

48. Establish a state inspection program, but begin with a program that provides a mobile source control (moving and random inspection) and then take steps to implement fixed stations with annual (or semi-annual) inspection requirements.

49. Through zoning let new developments satisfy its parking needs through sponsoring an employee transit subsidy program.

50. Increase transit only lanes on freeways.

51. Reduce existing downtown parking as transit services increase.

52. Restrict left and right turns at critical intersections to speed up traffic flow.

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## Appendix C—Calculations of Emission Reductions

The CBD area used in these computations corresponds to Zone 21. It is a one-mile square with borders approximately at Denny Way on the north, Boren Avenue on the east, Yesler Way on the south and Alaskan Way on the west.

A model of the 1977 traffic in this area, developed by A. M. Voorhees Associates for the EPA study outlined in Part I, was utilized in calculating the reductions in carbon monoxide emissions that will occur with implementation of the various control strategies.

Actual vehicle count in 1971, studies conducted as a part of the METRO Plan development and estimates of traffic growth led to the assignment of vehicle counts to particular streets within the area and an estimate of the average speeds on those streets. For example, an all day average speed of 50 mph was assigned to Freeway traffic. North-south streets in the northern parts of the area are assigned an average speed of 20 mph, and east-west streets in the southern CBD are assigned an average speed of 12 mph.

Analysis of the travel on these streets gave the following distribution:

TABLE C–1.

| Average speed | Vehicle miles | 1977 average (gms/mile) emissions |
|---|---|---|
| 50 m.p.h. | 79,700 | 20.5 |
| 25 m.p.h. | 1,300 | 33.8 |
| 20 m.p.h. | 94,100 | 41.6 |
| 18 m.p.h. | 21,600 | 44.8 |
| 15 m.p.h. | 900 | 52.3 |
| 12 m.p.h. | 22,700 | 62.3 |
| Total | 220,300 | |

The census of employment in the CBD conducted by the Puget Sound Governmental Conference leads to the estimate of 64,000 employees in the CBD in 1977.

The "Blue Streak Phase II Interim Report" indicates that the average occupancy in automobiles entering the CBD is approximately 1.4.

SIGOP

The installation of the SIGOP system is anticipated to improve average speeds in the CBD by 2 miles per hour on many streets. This redistributes the vehicle miles traveled into new strata as follows:

TABLE C–2

| Average speed: | *Vehicle miles* |
|---|---|
| 50 mph | 79,700 |
| 25 mph | 1,300 |
| 22 mph | 63,200 |
| 20 mph | 49,300 |
| 18 mph | 3,300 |
| 15 mph | 900 |
| 14 mph | 19,700 |
| 12 mph | 3,000 |
| | 220,300 |

Applying the emission factors gives a savings of approximately 430 kgms/8hr/mi² of CO emissions.

INCREASE TRANSIT RIDERSHIP

Improvements in the METRO program could shift 24,100 new riders (48,200 trips) to buses. This would mean a proportional reduction of 11,300 vehicle miles traveled and the elimination of approximately 380 kgm/8hr/mi² of CO. This assumes that 50 percent of the 64,000 employees will ride the bus.

CAR POOLS

If the remaining 32,000 employees will travel 1.7 to the vehicle, rather than the present 1.4, an additional 3,700 vehicles will be removed from the roads and 2,400 vehicle miles of travel will be eliminated. This gives a reduction of approximately 80 kgm/8hr/mi² of CO.

UNIFORM PARKING RATES AND DRIVER ADVISORIES

Studies in Los Angeles have estimated that as much as 20 percent of CBD traffic is unnecessary travel due to driver confusion, indirection or shopping for parking. If this 20 percent is divided equally between these three items and this program is presumed to eliminate about one-fourth the traffic in the first two categories and one-half of the latter, then 5 percent of the street traffic would disappear. This would be a reduction of 6,600 vehicle miles traveled and a reduction in emissions of about 280 kgm/8hr/mi².

*Retrofit and Inspection*

Government and fleet vehicles compose approximately 7 percent of the light duty vehicle population and 19 percent of the heavy duty vehicle population. Inspection can reduce emissions by 10 percent.

Approximately 20 percent of all vehicles are sold in any one year. If these vehicles are inspected, their emissions will be reduced by 10 percent.

Installing an "Air Bleed to Intake Manifold" control device will reduce CO emissions from that vehicle by approximately 60 percent. As these are installed on vehicles total emissions will reduce.

These programs will result in a reduction of emissions from light duty vehicles of 680 kgm/8hr/mi² and from heavy duty vehicles of 420 kgm/8hr/mi².

More complete and detailed calculations are included in the technical report from A. M. Voorhees & Associates to the Department of Ecology.

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## Appendix D—Proposed Legislation

AN ACT RELATING TO AIR POLLUTION, ADDING NEW SECTIONS TO CHAPTER 70.94 RCW

Be it enacted by the Legislature of the State of Washington:

New section. Section 1. The legislature finds that the emission of contaminants from motor vehicles is a significant cause of air pollution in the state. The severity of the air pollution problem resulting from motor vehicles emissions varies from area to area in the state influenced by the degree of urbanization, volume of motor vehicle usage, topography, climate, metropolitan traffic pattern design and traffic flow regulation, among other factors. The legislature declares that there is a need to identify those areas where motor vehicle emissions should be reduced in order to insure that applicable ambient air quality standards are not exceeded and to reduce such emissions in the areas identified.

New section. Section 2. The purpose of this act is to provide authority to the director of the department of ecology to identify those areas where motor vehicle emissions should be reduced in order to insure that applicable ambient air quality standards are not exceeded and to adopt rules and approve programs necessary to so reduce such emissions in the areas identified.

New section. Section 3. For the purposes of this act the following meanings unless context clearly dictates otherwise:

1. "Department" shall mean department of ecology.

2. "Director" shall mean director of the department of ecology.

3. "Exhaust emissions" shall mean substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

4. "Motor vehicle" shall mean every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, and which is designed and intended primarily for use on public highways.

5. "Public highway" shall mean every way, lane, road, street, boulevard and every way or place open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns.

New section. Section 4. Whenever, on the basis of acceptable monitoring data, the director shall find:

1. any ambient air quality standards are being exceeded in any area, and;

2. after consideration of emission reductions that will result from the application of Federal motor vehicle emission standards, that the degree of emission reduction necessary to obtain and maintain the standards identified in (1) cannot be achieved within four years of the effective date of this act without the application of additional measures for controlling motor vehicle emissions; the director shall by rule identify the area where such conditions exist and delimit a broader area including and surrounding the problem area to which additional measures to reduce motor vehicle emissions shall apply.

New section. Section 5. After compliance with the provisions of Section 4 above, the director shall adopt rules for the reduction of motor vehicle emissions applicable to the area identified as requiring additional measures to reduce such emissions. Such rules may include but are not limited to:

1. The establishment of exhaust emission standards for gasoline powered motor vehicles registered and operated primarily in the regulated area. Such standards may vary by motor vehicle class, model year, engine displacement, emission control system type or other pertinent variables.

2. A requirement that all gasoline powered motor vehicles or any class thereof, registered and operated primarily in the regulated area which are not equipped with an emission control system be retrofitted with such a system, certified as provided in section 6, below, by a specified date. Any such requirements shall be adopted only in conjunction with a requirement for inspection of retrofitted vehicles prior to their operation in the regulated area and at least annually thereafter.

3. The establishment of inspection requirements for all gasoline powered motor vehicles or any class thereof registered and operated primarily in the regulated area. Such requirements may provide for inspections to be conducted at time of transfer of ownership and/or annually and/or after retrofit with emission control systems. Inspection requirements established hereunder shall require that vehicles meet the exhaust emission standards established pursuant to subsection (1) hereof, under test procedures approved by the department.

New Section. Section 6. Retrofit of gasoline powered motor vehicles pursuant to any rule adopted under this chapter shall only be accomplished by the installation of an emission control system certified as to adequacy by the director. Certification shall be made on demonstration satisfactory to the director by any supplier or manufacturer of such device that use of the device will result in achievement of exhaust emission standards.

New section. Section 7. In relation any inspection system established hereunder, the inspection program shall be administered by the department of ecology. To implement such a program the director may acquire land by purchase, gift or condemnation with or without structures thereon. In the event land is acquired by condemnation the same shall be acquired in the manner provided by law for the acquisition of private property for public use. The director is empowered to erect structures and acquire and install such equipment and mechanical devices as shall from time to time be necessary and convenient for the inspection program.

New section. Section 8. In the implementation of any inspection program established hereunder, the director shall provide for the issuance of certificates of acceptability to the registered owners of vehicles passing inspection. A copy of each such certificate shall be filed with the director of the department of motor vehicles immediately upon its issuance to a registered owner. The director of the department of motor vehicles shall have authority to withhold renewal of the certificate of license registration and license plates for any motor vehicle for which he does not have on file a current and effective certificate of acceptability.

New section. Section 9. Nothing in this chapter and in any rules adopted pursuant hereto shall apply to or be construed to apply to the first sale of any motor vehicle at retail or any events prior in time to such first sale.

New section. Section 10. This chapter and any rules adopted pursuant hereto shall have no application to any vehicles not designed and intended primarily for use on public highways.

New section. Section 11. This act is necessary for the immediate preservation of the public place, health and safety, the support of state government and its existing institutions and shall take effect immediately.

New section. Section 12. If any provision of this act, its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, is not affected.

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AN ACT RELATING TO THE SPECIAL FUEL TAX, AMENDING RCW 82.38.030

Be it enacted by the Legislature of the State of Washington.

Section 1. Section 4, Chapter 175, Laws of 1971, as amended by Section 2, Chapter 135, Laws of 1972 and RCW 82.38.030 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel users a tax of nine cents per gallon or each one hundred cubic feet of compressed natural gas measured at standard pressure and temperature on the use (within the meaning of the word use as defined herein) of special fuel in any motor vehicle: Provided, That in order to encourage experimentation with non-polluting fuels, no tax shall be imposed upon the use of natural gas or on liquefied petroleum gas, commonly called propane, [which is used in a fleet of three or more motor vehicles until July 1, 1975,] *which is used by a vehicle registered in the State of Washington before July 1, 1975.*

(2) Said tax shall be collected by the special fuel dealer and shall be paid over to the department as hereinafter provided: (a) With respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles or into storage facilities used for the fueling of motor vehicles at unbonded service stations in this state; or (b) in all other transactions where the purchaser indicates in writing to the special fuel dealer prior to or at the time of the delivery that the entire quantity of the special fuel covered by the delivery is for use by him for a taxable purpose as a fuel in a motor vehicle.

(3) Said tax shall be paid over to the department by the special fuel user as hereinafter provided: (a) With respect to special fuel upon which the tax has not previously been imposed which was acquired in any manner other than by a special fuel dealer into a fuel supply tank of a motor vehicle in this state; or (b) in all transactions with a special fuel dealer in this state where a written statement has not been furnished to the special fuel dealer as set forth in subsection (2)(b) of this section.

It is expressly provided that delivery of special fuel may be made without collecting the tax otherwise imposed, when such deliveries are made by a special fuel dealer to special fuel users who are authorized by the department as hereinafter provided, to purchase fuel without payment of tax to the special fuel dealer.

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STATE OF WASHINGTON LEGISLATURE

Be it resolved, by the Senate and House of Representatives of the State of Washington, in legislative session assembled:

That, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article 2, by repealing section 40, Amendment 18 thereof as follows:

Section 40, Article II and Amendment 18 of the Constitution of the State of Washington are each hereby repealed.

Be it further resolved, That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

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STATE OF WASHINGTON LEGISLATURE

An act relating to cities of the first, second and third class; amending section 35.86.040, chapter 7, Laws of 1965 as amended by section 13, chapter 204, Laws of 1969 ex. sess. and RCW 35.86.040; amending section 35.86.060, chapter 7, Laws of 1965 and RCW 35.86.060; amending section 9, chapter 204, Laws of 1969 ex. sess. and RCW 35.86A.090; amending section 7, chapter 204, Laws of 1969 ex. sess. and RCW 35.86A.070; amending section 12, chapter 204, Laws of 1969 ex. sess. and RCW 35.86A.120; and repealing section 11, chapter 204, Laws of 1969 ex. sess. and RCW 35.86A.110

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 35.86.040, chapter 7, Laws of 1965 as amended by section 13, chapter 204, Laws of 1969 ex. sess. and RCW 35.86.040 are each amended to read as follows:

Such cities are authorized to establish the method of operation of off-street parking space and/or facilities by ordinance, which may include leasing or municipal operation: *Provided, however,* That ((no)) *if* a city with a population of more than one hundred thousand shall ((operate)) *lease* any such off-street parking space and/or facilities ((but)) *it* shall call for sealed bids from responsible, experienced, private operators of such facilities for the operation thereof. The call for bids shall specify the terms and conditions under which the facility will be leased for private operation. The call for bids shall specify the time and place at which the bids will be received and the time when the same will be opened, and such call shall be advertised once a week for the successive weeks before the time fixed for the filing of bids in a newspaper of general circulation in the city. The competitive bid requirements of this section shall not apply in any case where such a city shall grant a long-term negotiated lease of any such facility to a private operator on the condition that the tenant-operator shall construct a substantial portion of the facility or the improvements thereto, which construction and/or improvements shall become the property of the city on ex-

piration of the lease. If no bid is received for the operation of such an off-street parking facility, or if none of the bids received are satisfactory, the legislative body of the city may reject all bids, in the latter case, and in both situations shall readvertise the facility for lease. In the event that no bids or no satisfactory bids shall have been received following the second advertising the city may negotiate with a private operator for the operation of the facility without competitive bidding. In the event the city shall be unable to negotiate for satisfactory private operation within a reasonable time, the city may operate the facility ((for a period not to exceed three years at which time it shall readvertise as provided above in this section)).

SEC. 2. Section 35.86.060, chapter 7, Laws of 1965 and RCW 35.86.060 are each amended to read as follows:

The lease referred to in RCW 35.86.040 shall specify a schedule of *minimum and maximum* parking fees which the operator may change. This *minimum and maximum* parking fee schedule may be modified from time to time by agreement of the city and the operator.

Sec. 3. Section 9, chapter 204, Laws of 1969 ex. sess. and RCW 35.86A.090 are each amended to read as follows:

The city may:

(1) Transfer control of off-street parking facilities under other departments to the parking commission under such conditions as deemed appropriate;

(2) Issue revenue bonds pursuant to chapter 35.41 RCW, and RCW 35.24.305, and 35.-81.100 as now or hereafter amended, and such other statutes as may authorize such bonds for parking facilities authorized herein;

(3) Issue general obligation bonds pursuant to chapters 39.44, 39.52 RCW, and RCW 35.81.115 as now or hereafter amended, and such other statutes and applicable provisions of the state constitution that may authorize such bonds for parking facilities authorized herein;

(4) Appropriate funds for the parking commission; ((and))

(5) *Specify a schedule of minimum and maximum parking fees which the operator of any off-street parking facility may charge; and*

(6) Enact such ordinances as may be necessary to carry out the provisions of this chapter, notwithstanding any charter provisions to the contrary.

Sec. 4. Section 7, chapter 204, Laws of 1969 ex. sess. and RCW 35.86A.070 are each amended to read as follows:

The Parking Commission is authorized and empowered, in the name of the municipality by resolutions to:

(1) Own and acquire property and property rights by purchase, gift, device, or lease for the construction, maintenance, or operation of off-street parking facilities, or for effectuating the purpose of this chapter; and accept grants-in-aid, including compliance with conditions attached thereto;

(2) Construct, maintain, and operate parking facilities, and undertake research, and prepare plans incidental thereto subject to applicable statutes and charter provisions for municipal purchases, expenditures, and improvements: *Provided*, That the provisions of chapter 35.86 RCW as now or hereafter amended shall not apply to such construction, operation or maintenance;

(3) Establish and collect parking fees, make exception for handicapped persons, lease space for commercial, store, advertising or automobile accessory purposes, and regulate prices and service charges, for use of and within the aerial space over parking facilities under its control;

(4) Subject to applicable city civil service provisions, provide for the appointment, removal and control of officers and employees, and prescribe their duties and compensation, and to control all equipment and property under the commission's jurisdiction;

(5) Contract with private persons and organizations for the management and/or operation of parking facilities under its control, and services related thereto, including leasing of such facilities or portions thereof;

(6) Cause construction of parking facilities as a condition of an operating agreement or lease, derived through competitive bidding, or in the manner authorized by chapter 35.42 RCW;

(7) Execute and accept instruments, including deeds, necessary or convenient for the carrying on of its business; acquire rights to develop parking facilities under the jurisdiction of other city departments or divisions and of other public bodies;

(8) Determine the need for and recommend to the city council:

(a) The establishment of local improvement districts to pay the cost of parking facilities or any part thereof;

(b) The issuance of bonds or other financing by the city for construction of parking facilities;

(c) The acquisition of property and property rights by condemnation from the public, or in street areas;

(9) Transfer its control of property to the city and liquidate its affairs, so long as such transfer does not contravene any covenant or agreement made with the holders of bonds or other creditors; and

(10) ((Require payment of the excise tax hereinafter provided the city shall not have any power to regulate parking facilities not owned by the city.)) *Insure that* parking fees for parking facilities under the control of the parking commission ((shall be)) *are* maintained commensurate with and neither higher nor lower than prevailing rates for parking charged by commercial operators in the general area.

Sec. 5. Section 12, chapter 204, Laws of 1969 ex. sess. and RCW 35.86A.120 are each amended to read as follows:

((No)) *If a* city ((shall operate)) *leases* off-street parking facilities ((but)) *it* shall call for sealed bids from responsible, experienced private operators of such facilitities for the operation thereof. The call for bids shall specify the terms and conditions under which the facility will be leased for private operation. The call for bids shall specify the time and place at which the bids will be received and the time when the same will be opened, and such call shall be advertised once a week for two successive weeks before the time fixed for the filing of bids in a newspaper of general circulation in the city. The competitive bid requirements of this section shall not apply in any case where such a city shall grant a long-term negotiated lease of any such facility to a private operator on the condition that the tenant-operator shall construct a substantial portion of the facility or the improvements thereto, which construction and/or improvements shall become the property of the city on expiration of the lease. If no bid is received for the operation of such an off-street parking facility, or if the bids received are not satisfactory, the legislative body of the city may reject such bids and shall readvertise the facility for lease. In the event that no bids or no satisfactory bids shall have been received following the second advertising, the city may negotiate with a private operator for the operation of the facility without competitive bidding. In the event the city shall be unable to negotiate for satisfactory private operation within a reasonable time, the city may operate the facility ((for a period not to exceed three years, at which time it shall advertise as provided above in this section)).

New section. Sec. 6. Section 11, chapter 204, Laws of 1969 ex. sess. and RCW 35.86A.110 are each repealed.

Mr. MUSKIE. Mr. President, I urge that the Senate once again accept this amendment.

I withhold the remainder of my time.

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

Mr. MUSKIE. Mr. President, I reserve my time to answer the questions of the Senator from Idaho.

Mr. CHURCH. Mr. President, I listened with great interest to the address of the distinguished Senator from Maine. I have sympathy for the needs of the large cities when it comes to solving their worsening transportation problems. We must all recognize that many large cities simply cannot solve their problem by building more highways. They must turn to rail-transit systems if people are to be moved efficiently, without bigger traffic jams and even more air pollution.

My State, however, is a rural State. We have no large cities. We need highways.

Representing Idaho, I would like to support the Senator's amendment, but first I need an answer to the determinative question, where my State is concerned. If this amendment is agreed to, would the amendment diminish, in any degree, the amount of money that Idaho would get for building highways, below the amount authorized in the bill, as reported by the committee?

Mr. MUSKIE. Not in any way.

Mr. CHURCH. Do I understand that Idaho would not lose a single cent for highway construction, if the Senator's amendment is adopted?

Mr. MUSKIE. The Senator is absolutely correct. May I say that my State is in the same situation as his except I do not think we have cities as large as even the State of Idaho, so there is no likelihood that the State of Maine will turn to rail transit under the provisions of this bill. As my people understand it, just as they do not want their transportation policy dictated by people of urban America, neither do they want to dictate to the people of urban America how their highway transportation funds shall be used.

Mr. CHURCH. The principle behind the Senator's amendment, then, is the salutory principle that people at the local level should be entitled to decide for themselves how to best solve their own transportation problems?

Mr. MUSKIE. The Senator has cited it with precision.

Mr. President, I ask unanimous consent to have printed in the RECORD a longer statement covering the point raised by the distinguished Senator from Idaho, as well as a fact sheet relating to the amendment.

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

AMENDMENT

The Amendment I propose will in no way result in any decrease in highway funds allocated to rural areas or any increase to highway funds allocated to urban areas. My amendment in no way effects any of the allocation formulas under the bill. All my Amendment does is add the option of rail systems to the options for which urban funds and urban funds alone may be used.

If my Amendment is alleged to threaten a decrease in rural funds, then the Committee bill has the same fault, for the Committee bill creates the allocation formulas under which these funds will be distributed. But that is not the case. The Committee bill ably drafted under the leadership of Subcommittee Chairman, Mr. Bentsen and full Committee Chairman, Mr. Randolph will not result in any loss of funds to rural areas because of the assistance it provides for urban areas. And because the Committee bill does not result in that decrease of funds to rural areas, my Amendment cannot.

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IS THE HIGHWAY TRUST FUND REALLY SACRED?

In 1971, the last year for which information is available, revenue came to the trust fund from eight tax sources. Six of these eight taxes were on the books prior to 1956 contributing money to the general treasury and financing all varieties of federal activities. During the 25 years preceding 1957, when the Trust Fund began functioning, more than 30 billion in 1971 dollars were generated by these taxes for the general treasury. Only two *new* taxes—the trend rubber tax enacted in 1956 and the parts and accessories tax enacted in 1966—have contributed solely to the Trust Fund since their inception.

In 1971, those six pre-existing tax sources accounted for 98% of the total tax revenues committed to the Trust Fund ($5.426 billion, out of $5.541 billion). The two new taxes accounted for merely 2% of the total ($115 million out of $5.541 billion). (*Note*: the remaining $184 million contributed to the Trust Fund came from interests on investments.)

To pretend that the very legitimacy or viability of these pre-existing taxes depends on their expenditure for concrete and asphalt is more an ex post rationalization than a meaningful guide to what we decide in 1973.

*Neither the Trust Fund nor the federal highway program is financed only from highway-related tax revenues.* Governmental units at the city, county, state and federal levels contributed $4.2 billion from general revenue sources for highway purposes in FY 1972. A large share of these outlays were for the maintenance of federally-funded highways. Many of these revenues came from non-highway users such as the aged, the poor, and others, who rely primarily on mass transit.

*Non-highway users help to build and maintain highways, and they contribute to the Trust Fund.* Much of the $4.2 billion from general revenue sources which is used for highway maintenance comes from the aged, the poor, and others who rely mainly on mass transit. And general taxpayers, whether or not they are Federal highway users, absorb still another substantial indirect highway cost as a result of erosion of the tax base due to highway preemption of taxable land. There are now almost 4 million miles of road in the United States which consume about 35,000 square miles (an area equal to the size of Connecticut, Massachusetts, New Hampshire, Vermont, and Rhode Island combined).

*Mass transit riders have contributed more than $100 million to the Highway Trust Fund since 1957.* This amounts to 10% of the *entire* Federal contribution for mass transit prior to FY 1973.

*Even some highway users don't get a fair return from the Trust Fund—especially if they live in the cities.* Urban areas account for more than half of all Federal gas tax revenues, yet less than 10% of Federal-aid mileage is found in urban areas. Also, all highway users, whether or not they travel on federally funded roads, pay a flat 4 cents per gallon gas tax that goes to the Highway Trust Fund.

Mr. CHURCH. I thank the Senator very much.

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

Mr. BAKER. Mr. President, will the Senator yield to me for 5 minutes?

Mr. MUSKIE. I yield 5 minutes to the Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Maine for yielding. I am honored to join him in cosponsorship of this amendment. I support the amendment. I believe it logically completes what we set out to accomplish in S. 502; that is, to allow urban areas the freedom they need to plan effectively for transportation. And it achieves this without diverting resources from rural areas where the needs, although different, are as great as in our cities.

Existing law permits highway funds to be used for exclusive bus lanes, bus shelters, and fringe parking areas for mass transit users. S. 502 goes further to allow purchase of buses and, where feasible, use of highway rights-of-way for rail transit lines. Some would ask, "Isn't this far enough?" That question misses the point of our amendment, which, as I see it, is to remove artificial barriers to rational transportation planning. Our proposal is simply to permit an urban area to use its Federal urban system funds for the combination of transportation projects—highway and nonhighway—best suited to the needs of that area.

I am convinced that the majority of urban areas will continue to spend most, if not all, of their highway funds on roads and highway-related projects. For most cities, these projects will continue to produce the greatest return on the transportation dollar. The important difference between S. 502 and the amendment before us is that under the amendment, urban areas which expend funds on roads will do so because roads are the best answer to their problems and not because the only funds available must be used to construct highways.

I could not support an amendment to improve urban transportation at the expense of transportation in rural areas. This amendment would not do that. The only funds it makes available for rail transportation are funds already earmarked for expenditure in urban areas—$850 million annually or roughly 15 percent of all highway construction funds. These moneys could not be spent for rural roads in any case.

Travel within urban areas accounts for more than half the Nation's vehicle miles and half the gasoline revenues in the highway trust fund. In this context it does not seem unreasonable to allow flexibility in the use of less than 15 percent of highway trust fund revenues, while preserving the remainder for the important tasks of completing our great Interstate System and building or upgrading needed highways throughout the country.

We cannot escape the fact that past Federal transportation financing has been weighted in favor of highway construction. There was historical justification for this policy and few would dispute the tremendous impact of the Federal-State highway partnership in developing this Nation. Circumstances have changed, however. The vehicles for which highways are built in certain areas create air pollution, draw on limited energy resources, and discourage public transportation on which the old, the poor, and the handicapped must depend. Particularly in our urban areas, highways are no longer the single answer to transportation needs.

It makes sense to me to permit that investment of funds which will return maximum benefits. I believe that in many areas these benefits will be seen not only as cleaner air or more amenable surroundings, but also in the economic form of thriving public transit systems.

Because the trust fund concept is that of a user fund, and because I believe it possible that 1 day public transportation will be a profitable enterprise, I will propose, if the pending amendment is adopted, that the Secretary of Transportation conduct a study and report to Congress within a year on means by which those mass transit systems which benefit from highway trust funds can contribute to the trust fund. I believe such a contribution, whether from a tax on energy consumption or from some other source, is important in maintaining the integrity of the trust fund as a user fund.

Finally, I wish to say that the proponents of this amendment do not intend that the highway trust fund be the major source of funds for massive investments in urban mass transit. It is imperative that adequate funding of the Urban Mass Transportation Administration be continued if we hope to make substantial improvement in urban transportation.

The significance of the amendment lies less in the amount of urban system highway funds finally expended on rail projects than on the provision's recognition of the need to encourage truly comprehensive transportation planning and rational consideration of a range of alternatives to the use of private automobiles in congested urban areas.

Mr. STAFFORD. Mr. President, will the Senator yield for a question?

Mr. BAKER. If I have any time remaining. I will be pleased to yield to the distinguished ranking member of the Transportation Subcommittee.

Mr. STAFFORD. If the Senator's amendment were adopted, would it have any effect on the funds available to the smaller States, like Vermont, New Hampshire, or Maine?

Mr. BAKER. It would not. The query of the Senator is a central and key issue. No rural area, or no small State will be deprived of one single penny from the Highway Trust Fund.

Mr. STAFFORD. I thank the Senator for that information.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. Mr. President, I yield myself 12 minutes.

The issues posed by the amendment offered by the Senators from Maine and Tennessee have been very thoroughly debated both this year and last year. Therefore, I do not intend to take very long in my discussion of them.

Let me begin by saying that this bill S. 502, gives significant attention to the needs of the cities and to mass transit.

S. 502 provides for an increase of over 800 percent in urban system funds—from the present $100 million to $850 million. That increase was a recognition by this committee that the transportation problems of our urbanized areas have become increasingly severe in recent years, and that the Federal Government has a responsibility to meet them.

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

Mr. BENTSEN. I yield.

Mr. RANDOLPH. I hesitate to interrupt the continuity of the argument, but I think it should be said, and I hope my colleague from Maine would not feel it inappropriate, that there were $650 million proposed for urban highways in the bill as it came from the subcommittee to the full committee. It was raised to $850 by an amendment offered by the Senator who now speaks, indicating, as the bill came from the committee, a realization on my part of the problems of the urban areas.

Mr. BENTSEN. I thank the distinguished chairman.

Anyone who has visited the major urban centers in my own State of Texas knows that these cities are now experiencing traffic problems as severe as those in any other part of the Nation. We know that we require a large infusion of Federal funds to help cities all over the Nation, and in this bill we have provided a dramatic increase in funding for that purpose.

One provision of S. 502 provides for a pass-through of urban system funds directly to cities of over 400,000 when the Secretary determines that these cities have the ability to administer Federal funds. We provided a pass-through because we believed that incorporated municipalities of that size were in a better position to judge their local needs. And we recognized that many urban areas have considered some State highway departments insensitive to their local needs. So we gave the cities that added responsibility and power.

Another section of S. 502, section 131, provides that funds from the highway trust fund can be used in urban areas for the construction of exclusive bus lanes, exclusive or preferential truck and emergency vehicle routes or lanes, traffic control devices, passenger loading areas and facilities, and for the purchase of passenger equipment other than fixed rail.

In short, then, urban areas can use funds under this bill for the purchase of buses and other forms of nonrail mass transit, as well as a number of highway-related purposes which can be of significant use in easing traffic congestion and reducing pollution.

I want to stress, Mr. President, that these are mass transit provisions. Too often, I believe, we think of mass transit only in terms of rail transit, but buses are also mass transit and they can provide the kinds of immediate response to the problem that rail transit systems may take years to accomplish.

In S. 502 we have also been careful to provide that buses acquired with Federal funds under this act must meet the special criteria for low-emission vehicles set forth in the Clean Air Act. We did not want to allow for the purchase of new buses not meeting these standards which would only compound the problems of pollution in our cities.

I mention these facts, Mr. President, because I believe many have received the erroneous impression that S. 502 does not address itself to the problems of the cities or the need for mass transit. In fact, it does address itself to those needs in very forceful terms.

The question then arises, why not provide for the purchase of equipment for rail mass transit as long as we have gone so far as to provide for the purchase of buses?

Let me say that I have deep concern for adequate funding for all forms of mass transit, including rail. That is why earlier this afternoon I accepted an amendment to this bill which would provide over $3 billion in contract authority for mass transit systems of all kinds—and some $800 million in operating subsidies for the same purposes. The operating subsidies are particularly significant, for they can aid the many transit systems throughout the country who find themselves in financial distress. I support that provision even though the administration opposes it.

Let me also say that I am much more interested in providing adequate funds for all forms of mass transit than I am in preserving a political issue.

One of the witnesses testifying before our subcommittee began his testimony by referring to the present debate as a debate on the question of—and I quote—"Roads Versus Mass Transit."

But I do not see it that way at all. To me the issue is not a choice between the "pro highway" advocates on the one hand and the "pro mass transit" advocates on the other. The issues at stake are far more serious and complicated than that.

If you are pro mass transit, as I am, it does not necessarily follow that you are anti highway or that you believe that the Highway Trust Fund is necessarily the proper vehicle for directing funds into mass transit.

The argument I make today is not a philosophical argument; it is a practical argument.

For example, in my own State of Texas, the Houston subway is estimated to cost some $1.4 billion; if the Muskie-Baker amendment passes, the entire State of Texas would receive only $47 million, which could be used for both urban highways and mass transit in all urban areas of the State. In San Francisco, the estimated cost of the BART system is $1.45 billion; if the Muskie-Baker amendment passes, the entire State of California would receive only $98 million for both highways and mass transit in urban areas. In Atlanta, the subway estimates for the Atlanta subway ran as high as $1.3 billion; if the Muskie-Baker amendment passes, the entire State of Georgia would receive only $14 million for urban areas, some of which would not go to Atlanta.

And here in the District of Columbia, we have a metro system which is estimated to cost $2.9 billion; if Muskie-Baker passes, the District of Columbia would receive only $5 million from that source.

Is this realistic funding for mass transit? I think not.

I ask unanimous consent to include in the RECORD at this point the distribution of urban system funds in the Muskie-Baker amendment.

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

*Distribution of $850 Million Based on Population, Municipalities and Other Urban Places of 5,000 or More Adjusted To Provide One-half Percent Minimum Share*

[*In thousands of dollars*]

| *State:* | *Amount* |
|---|---|
| Alabama | 10,372 |
| Alaska | 4,144 |
| Arizona | 7,498 |
| Arkansas | 4,689 |
| California | 98,205 |
| Colorado | 9,246 |
| Connecticut | 12,642 |
| Delaware | 4,144 |
| Florida | 28,592 |
| Georgia | 14,018 |
| Hawaii | 4,144 |
| Idaho | 4,144 |
| Illinois | 49,377 |
| Indiana | 17,660 |
| Iowa | 8,066 |
| Kansas | 7,409 |
| Kentucky | 8,630 |
| Louisiana | 12,471 |
| Maine | 4,144 |
| Maryland | 16,397 |
| Massachusetts | 25,894 |
| Michigan | 34,959 |
| Minnesota | 13,155 |
| Mississippi | 4,831 |
| Missouri | 17,204 |
| Montana | 4,144 |
| Nebraska | 4,740 |
| Nevada | 4,144 |
| New Jersey | 34,771 |
| New York | 84,460 |
| North Carolina | 11,529 |
| North Dakota | 4,144 |
| Ohio | 43,137 |
| Oklahoma | 8,906 |
| Oregon | 7,196 |
| Pennsylvania | 44,509 |
| Rhode Island | 4,516 |
| South Carolina | 6,079 |
| South Dakota | 4,144 |
| Tennessee | 11,985 |
| Texas | 47,077 |
| Utah | 4,493 |
| Vermont | 4,144 |
| Virginia | 15,732 |
| Washington | 13,052 |
| West Virginia | 4,144 |
| Wisconsin | 15,210 |
| Wyoming | 4,144 |
| District of Columbia | 4,188 |
| Puerto Rico | 7,918 |
| Total | $828,835 |

Administration $17,000, one-half-percent planning $4,165; total $850 million.

Mr. BENTSEN. Mr. President, with needs that vast, it is obvious to me that a move now to open the Highway Trust Fund to rail mass transit could be interpreted as little more than a symbolic gesture, which would tend to offer only token support to both highways and mass transit. In other words, we could very well harm the highway program without offering more than very minimal support for mass transit.

Mr. President, mass transit requires

more than gestures. Opening the Highway Trust Fund may be an attractive political issue, but it may also be a relatively poor source of funding for rail mass transit.

And I am ready to study any alternative which would provide realistic funding for these purposes. As I said before, I recognize the needs in my own State and throughout the country. As a member of the Finance Committee, I will have this issue before me for consideration, and I pledge my efforts to a solution.

I trust that my friends, the Senator from Maine (Mr. MUSKIE) and the Senator from Tennessee (Mr. BAKER) know of my interest in this matter. And I believe they also know that I am sympathetic to the general goals they seek.

At this time, however, I believe that the Highway Trust Fund is neither an adequate or realistic vehicle to achieve their objectives.

In that spirit, I must oppose the amendment.

The PRESIDING OFFICER (Mr. CLARK). Who yields time?

Mr. MUSKIE. Mr. President, I yield 2 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. WEICKER. Mr. President, I point out to my good friend, the Senator from Maine, that my sympathy does not lie on the other side.

I ask the Senator from Maine a question which touches upon the comments made by the distinguished Senator from Texas. Is there any directive in the language of his amendment and the amendment of the distinguished Senator from Tennessee that directs that any portion of the money be used for mass transit?

Mr. MUSKIE. Not at all.

Mr. WEICKER. Then I would comment that it is not a question of highway versus mass transit. The issue framed by the amendment of the Senator from Maine and the amendment of the Senator from Tennessee is highway versus a balance in our transportation policies. That is the issue. There is no issue on this side of the argument with respect to mass transit.

The issue is whether the Federal Government will back up only the building of a highway and say that that is the way we can solve the question and that is the only answer that they can support.

I thoroughly support the efforts of the distinguished Senator from Maine and the distinguished Senator from Tennessee. I commend them for their amendment. I support it wholeheartedly. I think they will win and, in doing that, I think they will set a new direction for transportation policies of this country.

Then the only persons that I feel sorry for are those in the House of Representatives who will have to be subjected to the last-ditch effort of those who feel that the answer to the problem is more highways. And, to that extent, they will be pressured by the lobbys.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 20 minutes remaining.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I rise in opposition to the proposed amendment before us.

Urban public transportation is not being ignored by Federal funding. The bill before us provides that urban areas may use as much as $850 million, annually, from the highway trust fund for the purchasing of buses. In addition, projected funding for the Urban Mass Transportation Administration in fiscal year 1974 is $1 billion, of which capital facilities grants comprise $872 million. These cannot be considered starvation levels of funding.

But, what levels of funding will be required to build and operate the transit systems which are being considered by this proposed amendment? I believe that we should carefully examine existing plans, and use them as guideposts to what proposals may be forthcoming in the future. The rail transit system now under construction in the District of Columbia, for instance, will cost about $3 billion and will have 98 miles of line. This huge capital expenditure will provide for the movement of about 5 percent of the transportation load in the metropolitan area. Also, recent statements by the Washington Metropolitan Area Transit Authority, concerning their takeover of the area's bus lines, leaves little doubt as to who they expect to subsidize any future annual losses—losses which will probably reach $12 million by 1977 for bus operations alone. The WMATA is unquestionably looking to general tax revenues, including Federal. Washington is not, of course, an exception. The Chicago Transit Authority is predicting a $42 million deficit for 1973.

Furthermore, the ultimate goal of many is expressed in Senate bill 885, which would provide financial assistance for the demonstration of fare-free mass transportation. "Fare free" means, of course, tax supported.

Even mass transit proponents admit that the highway trust fund could not meet the needs of both the highway program and urban transit systems. Mr. Robert M. Coultas, executive vice president of the Institute for Rapid Transit, expresses it well by saying:

> We believe that the highway system should be built and completed, and we believe that there has to be much more Federal support of urban transit systems. Now there is not enough money in the Highway Trust Fund for both.

What this amendment proposes, therefore, is to begin a job which the highway trust fund cannot complete. The fund can provide neither the initial capital nor ultimately, the operating subsidies which would be required. The end result of this approach would be to deprive us of a safe, efficient road system, to meet our future needs, while simultaneously failing to meet the mass transit needs of the urban areas.

It is obvious to me that a new approach is needed. The Idaho Senate and House of Representatives has recommended the establishment of a separate public transportation trust fund, an approach which I endorse. The basic beneficiaries of future transit systems should pay the costs of building and operating those systems.

Mr. President, I ask unanimous consent that the text of the Joint Memorial No. 103 of the State of Idaho Senate be printed in the RECORD at the conclusion of my remarks. It provides, I believe, a balanced and reasonable discussion of the problem before us, together with recommendations for balanced and equitable approaches to the solutions which we are seeking.

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

(See exhibit 1.)

Mr. McCLURE. Mr. President, I might add that this measure passed by a voice vote in the State senate, and passed in the house of representatives by a vote of 61 to 6. I think the expression is very positive.

In conclusion, I would like to comment on the individual views expressed in the report on this legislation, particularly the reference to the Athenians, and a certain happy flexibility of nature, which supposedly gave them lucidity of thought, freedom from prejudice and stiffness, openness of mind, and amiability of manners. I hope that the supporters of these views are not implying that anyone opposed to the amendment before us does not think lucidly, or is not free from prejudice, or does not have an open mind, or, last but not least, has bad manners. Even ignoring the historical facts surrounding the fall of Athens, it can still be argued that there is a difference between "a certain happy flexibility" and disregarding previous commitments. I believe that flexibility can be carried to the point where sound Government programs can be jeopardized by changing the basic understandings and principles upon which they are based.

I believe that we should complete the highway system which we have begun, and that we should begin finding the means to construct and operate urban public transportation systems. The highway trust fund cannot do both jobs. I urge defeat of this amendment, so that we can begin directing our attention and energies to the new solutions required for meeting all of our transportation needs.

EXHIBIT 1

IN THE SENATE—SENATE JOINT MEMORIAL NO. 103, BY TRANSPORTATION COMMITTEE

A joint memorial to the Honorable Senate and House of Representatives of the United States in Congress assembled, the Honorable Congressional Delegation of the State of Idaho, and the Secretary of Transportation of the United States

We, your Memorialists, the Senate and House of Representatives of the State of Idaho assembled in the First Regular Session of the Forty-second Idaho Legislature, do respectfully represent that:

Whereas, establishment of the Highway Trust Fund in the Treasury of the United States has provided a sound basis for financing the federal-aid highway program since 1956; and

Whereas, funds authorized to be appropriated from the Highway Trust Fund have placed heavy emphasis on the interstate highway system in recognition of the extreme importance for early completion of that system; and

Whereas, while such emphasis on the interstate highway system has been entirely appropriate, it has contributed to the accumulation of a tremendous backlog of needs on other federal-aid highway systems; and

Whereas, it is essential that these accumulating needs be financed at an early date in order to provide a balanced transportation system at all levels of government; and

Whereas, use of any revenues accruing to the Federal Highway Trust Fund for purposes other than those for which it was established would produce an even greater backlog of needs on the federal-aid highway systems; and

Whereas, the need for public transportation facilities in many of the metropolitan areas of our nation is of increasing importance to the social, economic and environmental development of these areas; and

Whereas, the use of funding from the Federal Highway Trust Fund or the Airport and Airways Trust Fund for public transportation purposes would markedly dilute transportation accomplishments for all modes of travel.

Now, therefore be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States to retain the Federal Highway Trust Fund now established in the Treasury of the United States to finance the highway programs for which it was established and that there be established a separate Public Transportation Trust Fund through general fund financing for the support of public transportation facilities in metropolitan areas.

Be it further resolved that the Federal Highway Trust Fund should continue to be supported by revenues at a level not less than at present with all financing provided thereby being made available for improvements to streets and highways and directly related transportation facilities.

Be it further resolved that any increase in Federal Highway Trust Fund revenues be used to advance needed improvements to the primary, secondary and urban systems; and that following completion of the interstate system the full resources of the Federal Highway Trust Fund be devoted to those same systems.

Be it further resolved that the federal administration release for immediate highway construction all impounded balances in the Federal Highway Trust Fund and continue to make such funds available to the states as required by law and in accordance with future authorizations and appropriations made by the Congress.

Be it further resolved that the Congress move with extreme dispatch to enact new federal-aid highway legislation which will authorize apportionments to the states for the interstate, primary, secondary and urban system programs for fiscal years 1974 and 1975 as a minimum. Authorizations for fiscal years 1976 and 1977 as well, would materially aid transportation planning efforts and reduce program costs.

Be it further resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward copies of this Memorial to the President and the Vice President of the United States, to the Speaker of the House of Representatives of Congress, to the Senators and Representatives representing this state in the Congress of the United States, and to the Secretary of Transportation of the United States.

The PRESIDING OFFICER (Mr. CLARK). Who yields time?

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from New Mexico (Mr. DOMENICI), a member of the committee.

Mr. DOMENICI. Mr. President, there is no one who disagrees that there is a desperate need for the development and construction of effective systems of public transportation for urban areas. Many of the other pressing problems of urban living are aggravated by the lack of such systems.

There is no one who disagrees that these systems should be an integral and important part of a rational transportation policy for this Nation. I know of no one who disagrees that it is a legtimate function of the Federal Government to be involved, deeply involved, in the efforts to achieve transportation systems which meet the needs of all our people, whether urban or rural, whether commuter or crosscountry traveler. But, I agree with the Public Works Committee report which states that—

Costs of rail systems are so high that the highway trust fund would not be able to bear any sustantial share without seriously impairing its ability to meet the highway needs of the Nation.

There are those who reply to this obvious fact that, "to do something, even something marginally effective, would be better than to do nothing." To that argument I have these two responses:

First, we are not, by this bill, guilty of doing nothing to address urban mass transit problems. By this bill we are providing State and local officials with added flexibility to solve urban transportation problems by authorizing an eightfold increase in existing funding levels for urban systems and would permit the purchase of buses as well as the building of special highways and construction of special facilities for bus use. These changes were made because the committee felt that buses can be made available quickly to utilize existing urban highways, whereas rail transit, in addition to being costly, has a long development time. Even critics of this bill admit that this bill is the most progressive of recent highway acts. As such, it does not represent a do-nothing approach.

Second, it is my firm conviction that to allocate funds which are insufficent to have a substantial beneficial impact from the highway trust fund simply because it is a convenient source, will have the unintended and undesirable effect of delaying the development of a comprehensive resolution to the dilemma of urban transportation, including sufficient financial resources to do the job properly.

I submit that human nature being what it is, there will be a tendency to expect these initial modest diversions from the highway trust fund to accomplish more than is possible; that the highway trust fund and other unrelated, disjointed programs intended for interim relief will come to be seen as sufficient as an interim source of funds; that final resolution of the urban transportation problems will lose some of the urgency which its magnitude and complexity deserves and demands. All of us know from our own experience that temporary measures or emergency programs all too often become permanent, with their built-in and often unforeseen liabilities as effective final solutions.

For these reasons, I feel that any action to increase the use of highway trust funds beyond that provided in S. 502 would be a disservice to that segment of our population which so desperately needs more than a stopgap, interim solution, which even in combination with other programs, falls far short of the mark of providing a comprehensive solution, and in fact may actually delay the attainment of such a solution.

I make these further brief comments about my position:

First, I compliment the Senator from Maine and the Senator from Tennessee, because in their presentations both here and before the committee, they have not taken the position that those of us who oppose their measure are in any way motivated other than with good motives and intentions for the people of our States and our country. I compliment them for that.

Also, the Senator mentions that the mayors of this country and the National League of Cities support the amendment, and I was once among them. I regret that on this issue I cannot support them.

My reason is a very simple one. First of all, it seems obvious to me that the need for mass transit in this country is an enormous problem, and the need for the roadways that already exist and the ones that we must complete also constitutes an enormous problem.

For instance, just today in the Subcommittee on Public Works we heard testimony that we could use $1.5 billion merely to support an adequate safety program for the roadway system that now exists. That is not based upon increased traffic, but merely the traffic that is there now.

So my position is that by passing this measure I think we would be fooling the American people into thinking we have found some solution, in the meager funds available, for mass transit's huge dilemma.

I would rather support a program which would more adequately take care of the problem of mass transit and place the burden of paying for it upon those who are most, in fairplay and justice, responsible for the problem. It seems to me that to say this will add flexibility is to deny the basic needs of the roadway system, which can be solved only with additional funds from the highway user trust fund.

I am aware of the fact that we are beginning to use the trust fund for mass transit, and I support the program to this point, but I do not think we ought to be fooled into thinking that mass transit will indeed find any serious solution to its problems in the proposed amendment. Rather, it seems to me that the funds available could better be used to expand certain programs that already exist, that we know will work, and that have shown some evidence of success.

I close by saying there is no evidence that the $150 million or so which would be used by the major urban centers would have any impact upon the enormous problem, the enormous dilemma that mass transit would attempt to solve. I would also say to those who are so certain that the automobile and the roadways of America are bad that maybe we should discuss the good things they have brought to us all. I do not know, if we did not have the automobile and the

roadways of America, but that the people of America would be living in skyscrapers and cubicles, never to see the out-of-doors because they could not get around. I do not think it is fair to attack the automobile and the highways of America because this country has not seen fit to take care of another and completely different problem, the problem of the central city and the need for a transit system.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield 3 minutes to the Senator from New York.

Mr. BUCKLEY. Mr. President, I rise in support of the amendment now under consideration. I worked hard on it in committee, both this year and last, and I believe it injects into our thinking on the problems of transportation, the problems of moving people and goods into and out of our most concentrated areas, that element of flexibility which will have as its inevitable effect better planning.

We have heard official after official, over the years, complain of the compartmentalized thinking which has resulted too often from certain programs. With the highway program, there is the temptation offered by the Federal contribution, which causes transportation administrators at the State or local level to think only in terms of the specific purposes outlined in Federal regulations and in Federal laws.

We have reached a point of diminishing returns as we try to conceive of our transportation needs as a whole, and I believe that what is contained in the Muskie-Baker amendment will serve, if nothing else, to psychologically liberate our planners, to liberate their thinking so that they can see the pool of resources available and determine in the most intelligent manner possible how best to deploy those funds towards the completion of a system which has as its objective not rail, not highway, not one form of transportation nor the other, but the most effective way of allowing individuals to move where they need to move and allowing goods to be shipped where they need to be shipped.

I recognize the argument that to begin to cope with our remaining highway problems and needs, to begin to cope with our very real mass public transportation needs, will require sums of money far in excess of those that are the subject of this amendment. But again I revert back to the need for changing the thinking with which we approach these basic problems. I believe this amendment goes a long way toward that end, and toward educating the public, and I hope Congress, of our need to move across the line, toward a goal which will stop thinking in terms of one mode of transportation or another, but move toward comprehensive thinking about transportation not only for cities but rural areas as well.

Finally, Mr. President, I would like to touch on one aspect of the so-called sanctity of the trust fund.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUCKLEY. May I have 3 more minutes?

Mr. MUSKIE. Mr. President, I yield the Senator 2 additional minutes.

Mr. BUCKLEY. Mr. President, in this area I would like to point first of all to the fact that 50 percent of the contributions into that fund come from people living in urban areas, and that polls testing the sentiments of those motorists can only lead to the conclusion that they favor the kind of flexibility which we speak of, and that they recognize their own convenience as motorists is best served by relieving the congestion that too often frustrates them.

I believe also that the change that would be enacted by this legislation would put all motorists on notice that the next 10 cents they pitch into the fund will be available for that broader and better purpose. I do not believe that we should allow a fixation on this narrow issue of "sanctity" of the fund to preclude us from advancing in the direction which this country so vitally needs. I urge support of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield 2 minutes to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I am pleased to support the Muskie-Baker amendment, which gives local and State officials the option to spend their portion of the $850-million-a-year urban system allotment for rail transit.

As has been pointed out already, the committee bill moves us one step closer to a more flexible transportation policy by permitting States to use their highway trust fund urban allotment for the purchase of buses as well as the construction of preferential bus lanes and ancillary parking facilities.

Unfortunately, however, the committee bill forbids cities like Chicago from using their allotment for rapid rail improvement.

The city of Chicago now has a public transportation system with both rail and bus elements. The rapid rail routes complement and supplement service provided by buses. Both elements are in serious disrepair, and yet the committee bill would prevent Chicago from improving its rail service.

I believe that urban areas must be given the flexibility provided by the Muskie-Baker amendment to invest in rapid rail transit.

The amendment is permissive rather than mandatory, in that it merely gives States an option to choose rapid rail transit over highways. Those States that want to continue spending every dime of their highway trust fund allotment for highways can do so.

Seventeen cities already have or are planning rail transit systems. These would all suffer from the prohibition the committee bill places on using trust fund moneys for rail. Other cities will undoubtedly want to consider developing rapid rail systems as the deadline approaches for meeting national clean air standards set by Congress.

ENVIRONMENT AND EFFICIENCY

Looking at transportation in terms of our environment and efficiency, I believe we absolutely must consider the development and improvement of rapid rail as a supplement to buses and automobiles.

The amount of land already eaten up by highways staggers the imagination, and yet the committee bill, by restricting the urban system funds to bus transportation, retains the current incentive to build even more highways. Thus it aggravates the land-use problem.

More than 60 percent of the land area in many major American cities is devoted to the movement and storage of autos and buses.

In the years between 1967 and 1970, highways caused the destruction of 147,000 residences, 17,000 businesses, and 5,000 farms. More homes, businesses, and farms have been destroyed since, and all this land was removed as a source of property tax revenues for States and cities.

EFFICIENCY

If we care about transportation efficiency, we must consider rapid rail.

Rail transit, in addition to giving off no pollutants, can move up to 50,000 people an hour compared to 4,000 per hour for the auto.

One bus can move at least as many people as six expressway lanes carrying only cars beside it. A double-tracked rail transit line can carry as many commuters as 20 lanes of freeway at existing average rates of passengers per vehicle.

NATURAL RESOURCES

If we care about conserving our increasingly limited natural resources, we must consider rapid rail.

It is estimated that, at the current rate, transportation fuel demands could deplete the entire proven Alaska oil reserves in 7 years. U.S. passenger cars alone burn 40 million barrels of oil a day, or about 30 percent of the Nation's total daily use.

Yet this winter public schools and other institutions in the East and the Midwest had to close their doors for lack of heating fuels.

The manufacture and operation of automobiles accounts for more than a fifth of all the energy consumed in the United States. But cars effectively use only 5 percent of the potential energy they burn. The rest is wasted.

The private auto consumes twice as much gasoline per passenger mile as the inner city bus. It eats up more than four times as much as a commuter bus. And it uses seven times the fuel of a commuter rail system.

Brownouts and blackouts are no longer isolated incidents, but recurring phenomena.

AIR QUALITY

If we care about the quality of our air, we must consider rapid rail.

The Environmental Protection Agency has warned 67 cities that they must restrict auto traffic to meet national clean air standards by 1975. Meeting those standards will require major shifts in travel habits in many parts of the country. And the problem is so bad in some areas that merely using buses will not solve it. We may have to alter our life styles drastically. Los Angeles recently learned that it may have to ration gasoline to comply with air quality standards.

SAFETY

If we care about our own personal safety and the growing number of auto-related deaths, we must look to rapid rail.

Trains are 1½ times safer than buses, 2½ times safer than planes, and 23 times safer than the auto.

EVERYONE, EVEN THE ROAD USER, BENEFITS FROM RAPID RAIL

The beneficiaries of mass transit—and by mass transit I mean both buses and rapid rail—include everyone, not least of all the road users themselves.

If we were to divert unnecessary auto traffic to more efficient mass transit, then those who truly must depend on highways—many people in rural areas and truckers—would have their mobility improved. The fewer the cars on the road, the faster we could move.

No one but a masochist enjoys sitting for hours in stop-and-go traffic—whether in a car or bus—on a freeway built for long-distance travel at high speeds. Yet because good, efficient, and inexpensive rapid transit is nearly nonexistent, freeways and expressways are increasingly used by commuters for short-distance travel. When commuters use these highways to get to and from work, they become intolerably congested. And no one moves anywhere very quickly.

Mr. President, it is essential that we give our States flexibility in meeting their transportation needs. The Muskie-Baker amendment provides that flexibility. I reiterate my full and unqualified support for this important initiative.

I ask unanimous consent that an article I wrote for the Chicago Sun-Times "Viewpoint" section that appeared on Sunday, March 11, 1973, be printed in the RECORD.

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

ROAD-FUND TARGET FOR A TRANSIT TRANSFUSION

(By Senator CHARLES H. PERCY)

Chicago today faces the unhappy prospect of losing a public transportation system it desperately needs, and of possibly gaining a superfluous superhighway.

The reason for this paradox is simple: Our national transportation policy provides strong incentives to governors and mayors to build highways, while creating serious barriers to their efforts to upgrade public transportation.

In effect, what the federal government says to the states and cities is this:

"We will put up $90 for every $10 you raise for highways, but only $66 for every $33 that you raise for mass transit. Furthermore, if you will not use your state's highway allotment for roads, then you will lose it, it does not matter whether your needs might be better served by mass transit—either buses or rapid rail: 'Building more roads anyway.'"

This favoritism toward highways manifests itself in odd ways:

It takes two hours in heavy rush-hour traffic to drive the few miles from downtown Chicago to O'Hare Airport, but only an hour-and-a-half to fly 750 miles from Chicago to Washington.

Horsedrawn traffic in central New York City moved faster in 1900 than auto traffic does today.

On an expressway in San Bernardino, Calif., designed for 60-m.p.h. speeds, morning rush-hour traffic creeps along at an average speed of 17 m.p.h.

Meanwhile, cities across the nation are losing their public transportation systems. In the last 20 years 260 transit companies have folded. Public transportation is on its last legs in Chicago.

Much of the Chicago Transit Authority's equipment is falling apart and the quality of its service is suffering badly. Worse, the CTA recently threatened to raise its already high 45-cent fare to 50 cents, and to cut back on service if the state fails to provide immediate financial aid. Without this aid, the CTA cannot pay its employes, buy supplies or meet other day-to-day operating expenses.

What would the loss of public transportation in Chicago mean? In the words of Clair Roddewig, the CTA's acting chairman:

". . . at least 300,000 additional autos would enter downtown Chicago each weekday, and 166,000 would require parking spaces. To accommodate this deluge, there would have to be 148 additional lanes of expressways over and above the 48 which now only reach the edge of downtown. To park the cars would require four decks of parking over the entire Loop area."

To understand why such absurd situations exist, we should examine the history of today's national transportation policy.

It began in 1956, when our population was largely rural. Dwight D. Eisenhower was President and Richard J. Daley was serving the first year of his first term as mayor of Chicago. Petroleum and oil supplies seemed unlimited, as did our wide open spaces. There were 63 million fewer motor vehicles on the roads than there are today, and few of us worried about pollution and smog.

Americans wanted a network of highways linking the nation's cities from coast to coast, border to border. So Congress authorized an Interstate Highway System, with a Highway Trust Fund to finance it.

It was decided that the fairest revenue-raising method would be a "highway user tax"; People who used the roads should pay for them; and conversely, those who did not should pay nothing. In keeping with this theory, Congress imposed a 4-cent-a-gallon gasoline tax, plus certain other motor-related taxes.

Under the 1956 law, highways are funded on a 90–10 basis: For every $10 raised by the states, the federal government contributes $90.

Over the years road "users" have put $53 billion into the fund, which today is enormously affluent: Its cash balance is $4.7 billion.

Compared with the Highway Trust Fund, the machinery designed in provide funding for mass transit resembles an anemic stepbrother.

Meaningful federal aid to mass transit did not begin until three years ago, when Congress enacted the Urban Mass Transportation Act. The law authorizes federal aid to mass transit systems for capital improvements. Projects are funded to a ⅔–⅓ basis: For every $33 raised by the states, the federal government contributes $66.

Unlike highways, whose financing comes from a sacrosanct trust fund that can be used only for highways, mass transit gets its money from general revenues. This means it must enter the annual appropriations competition, and vie with other programs—health, education, welfare, defense—for limited federal dollars.

During its lifetime, the urban mass transit program has received only about $2 billion in federal support. Annual trust fund expenditures for highways average $4 billion. In a real sense, therefore, our policy has been: welfare for road builders and private autos; free enterprise for mass transit, and the public bedamned.

Though the policy remains basically what it was in 1956, times have changed radically.

We now know our energy reserves are limited. Public schools in the Midwest recently closed temporarily for lack of heating fuels. And, a few weeks ago, the nation's environmental protection administrator proposed that Los Angeles ration its gasoline to cut down on air pollution.

The open spaces of the '50s are now mostly memories. Over 70 per cent of our population now lives in urban areas, and the amount of land used for rights-of-way for all roads in the United States has grown to approximately 35,000 square miles—equal to the combined areas of Connecticut, Massachusetts, New Hampshire, Vermont, Rhode Island and Delaware.

Our transportation needs differ greatly from what they were in 1956, and our policy for 1973 should reflect today's needs, not those of 17 years ago.

It is irrational to perpetuate a system whose method of financing implies that the needs of all states are the same, or even that the needs of different areas of the same state are identical. What is good for Alaska may not be for New York. And what is needed in Gridley, Ill., may not only be unneeded in Chicago, but prohibitively expensive as well.

The huge disparity between the costs of rural and urban highways makes the need for a flexible transportation policy even more compelling.

The average cost per mile of a rural highway is slightly less than $1.1 million; of an urban highway, nearly $5.2 million. The 42,500-mile Interstate System is now 80 per cent complete, with 1,547 miles more to be built in urban areas and 6,533 in rural areas.

The urban portion, which accounts for one-sixth of the uncompleted mileage, will cost about $1 billion more than the rural segment.

It is clear, then, that even if one were to ignore such factors as the air breathed by the average city dweller and the psychological well being of the average commuter, it is a very poor investment of tax funds to run endless ribbons of concrete through urban areas.

In Illinois, the situation is greatly exaggerated by the exorbitant cost of the proposed Crosstown Expressway. Based on the most conservative estimates, it would cost more than $48 million for each of the 19.9 miles that it would run through Chicago, more than nine times the national average for urban areas.

Downstate Illinois, like most rural areas, badly needs more highways to spur its economic development and bring its people closer to limited available services. And yet, when trust fund money is poured into uneconomic ventures such as the Crosstown Expressway, less remains for areas such as Downstate. Simple mathematics tells us that for each $48 million spent on one mile of the Crosstown, a road more than 40 miles long could be built in a rural area.

The projected total cost of the Crosstown is more than $965 million. Were half of that money allocated to mass transit in Chicago and the other half designated for highways downstate, the moribund CTA could be revived and rural Illinois' network of highways vastly improved.

Today's transportation policy overlooks completely the interests of those who cannot or do not wish to drive—adolescents, the elderly, the handicapped—as well as the millions of average citizens who drive not out of choice, but only for lack of a decent alternatives. It further ignores the real needs of cities, which generate over half the Highway Trust Fund's revenues.

Proponents of an inviolate trust fund say it would be unfair to use money paid by road users for any purpose other than road building, as if filling one's gas tank were a vote for more highways.

Yet, in spite of the fact all federal gas tax revenues go into the trust fund, not all

roads are financed through it. In addition to the annual $4 billion federal outlay for highways, $10 billion in state highway user taxes and about $5 billion more in general revenues are spent for highways every year.

And nonhighway users also pay an indirect toll, as reflected in the elimination by highways of 147,000 homes, 17,000 businesses and 5,000 farms between 1967 and 1970, not to mention those razed since 1970.

Whatever the intent of the 1956 Federal Highway Act, it is not contributing as well as it could to our mobility and that, after all, is what transportation is all about.

Lest the CTA and public transportation generally go the way of the dinosaur and highways become a juggernaut, we must make a fundamental change in our policy.

Within the next week, the Senate will debate a bill extending the Highway Trust Fund to 1980.

A major issue when this legislation reaches the Senate floor will be whether trust fund money should be used for mass transit—both buses and rapid rail—as well as highways.

Several amendments will be proposed which would tap the fund for amounts varying between $800 million and $2.75 billion a year for mass transit.

None of the amendments would compel the states to use funds for mass transit; they would merely permit them to do so.

Nor would any of the Interstate System money be touched. States could, if they chose, continue to use their entire allotment exclusively for roads.

But states whose needs might be better served by spending a portion of their non-Interstate allotment for mass transit could do so.

If the Senate were to agree to one of these amendments, the battle would be only half won. The House of Representatives, which in the past has strongly resisted more flexible use of the trust fund, would also have to agree. If the House were to abandon its long-standing opposition to this concept, however, prospects for final enactment would be good, given the Nixon administration's support for a flexible trust fund.

The people, as represented by their mayors and governors, must be given a fair choice as to how they meet their transportation needs.

We have seen enough of bulldozers razing homes and paving over parklands to make room for more roads which quickly become so congested that no one can move.

Neighborhoods threatened by the proposed Crosstown Expressway must be preserved, as must the CTA.

It is hard to overstate the mindless callousness of a system which permits a four-, six- or even eight-lane superhighway to rip through the heart of a city, tearing up entire neighborhoods and wiping out public parks and irreplaceable historical sites, all so that thousands of additional cars can crawl along at the grand speed of 15 m.p.h., causing intolerable pollution and consuming more of our increasingly limited supply of gas and oil resources.

The system must be changed.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Can the Chair indicate how much time I have left?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. NUNN. Will the Senator yield for one question?

Mr. MUSKIE. I yield.

Mr. NUNN. This amendment, as I understand, does not in any way take any money from the Interstate Highway System?

Mr. MUSKIE. That is correct.

Mr. NUNN. This amendment in no way affects the rural areas, but affects only funds already allocated to urban areas?

Mr. MUSKIE. That is correct.

Mr. BENTSEN. Are there any other Senators who care to speak against the amendment?

Mr. JAVITS. Mr. President, I am with the Senator very strongly. I can buttress the testimony from our biggest city. I think it is a very fine and just solution. I testified in its favor. I hope very much the amendment carries.

I feel certain that Senators share a mutual goal for a more effective Federal-aid highway program, although perhaps achieved through different means.

The major issue to be confronted in this year's highway bill is whether S. 502 provides a sufficiently broad range of options necessary to solve the pressing problems of our urban transportation systems.

Urban transportation problems, highway and transit, are inextricably interrelated and must be viewed as such. Since the creation of the Highway Trust Fund in 1956, many localities and States have built highways because of available Federal funds and did not consider mass transit systems. This was true whether or not highways were the better solution to the locality's particular transportation problems. For the local officials of densely populated areas, this lack of investment choice led to more highway construction and with it the problems of congestion, social, economic, and environmental damage.

Presently this Congress has the opportunity to alter the restricted options available to our urban communities in the planning of their transportation priorities. This can be achieved by a limited opening of the Highway Trust Fund insofar as it deals with urban problems for other uses than highway oriented development. Under the Muskie-Baker amendment, which I have cosponsored, $850 million allocated to the urban systems would be made available at the option of State and local officials, for use on bus, rail, and highway systems. No rural road funds would be involved and, of course, not one single mass transit system would be mandated. Local and State officials would merely be granted greater flexibility in the use of funds already earmarked for urban "transportation" programs. This figure of $850 million represents a very reasonable sum when compared to the over $6 billion authorized in S. 502 in the same fiscal year. Of importance here is the concept of providing the option to use the money in a manner consistent with locally decided urban transportation needs and objectives.

Financing mass transit is an expensive proposition when confronted with the spiraling operating deficits and large capital outlay needed to maintain mass transit systems. This view was clearly expressed by witnesses testifying on S. 502 before the Senate Roads Subcommittee. There was definite accord toward the goal of securing long-term funding for mass transit though little agreement as to the methods of accomplishing that goal. One alternative proposed consisted of increased taxes in support of a separate Mass Transit Trust Fund. The interrelationship between mass transit and highways I believe prohibits separate revenue bases for each mode if our urban areas are to transport people and goods with maximum efficiency. I know of no single proposition more contrary to the administration view at this time than new taxes, which would be required to support a separate Mass Transit Trust Fund.

Because there is no single solution to urban transportation problems throughout the country, a viable policy would be the consolidation, not the proliferation of existing Federal programs. Efforts must be taken in making the revenues currently allocated to urban transportation programs go much further. This can be initiated by granting State and local officials greater flexibility in the use of their shares of the Highway Trust Fund. For this reason I strongly support the Muskie-Baker amendment before the Senate today.

I ask unanimous consent that my testimony on this bill before the committee be placed in the RECORD.

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

TESTIMONY OF SENATOR JACOB K. JAVITS

Thank you, Mr. Chairman, for allowing me the opportunity to testify before the Subcommittee on a matter of timely importance to the American people, the Federal-Aid Highway Act of 1973, S. 502. I know this Subcommittee, under your leadership, will work hard at reporting to the Committee on Public Works, a comprehensive bill that will respond to the present and future challenges this Nation faces in meeting its transportation needs.

Mr. Chairman, your action in calling these hearings at this time underlines the magnitude of the situation which faces the 93rd Congress. Traditionally, highway legislation is considered in even numbered years. However, we are well aware the Senate and House were unable to reach agreement on critical elements of the 1972 Federal-Aid Highway Bill last October. These elements principally pertained to allocating monies from the urban systems funds of the Highway Trust Fund for rail transit operations and providing operating subsidies and capital grants for mass transit systems as provided by the Urban Mass Transportation Act of 1964 and amendments thereto. Both of these programs I strongly endorsed and will continue to support in this session of Congress. In fact, at the time of the conference of the 1972 highway bill, I sent a letter to the distinguished Chairman of the Senate conferees, Mr. Randolph, urging that they uphold the Senate's position of increased assistance to mass transit contained within S. 3939. This letter was signed by 11 other Senators. I was pleased to see my colleagues hold steadfast to that position.

However, today we find the issues of last year's highway bill again in the midst of Senate hearings and Congressional debate before the existing highway expenditure authorizations expire on June 30th of this year. I believe, Mr. Chairman, that the Senate will show the way to find the solutions to the interrelated problems experienced in our ground transportation systems.

Accordingly, I would like to discuss these critical issues of the 1973 Federal-Aid Highway Bill. In order fully to consider this year's bill, it is necessary to examine the different

ground transportation resources available to the traveling public.

HIGHWAYS

This country possesses the most modern system of highways of any nation, a fact I believe America should be proud of. Since 1957, the Highway Trust Fund, established by the Highway Revenue Act of 1956, has provided the Federal portion of the major highway programs including the interstate system, Federal aid to primary and secondary systems and their urban extensions, Urban Area Traffic Operations and Improvement Programs, urban systems, and highway planning and research. In the period, 1957 to 1970, the Federal Government in building and maintaining this modern network has spent $47 billion or about 71% on the Nation's total expenditures for domestic Transportation. Most of this amount ($31 billion) has been spent on the Interstate Highway Program. The present total mileage of roads and highways in this United States is 700,000 miles.

Certainly the highway program has been significant in the enormous growth of our economy and society. However, as in most economic programs, there is a point of diminishing returns whereby the continued pursuit of a particular idea will eventually obscure and void the benefits of the program. I believe we have reached that point in the Federal Highway Program. By Congress' continued support of the Highway Trust Fund in its present form, new, wider and longer roads are constructed which become obsolete within a short period of time. The unavoidable by-products—congestion, pollution, and death—are the unfortunate results of the relentless laying of concrete and asphalt across the country.

Statistics provided in the Department of Transportation's 1972 National Transportation Report reveal that of the total 58,794 transportation fatalities in 1970, 90% or 53,360 were highway fatalities. Highway deaths have increased since then to number 57,000 last year. Apart from the cost and suffering in the loss of human lives, there is additional cost to the economy through highway accidents. It is estimated that the cost of highway accidents amounts to $18.5 billion in 1970, 84.1% of the total dollars spent on transportation accidents.

As for the cause and effect relationship between motor vehicles and air pollution, there can be no dispute. The Environmental Protection Agency recently reported that 28 cities in 18 states will be unable by 1977 to meet Federal air quality standards primarily because of their reliance on private automobiles. Additionally, there are 39 cities, including New York City and Buffalo, whose air quality is a threat to health because of one or more pollutants from auto exhausts. The realities of these statements call for immediate re-evaluation of gasoline-powered motor vehicles and a possible reduction of their use within large metropolitan areas. The pollutants from motor vehicles—carbon monoxide, hydrocarbons and nitrous oxide—not only threaten the public's health, but also deteriorate land values and vegetation. To begin to answer these problems, I am pleased to note two bills recently introduced by Senator Muskie and now before the Public Works Committee, S. 738 and S. 739, which I have co-sponsored. S. 738 would establish and support State inspection programs for auto emission control systems, and S. 739 would allow use of highway funds for any transportation improvement necessary to avoid air pollution dangerous to public health.

America's dependence on the automobile also bears upon the growing energy crisis in this country. Last week, oil industry officials in hearings before the Cost of Living Council, told of the definite possibility that there will be a severe shortage of gasoline in the summer months when the demand is greatest. Not only will localities have to ration gasoline to curtail automobile pollution, as has been proposed in Los Angeles, but possibly also because of the scarcity of petroleum resources. Motor vehicles account for 40% of all petroleum currently consumed in the the United States with 55% of that share consumed by private automobiles.

Finally, it is shocking to find that of the $176 billion spent on total domestic transportation in the United States, 82.5% or $150 billion is spent on highway related transportation.

MASS TRANSIT

As we fast approach what has been labeled, the "post-Interstate era", new thought must be given to the operation of the highway trust fund. No longer can we assume that a highway is the cure for our growing population's transportation need. Since 1956, with the establishment of the highway trust fund, major improvements have come about in its design and operation. Over this 16 year period, the highway trust fund has spent more than $53 billion toward the improvement of our highways, through the use of revenue from highway user taxes. The operating statement from the trust fund for fiscal 1971 shows receipts of $5.7 billion and expenditures of $4.6 billion with a balance of $3.6 billion. When you consider this vast carryover available for expenditures and fiscal 1973's Federal Transportation budget, allocating 62.9% on highways as opposed to 3.4% on mass transit and intercity rail, the current distortion of Federal assistance to transportation is abundantly clear.

The picture presented by this country's mass transit system is terrible. They are plagued by continued rising fares, increasing deficits and declining ridership. It is only through planned and assured financial support from government that mass transit systems can change their present position to one of financially sound and viable transportation operations. This financial assistance must come from the Federal government and from State and local governments to the extent they are able to do so.

The Senate Committee on Banking, Housing and Urban Affairs stated in its report on the 1972 Federal-Aid Highway Bill, that in the decade from 1961–1971, the number of municipalities which were forced to initiate programs of operating assistance to transit systems because of large deficits increased by nearly 400%. Further these deficits are nationwide with 35 cities facing the task of initiating local subsidies for transit operations.

In the tri-state metropolitan region of New York City, encompassing 19 million people in the states of New York, New Jersey and Connecticut, the deficit problem is overwhelming. In a recent report submitted by the Tri-State Governors' Special Commission on Financing Mass Transportation, mass transit operating deficits for the region in the period, 1972 to 1985, were estimated to be $13.6 billion. This means an average of $1 billion annually will be required for operations alone. In the same period, the region will need at least $7.3 billion to finance capital outlay for an average of $560 million in annual outlay.

For localities and States to meet the operational requirments of mass transit systems, new solutions are urgently needed.

I believe some of the answers to the present state of affairs of mass transit can be found in the Emergency Commuter Relief Act, S. 386, which I have co-sponsored and which provides new money for capital grants and for operating subsidies. However, this bill addresses itself to the immediate remedies needed for mass transit and only indirectly seeks to correct the fundamental imbalances in our transportation system. Last year the Senate took the first crucial step towards recognizing past inadequate transportation funding practices by passage of the Cooper-Muskie amendment to the 1972 Federal-Aid Highway Act. The Senate approval of the Cooper-Muskie amendment demonstrated that Congress is capable of objectively appraising the transportation problems that challenge our Nation today and to start us on the way to a balanced transportation system.

RECOMMENDATIONS

In order to provide this Nation with the means adequately to address itself to future transportation needs in total, greater flexibility must be granted to States and localities in determining Federal highway and transportation programs. While S. 502, the bill before this committee, provides that overall responsibility for coordinating transportation within the State is given to State transportation agencies and allows increased latitude to metropolitan authorities for the planning of transportation systems, it does not provide for the development of alternate transportation systems, perhaps better suited to the particular needs of the locality, other than highway-oriented modes. I am a firm believer in the proposition that we can improve our highway system, maintenance and safety by diverting travellers off the congestion plagued freeways of our urban regions to efficient mass transit systems. The automobile commuter in the densely populated areas receives only marginal return of his highway tax dollar, where bigger highways have always meant more motor vehicles.

To halt this self-perpetuating growth of air pollution, highway carnage and traffic congestion, I have co-sponsored Senator Muskie's amendment to S. 502 and the Kennedy-Weiker Bill, S. 679, both of which allow urbanized areas to use highway funds for transportation projects which will best serve the needs of those areas. This approach allows our cities maximum flexibility to meet transportation requirements, including use of rail transit.

I would like to point out that these bills mandate responsive transportation systems with a range of choices by state and local governments and not the end of the Federal highway program. Equity must be afforded to all modes of transportation if they are to perform their proper function in our growing urban areas.

Senator Muskie's amendment would allocate in each of the fiscal years, 1974 and 1975, $1 billion of the urban highway systems fund to urban areas for construction of alternate modes of transportation, to include bus purchase, fringe parking lot construction, *and* rail transit. Under this proposal the separate funds for interstate, intercity and rural road programs would retain their integrity and would not be available for mass transit development. The figure of $1 billion represents a very reasonable sum when compared to the authorizations of over $10 billion for highways in each of the same 2 years as contained in S. 502.

I disagree with those who argue for the sanctity of the Highway Trust Fund against any funding other than highway oriented programs for the reason that the fund is made up exclusively of highway user tax receipts. For example, indirect costs attributable to highway use such as law enforcement and safety programs are funded by sources outside the Highway Trust Fund. Additionally, over the years there have been many types of Federal excise taxes with revenues going to the general treasury. A special trust fund for a limited purpose is the exception rather than the rule in our tax system.

The implementation of a comprehensive plan to fund multiple modes of transportation must be undertaken now through highway user taxes. I know there is discussion about the idea of a separate trust fund for

mass transit, but I do not think this is a practical alternative. At this time, it is most important to draw on the highway user taxes for mass transit and computer purposes. This would be a long overdue beginning for balanced Federal transportation assistance. Thus I will continue to support measures that provide more efficient use of transportation tax dollars along with the development of better, safer, and more balanced transportation programs.

CONCLUSION

In reviewing S. 502, I have noticed improvements over the 1972 Federal-Aid Highway Act. Some of these are: providing for the adjustment and the relocation of interstate routes in controversial urban areas on a dollar-for-dollar basis; the elimination of the provision for the two year moratorium on the removal of bill boards giving specific information to the traveling public; and the demonstration program to explore ways in which public transportation can be provided at reasonable costs in rural areas.

Mr. Chairman, we read and hear much in the press about the alienation the people of this country feel towards the government's lack of response to their needs. There are few pieces of legislation before Congress today which afford greater opportunity for both house of Congress to meet this challenge than the Federal-Aid Highway Act of 1973, S. 502. As responsible legislators we must answer this Nation's vital need for a balanced transportation system capable of responding to a dynamic and changing society. It is essential that the Congress reverse the imbalance in transportation financing, define new priorities and provide new sources of revenue for financing mass transportation service. By making available monies from the Highway Trust Fund for urban mass transit to state and local authorities, we will have accomplished an historic step towards better transportation, a cleaner environment and a more efficient use of our energy resources. Only in this way can we start to relieve the transportation crisis that now exists and threatens to strangle the country.

Mr. MUSKIE. I thank the Senator from New York.

Mr. President, I will use just a couple of minutes to sum up.

First of all, I make the point again that the purpose of the Muskie-Baker amendment is to give the citizens of rural America the option of using rail transit to solve their transportation problems. It does not change in any way the impact of this highway bill on States which do not choose to use rail transit or on communities which do not choose to use them.

I make a second point: that the revenues now flowing into the highway trust fund prior to 1956 flowed into the General Treasury. They constitute 98 percent of the revenues now accruing to the trust fund.

Congress decided to divert those funds from the General Treasury into the highway trust fund for the specific purpose of building the Interstate Highway System.

It is now time to consider whether to make those funds available in part to serve another national transportation need, having to do with the need for mass transportation in our cities.

It has been argued by the distinguished Senator from Texas (Mr. BENTSEN) and other Senators that one reason we ought not to adopt this amendment is that it does not ask for enough money. It is said that the amounts involved in the Muskie-Baker amendment would not make a dent on the mass transit problems.

I make two points in response. First, the highway trust fund when this bill is enacted will have undertaken to finance $87 billion of highway construction in this country since 1956.

Resources of this magnitude surely, if applied to our needs in the next 21 years, are sufficient to build us a balanced transportation system. I am not proposing that at this point we divert these funds entirely to mass transit. We are not ready for it.

What I am saying is that we ought to make a beginning with those revenues which originated in the general Treasury, to begin to deal with the problems of our cities in the transportation field.

Really, the argument of the distinguished Senator from Texas and other Senators ought to be for the Kennedy amendment. If those Senators think I ask for too little, then they should have supported the Kennedy amendment this year or, even better, the Kennedy amendment of last year.

The Muskie amendment is a first step, a beginning step, not a total step in giving the people of our cities a choice as to the transportation system that makes the most sense to them, the people that delivered it. As such, I urge the Senate to adopt it.

The PRESIDING OFFICER. All time of the Senator from Maine has expired.

Mr. BENTSEN. I yield 6 minutes to the distinguished chairman of the Public Works Committee.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, the question asked by the able Senator from Georgia (Mr. NUNN), I think, should be answered in this way. It is not a matter of diverting funds. It is a matter of whether we have the funds to meet highway needs in the Atlanta area or any other area of this country.

This is the important consideration to which the committee addressed itself in the bill as reported to the Senate.

I give as an illustration something that in which he and other Senators, perhaps, may be interested. I use the example of the city of New York, which will receive $50 million under the apportionment of urban highway funds. Representatives of that city, testifying before our committee, said that for the fiscal years of 1974, 1975, and 1976, they needed major highway construction in New York City amounting to almost $350 million. This would be needed for urban highway construction.

Mr. President, I ask unanimous consent to include at the appropriate place in my remarks copies of three letters that I have addressed to Senators in reference to the provisions of this bill.

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

COMMITTEE ON PUBLIC WORKS,
*Washington, D.C., March 12, 1973.*

DEAR SENATOR: The Senate will consider on Thursday, March 15, the Federal-Aid Highway Act of 1973 (S. 502). As you know, one of the most controversial aspects in the development of this bill was the proposed authority for highway trust funds to be used for rail mass transit construction. The Committee on Public Works rejected such a proposal, but amendments to this effect will be offered. The bill, as reported, broadens the use of urban highway funds to include the purchase of buses, as well as construction of bus lanes, parking facilities, shelters, and other associated activities.

I believe that the Senate should endorse the position of the Committee and reject amendments to permit the use of Highway funds for rail transit. Rail transit systems are needed in only a limited number of communities which have the size and population concentrations to make them a viable response to public transportation needs. The vast majority relies on buses for their public transportation. Rail systems are extremely expensive and the formulas under which highway funds are apportioned would provide relatively insignificant amounts for rail construction in those communities which choose to use their urban funds for this purpose. It is important too, to remember that the highway trust fund expires on October 1, 1977, and that prior to that time the Congress must decide whether it will be extended. Commitments from the Trust Fund to long-term rail construction projects could conceivably not be fulfilled.

The bill authorizes annual expenditures of $850 million for the urban system. When apportioned nationally, individual communities could achieve the greatest immediate impact on their public transportation systems by using these funds to improve the equipment and operations of their bus systems. While I believe that it would be unwise to use the resources of the Highway Trust Fund for rail transit construction, this position in no way diminishes my belief that a strong and well-financed rail transit program should be carried out by the Federal government to assist those cities where rail transit is the proper answer to their urban transportation needs.

I hope you will study these points when S. 502 is considered.

Truly,

JENNINGS RANDOLPH,
*Chairman.*

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COMMITTEE ON PUBLIC WORKS,
*Washington, D.C., March 13, 1973.*

DEAR SENATOR: During the hearings and Committee Executive Sessions on the Federal-Aid Highway Act of 1973 (S. 502), considerable attention was given to urban air pollution that results from motor vehicle usage. Environmental Protection Administrator, William D. Ruckelshaus, testified that 26 urban regions will be required to institute transportation controls by 1977 in order to reduce air pollution. Since the highway program clearly influences the use of motor vehicles, and therefore the levels of air pollution, it was obvious to the Committee that the highway program should be an instrument in alleviating conditions of pollution. This relationship was one factor that led the Committee to endorse the use of highway funds for the purchase of buses for urban public transportation systems.

If traffic is to be restricted to reduce pollution, it is essential that alternative forms of transportation be provided. The expansion and modernization of bus transit systems is the most expeditious and effective way to meet this need. Rail transit systems require many years to design and construct and could not possibly be in service in time to alleviate the hardships imposed by transportation controls. Furthermore, the use of highway funds for rail transit construction would diminish their availability to improve the bus systems on which the vast majority of American communities will continue to rely for their public transportation.

I hope you will consider these points when the Senate considers S. 502.

Truly,

JENNINGS RANDOLPH,
*Chairman.*

COMMITTEE ON PUBLIC WORKS,
*Washington, D.C., March 14, 1973.*

DEAR SENATOR: I have written you outlining some of the major issues related to the use of Highway Trust Funds for public transportation. This is an extremely important question relating to the future of the highway program and one that should have the thoughtful and fully informed consideration of every Member.

In an earlier letter I reviewed the need to reduce air pollution levels in urban areas and how the provisions of S. 502 as reported might be effectively implemented to facilitate this reduction.

Those who advocate the use of highway funds for rail transit construction stress that flexibility is needed in the highway program. I believe however that the greatest amount of flexibility is afforded by the provisions of Section 131 of S. 502 which will permit the optional use of urban highway funds for either roadbuilding or improvement of highway-related public transportation, including the purchase of buses. It is important to remember that every American community already possesses the basic framework of a public transportation system in its streets and roads. There has been a heavy public investment in these facilities and Section 131 is the logical next step in encouraging the maximum and most efficient utilization of our streets and roads for the movement of people.

The number of urban areas where rail mass transit is feasible is limited. The estimates are that these areas contain only twenty-five percent of our country's urban population. Their needs, in this regard, are relatively limited measured against national transportation needs and, therefore, should be met through a program especially designed for this purpose.

Amendments will be offered in the Senate to authorize the use of highway funds for rail transit construction. Similar proposals were rejected by the Committee on Public Works. In this regard, there is a very practical consideration for Senators. If such amendments were to be adopted, the stage would be set for another long and acrimonious conference with the House of Representatives. Such a conference would threaten many of the desirable and non-controversial features of S. 502. It also would pose the very real threat of a complete halt in all highway activities. A protracted conference could extend beyond June 30, the expiration date of existing highway authorization.

The issues raised in the bill are not those of highways versus mass transit, as the sole answer to urban transportation needs. I believe the provisions of S. 502 provide the proper balance to effectively respond to these needs, and I solicit your support for the provisions of the bill as reported.

Truly,

JENNINGS RANDOLPH,
*Chairman.*

Mr. RANDOLPH. Mr. President, I have said repeatedly that I would favor an urban mass transit fund. I said it again in the subcommittee and in the full committee.

I ask the Senator from Louisiana (Mr. LONG), the chairman of the Finance Committee, how he would feel about a trust fund for an urban mass transit program.

Mr. LONG. Mr. President, the Senate saw fit to agree to the proposal suggested by the committee that there should be a fund for an authorization for funds for urban transit, and if the Senate showed a disposition to have certain revenues earmarked for that purpose, I personally would be happy to vote for such a proposal.

I would be glad to support it, particularly if we could understand that those who are interested in this item are helping those who are interested in highways to get a highway bill and that they expect us in return to cooperate with them to have an urban transit program.

As the Senator knows, we can, of course, earmark the gasoline tax, which is paid for by highway users; but there is nothing sacred about any particular source of revenue. We could earmark any one of many sources of revenue for any particular purpose.

We could levy additional taxes or earmark existing taxes for that purpose, and it would not upset me at all to vote for such a proposal.

As the Senator knows, we will have a bill of that sort before us when we vote to continue the tax on gasoline. At that point it would be appropriate either to levy a new tax or to earmark an existing tax.

Frankly, I think it would be well to consult with the administration, if they think it is important enough to do this, and to use the highway trust fund to do it. I should think that the administration ought to be willing to cooperate with us in earmarking revenues for that particular purpose.

Mr. RANDOLPH. Mr. President, I appreciate that response to my inquiry.

How much time have I remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. RANDOLPH. Earlier today, the Senate by an overwhelming vote committed itself to an additional $3 billion over the next 3 years for urban mass transit. At the same time, it also determined by a vote of 70 to 23, that the equities of the Kennedy-Weicker proposal were not proved.

The PRESIDING OFFICER (Mr. CLARK). The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, the Senate is being asked to act on an amendment which will broaden the use of highway trust funds to include purposes unrelated to the highway program. I do not oppose this proposal because of any belief on my part that the transportation objectives it seeks are improper. To the contrary, I have always supported the creation and extension of programs designed to meet our urban mass transit needs—but not at the expense of the highway program.

My argument with the proposed amendment of Senators MUSKIE and BAKER—and my opposition to it—is based on the fact that it will not accomplish their objective, if their objective is to improve our ability to respond to demonstrated need. I do not pose these arguments as a matter of philosophy or concept. As a practical matter, what we are asked to approve will not result in a real response. The proposal is a charade. If it is not being offered as an effort to meet urban transit needs, but as a means to "bust the trust," it is without genuine purpose, for it is ill-timed and arises in the wrong context.

Mr. President, I remind my colleagues that the Federal-Aid Highway Act, which S. 502 would amend and supplement, has evolved over the years as a pragmatic response to our Nation's need for improved and safe highways. The distribution formulas by which the highway trust funds are apportioned among the States are for the purpose of solving highway problems where they exist. They will not put funds in any appreciable amounts in urban areas to meet nonhighway related mass transit needs. If this proposal is for the purpose of putting the camel's nose under the tent, I would say that we are talking about the wrong tent.

Let us discuss the question of need. In 1972, in response to the urging of the Congress, the Department of Transportation filed with us a report on the transportation needs of the United States between 1970 and 1990. As with any catalog of needs, the total figures are astronomical and, in some respects, beyond comprehension in terms of ability to meet them. For all highways, the needs estimate for the 20-year 1970–1990 period is approximately $600 billion. This amount is divided equally between rural and urban areas. For mass transit of all types, the report assesses a $62 billion cost—$40 billion of which would be for nonhighway related rail oriented mass transit in not more than 18 metropolitan areas.

How can we discuss in any real sense the use of a portion of urban highway funds for meeting this need? We would be talking of approximately $300 million a year for the next 3 years if all of the funds attributed to these major metropolitan areas representing approximately 25 percent of the Nation's population, were committed to this type of transit. This $300 million per year does not amount to a serious gesture. It is the offering of a false promise.

The urban highway program, funds from which the sponsors of the amendment would make available for nonhighway related mass transit, was first created in the Federal-Aid Highway Act of 1970. It was created—based on the assessment by the Congress, the administration, the States and the cities involved—with the knowledge that over a long period we had done nothing to assist urban affairs in meeting a wide range of highway needs. We began the urban highway program in the 1970 Highway Act on a very small scale. We approached the highway legislation last year, and again in the legislation before us now, as the means for expanding and substantially increasing our commitment. At the same time that we originated this program, the Congress, in other legislation, took a substantial step forward in meeting urban transit needs through the Urban Mass Transportation Act of 1970. That program is fashioned to put money where the need exists in the matter of mass transit.

We are not involved in an "either or" discussion. We need both highway development and transit, and we need programs which are targeted and focused on meeting these different kinds of needs. The city of New York, which I mentioned earlier will receive approximately $50 million under the apportionment of urban highway funds.

Its mass transit needs, exclusive of $350 million in major highway construction needed in the same period, are only slightly less, approximately $315 million. New York City, to meet its transporta-

tion problems, will need every penny it receives under the urban highway program for making essential highway improvements, and it will need every penny it can get under the Urban Mass Transportation Act to meet its needs in that category. I am genuinely interested in assuring that the Congress will fund both a highway program and a mass transit now and I am prepared to work to that end.

I am also concerned that the proposals before us represent an indirect amendment of the Highway Revenue Act of 1956. That act restricts the use of highway trust fund revenues to the construction of highway as defined in title 23, United States Code. I believe that authority, broadly interpreted, allows us to use these funds for highway related public transportation.

The committee bill authorizes and encourages such uses because it will enable us to take advantage of the substantial investment in highway facilities that exist now. It will enable us to meet the very real problems of those areas with automobile related air pollution problems immediately so that we can effectively spend relatively small sums to achieve meaningful results.

Twenty-six air quality regions will require substantial transportation controls if they are to meet the requirements of the Clean Air Act of 1970 by mid-1977. It will not be possible for those cities where rapid rail systems do not now exist to begin and complete construction by that deadline. We will accomplish all that can be accomplished by providing substitute bus transportation. This, William Ruckelshaus, Administrator of the Environmental Protection Agency, confirmed before the committee in testimony.

I take strenuous issue with those who blame the highway for pollution. The problem of automobile pollution is the automobile and that problem is being worked on now under the Clean Air Act and will have to be addressed in the same time frame.

If we were to stop building highways today, automotive use would probably continue to rise as it has in the past. It is not the highways which pollute but the automobiles which use them. In many instances we find ourselves in the situation where we are carrying out a highway program designed to serve far fewer vehicles than actually use those highways.

The requirements of the Clean Air Act are directed toward problems of automotive pollution. These requirements, together with proper land use controls, will probably require substantial modification of our urban road and street systems. In far too many places automobiles are using residential streets as thoroughfares, intruding not only on the environmental health of neighborhoods, but destroying privacy and their quiet.

Some people have argued that we are letting the dead hand of the past control our ability to respond to the problems of the present. I remind my colleagues that the trust fund was created in 1956; it was reviewed by the Congress in 1961; it was extended by the Congress in 1970. The issue of the use of the fund has thus been before the Senate twice since the highway trust fund was established.

The issue of the use of these funds will once again be properly before the Congress and the Senate during the 94th Congress. The issue of extending the fund, modifying it, or letting it pass from existence will be squarely met then. I believe that fashioning an effective funding mechanism for mass transit will be the result of the deliberations in the next Congress.

It will be argued that all this amendment will do is place flexibility in the States and affected local governments. I believe that our recent experiences with revenue sharing, and the headquarters account procedures which have been used by the Federal Highway Administration in recent years, make the reality of flexibility questionable.

How do we meet the real road and street needs of urban areas and the real needs for improved roads in rural areas if, in the event of the adoption of this amendment, the program administrators decide that the only projects they will approve are those which place these funds in transit projects. I am more concerned with the ability of States and communities to meet problems through an adequately funded highway program and an adequately funded urban mass transit program than I am with providing meaningless "flexibility" that really is not flexibility in fact.

Mr. President, the bill before us provides a wide range of choices to States and local governments in meeting highway and highway-related problems. It is an effective step forward in the expansion of the ability of the Federal-aid highway program to assist States and local governments in meeting a multiplicity of important needs. Loading upon it at this time the responsibility for a tremendous additional investment will serve only to make it unable to respond to the needs for which it was designed.

By the action we took in approving the Williams amendment and will take in approving S. 502 as reported from the committee, we will have in fact provided the tools for an interim solution to the urban transportation needs. During the 94th Congress we will be able to consider the best long-term response to our total transportation problems.

Mr. STAFFORD. Mr. President, I support the amendment proposed by the Senator from Tennessee (Mr. BAKER) and the Senator from Maine (Mr. MUSKIE).

They have presented the case for the amendment eloquently, in great detail and with great accuracy, and there is no need for me to take up the time of this Chamber in going over that ground.

Let me say simply that I am satisfied that this proposal does not mandate the expenditure of a single dollar for any nonhighway purpose. Nor does it change any allocation of any of the money authorized in this bill as the Senator from Tennessee has said. It simply permits urban officials to make their own decisions on the best way to spend the Federal urban system funds that will come to them for transportation purposes.

The Senate approved this amendment last year, and I hope it will again today. Thank you.

Mr. BIBLE. Mr. President, I rise in opposition to this amendment.

I am strongly opposed to this and any other proposal that would permit inroads into the highway trust fund for mass transit and transit-related purposes or mandate the expenditure of highway dollars for transit-related purposes irrespective of local priorities.

I want to make it absolutely clear that I am not insensitive to the problems and needs of mass transportation in our urban areas. On the contrary, I recognize that urban transit systems—bus or rail—are no longer able to meet their capital investment requirements, in most places, from the farebox.

I favor, and have favored, the Congress acting in the public interest, making Federal funds available to help relieve this problem and enable the public to enjoy the convenience of modern public transportation which is so badly needed in our urban centers. My interest in and support for the Urban Mass Transportation Act, and the part I played in formulating the rail transit program for the National Capital area demonstrate my concern for mass transit. My position is that money for urban transit should not come from the highway trust fund.

The interstate construction program is already far behind its originally targeted completion date—1972—and many thousands of miles of our other highways require badly needed modernization.

In my judgment, it is highly unwise to authorize major diversions of highway trust funds for nonhighway purposes when the urgent job of completing the Interstate System and bringing our other roads up to modern standards is only partly done.

Despite numerous misleading reports, there is no huge surplus in the highway trust fund. There are periodic balances of receipts over expenditures, but there is no surplus.

The so-called Muskie-Baker amendment would allow urban areas to divert up to $850 million away from the trust fund for mass transit projects.

The so-called Kennedy-Weicker amendment would broaden the bill to allow more than $2 billion in highway funds to be used for mass transit.

The committee bill itself would permit very substantial diversions of trust fund dollars for the purchase of buses and bus transit facilities.

Mr. President, entirely aside from the fact that such proposals are contrary to the Congress original and continuing dedication of trust fund dollars to highway purposes, this would be robbing Peter to pay Paul.

I say again—there is no huge surplus in the trust fund. And what there is is vitally needed for the essential national highway program.

The rail rapid transit program for the National Capital region alone now bears a price tag in the realm of some $3 billion.

Transit development programs elsewhere will be similarly expensive.

I do not question the need for such improvements. I do question the capacity of the highway trust fund to bear the financial burden.

The task of the Congress is to honor

the original commitment of the trust fund to highway purposes. If we do not, if we approve the massive diversions of funds being sought now, we run the risk of seriously impairing the highway program without achieving any significant gains in high-capacity rail rapid transit.

The further task before the Congress is to identify and cultivate new sources of financial assistance for mass transit.

Since fiscal year 1962, the Congress has authorized and made available some $4.2 billion for public mass transportation programs under the Urban Mass Transportation Act of 1964. In my judgment, that is the proper Federal vehicle for such programs.

The Congress should develop new revenue sources for transit. We should not divert the highway trust fund.

If we do, if we open the door to the massive diversions now being proposed, we will run the further risk of creating a condition where the Urban Mass Transportation Administration may itself become dependent on the highway fund.

We will run the risk of tempering the effort that should be made to generate alternative revenue sources to meet those requirements.

To permit this kind of diversion to take place would be a disservice not only to our national highway needs but to our urban transit needs as well.

I urge that the amendment be rejected.

Mr. HATFIELD. Mr. President, I am pleased to support the amendment offered today to the Federal-aid highway legislation by Senator BAKER and Senator MUSKIE, as well as that offered by by Senator WEICKER and Senator KENNEDY.

In many urban areas of this country our automobile transportation system cannot be improved simply by building more and more freeways. On the contrary, more highways would simply add to the already severe congestion of the city centers. Therefore, I believe that urban centers should have the option of spending a portion of the highway trust fund on the development of mass transit systems. It is for this reason that I cast my vote in favor of the Baker-Muskie amendment.

I also feel that rural areas should have the option of utilizing their share of the highway trust fund for bus and rail transit systems. The Kennedy-Weicker amendment does not mandate this use of funds for mass transit purposes by rural areas; it merely gives such areas another tool to consider in developing transportation systems. These are decisions which should be made by the communities involved.

Mr. President, these amendments do not affect the interstate highway funds, nor do they disturb the balance provided by the Public Works Committee in the allocation of funds between States or between urban and rural areas. They simply provide flexibility and more decisionmaking by the communities as to the types of transportation systems they wish to develop.

Use of the highway trust fund moneys for mass transit purposes does not mean that our highway system needs no further improvement. I believe that our highway system should be expanded and made safer, and I do not believe these goals are in conflict with the development of mass transit where further freeways do not help.

Mr. TUNNEY. Mr. President, I would like to voice my strong support for the Muskie-Baker amendment to the Federal Aid-Highway Act of 1973 which I have joined in sponsoring. A similar amendment was adopted by the Senate last year.

This amendment would open up the highway trust fund to allow local areas to earmark up to $850 million for public transportation systems. These funds are crucial if we hope to come to grips with our pollution and transportation problems.

Year after year we spend billions of dollars to build new highways and thereby slab many big city neighborhoods under gravestones of solid cement.

Our cities must be liberated to use money from the Highway Trust Fund for public transit.

The State of California offers a prime example of the desperate need for these funds. On January 15, the Environmental Protection Agency proposed a drastic gas-rationing scheme which, if it were to be put into effect, would shut down the Los Angeles area. The EPA has stated that gas rationing is necessary to combat the pollution caused by the 6 million cars in the area. A severe curtailment of automobile use in southern California would be disastrous—indeed, outrageously impossible—if there is not a vast increase in mass transit. Presently, there are only 1,500 buses to accommodate the 10 million people in the basin. The Los Angeles traffic department estimates that while the average car in the downtown area carries only 1.5 persons, the average bus carries 40 to 50 people.

The concentration of funds on highway construction has led to a curtailment of public transit. In Los Angeles, the use of public transit has declined by more than 67 percent in the past 50 years, a drop of more than 500,000 riders per day.

Nor is the problem confined to Los Angeles. It has been reported that the EPA is considering gas rationing for 27 other metropolitan areas in 18 States. Yet, we continue to build highways, and pollute our air, jam our highways, and deplete our precious energy resources.

We are traveling a one-way road to disaster unless we quickly develop mass transportation which is cheap, efficient, and convenient for those who daily travel to work, school, or other vital destinations.

The amendment does not require that all cities have to conform to a single plan for providing transportation. But this amendment will allow urban areas which do need to implement mass transit systems to do so without losing money which otherwise go into highway construction. I think that this approach is vital in three ways:

First. It avoids building more highways where this is inconsistent with local needs; second, it provides much needed funding for local mass transit systems; third, it signals a break with our past by diversifying our approach to solutions of our transit problems.

The $850 million from the highway trust fund will not be a panacea for the multiple problems which our cities face, nor will it be the sole answer to our environmental and transportation needs. However, it will be a step in the right direction.

Using the highway trust fund to provide alternative transit systems for our cities is not a betrayal of our commitment to build and maintain decent highways for our citizens. Instead, it is a commitment toward building a rational, comprehensive, balanced transit system. Therefore, I strongly urge adoption of the Muskie-Baker amendment to the Federal-Aid Highway Act of 1973.

Mr. KENNEDY. Mr. President, I rise to speak in favor of the amendment offered by the distinguished Senator from Maine and the distingiushed Senator from Tennessee.

I believe that this amendment which would permit flexibility in the use of urban funds for rail mass transit in addition to bus transit or highways is critically needed by the Nation's cities.

My amendment would have accomplished this purpose as well as doing the same for rural areas. I am sorry that the Senate did not accept that amendment.

However, for the reasons that I offered in my amendment, I believe this amendment is absolutely necessary to restore some balance to the Federal financing of transportation. Earlier today, we approved operating expenses for Urban Mass Transit. I concur with that action and was a cosponsor.

But the basic element that continues to be lacking in this bill, is the ability for the local officials on the spot to decide how they will meet their transportation needs.

For today, we find then. being told, you may use Federal trust fund dollars only for building highways. Yet there is overwhelming documentation of the need for further rail mass transit expenditures.

There is a backlog of more than $4 billion from the Nation's cities for urban mass transit. There are as well stacks and stacks of studies showing more highways alone to be the wrong way for urban areas to solve their transportation problems.

Boston is a case in point. After a 33-month study of the interstate and urban highway program the Governor accepted the conclusions of the study and ordered a halt to further construction of those urban routes. And instead, and wisely, I believe, he recommended a massive transit as the foremost transportation priority.

In doing so, he did not decree an end to highway construction, in fact, he called for specific new highway construction. But the overall results was a reversal of the 3-to-1 ratio of highway expenditures to mass transit expenditures. For it was clear that the first priority was meeting mass transit needs and relieving the congestion on our streets and highways by providing travelers with adequate mass transit alternatives.

And I believe that all cities and all States should have the ability to decide for themselves on their transportation

priorities, to develop a plan to meet those priorities and to find Federal funds available to implement those plans.

Passage of this amendment will provide that flexibility to urban areas.

Mr BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I believe I have used up all my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Maine (Mr. MUSKIE).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. WILLIAMS (when his name was called). On this vote I have a pair with the distinguished Senator from Indiana (Mr. BAYH). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. MAGNUSON (when his name was called). On this vote I have a pair with the distinguished junior Senator from Mississippi (Mr. STENNIS). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Missouri (Mr. EAGLETON), and the Senator from Indiana (Mr. BAYH) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is necessarily absent.

The result was announced—yeas 49, nays 44, as follows:

[No. 37 Leg.]

YEAS—49

| | | |
|---|---|---|
| Abourezk | Hart | Pastore |
| Aiken | Haskell | Pearson |
| Baker | Hatfield | Pell |
| Beall | Hathaway | Percy |
| Bennett | Inouye | Proxmire |
| Biden | Jackson | Ribicoff |
| Brock | Javits | Roth |
| Brooke | Kennedy | Schweiker |
| Buckley | Mathias | Scott, Pa. |
| Case | McGovern | Stafford |
| Chiles | Metcalf | Stevenson |
| Church | Mondale | Symington |
| Clark | Moss | Taft |
| Cranston | Muskie | Tunney |
| Dominick | Nelson | Weicker |
| Fong | Nunn | |
| Griffin | Packwood | |

NAYS—44

| | | |
|---|---|---|
| Allen | Eastland | Johnston |
| Bartlett | Ervin | Long |
| Bellmon | Fannin | Mansfield |
| Bentsen | Fulbright | McClellan |
| Bible | Goldwater | McClure |
| Burdick | Gravel | McGee |
| Byrd, Harry F., Jr. | Gurney | Montoya |
| | Hansen | Randolph |
| Byrd, Robert C. | Hartke | Scott, Va. |
| Cannon | Helms | Sparkman |
| Cook | Hollings | Stevens |
| Cotton | Hruska | Talmadge |
| Curtis | Huddleston | Thurmond |
| Dole | Hughes | Tower |
| Domenici | Humphrey | Young |

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Williams, for
Magnuson, for.

NOT VOTING—5

| | | |
|---|---|---|
| Bayh | McIntyre | Stennis |
| Eagleton | Saxbe | |

So Mr. MUSKIE's amendment was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 26

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill add a new section as follows:

PROHIBITION OF IMPOUNDMENT

SEC. . No part of any sums authorized to be apportioned by the provisions of section 104 of title 23, United States Code, which have been appropriated by Congress for expenditure shall be impounded or withheld from obligation, for the purposes and projects as provided in that title, by an officer or employee of any department, agency, or instrumentality of the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the highway trust fund to defray the expenditures which will be required to be made from such fund.

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

Mr. BELLMON. I yield.

Mr. MANSFIELD. Mr. President, I find myself in a somewhat embarrassing position, because I have indicated to some Senators on this side that the last vote would have been the last vote this evening. However, circumstances make it almost mandatory—if I may use the word advisedly—to consider this amendment at this time. It is an amendment which has been before us several times in past years.

I have discussed the matter with the distinguished Senator from Oklahoma, the distinguished Senator from West Virginia (Mr. RANDOLPH), the distinguished Senator from Texas (Mr. BENTSEN), who is managing the bill, and the distinguished Republican leader. So I hope the Senate will consider the circumstances and indulge me in making this request.

Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes on the pending amendment—this is 5 minutes more than the distinguished Senator from Oklahoma asked for; and 20 minutes, 10 minutes to a side, the time to be equally divided between the manager of the bill and the sponsor of the amendment.

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

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are ordered.

Mr. MANSFIELD. Mr. President, this will be the last vote tonight.

Mr. BELLMON. Mr. President, I yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I appreciate the Senator from Oklahoma yielding to me.

I want the RECORD to disclose that last year the Cooper-Muskie amendment carried by 22 votes. The Muskie-Baker amendment today was carried by 5 votes. I do not disparage those who voted for the amendment, but I do commend those who voted against it. A number of Members obviously felt, on reconsideration, that the contents of the Muskie-Baker amendment did not constitute a meaningful response to the needs of urban rail mass transit. I am only sorry that more Members did not share this feeling. The reconsideration of this issue, however, provided the opportunity for a valuable debate and a thorough consideration of the questions raised.

It is important to remember, however, that it was the issue of utilizing highway funds for rail mass transit that led to an impasse in our conference last year with the House of Representatives. It was the inability to reach agreement last year that has brought us again to consideration of this matter today. It is my intention this year to work for the final enactment of a new highway law in adequate time to prevent the disruption of highway programs throughout the country.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, this amendment, as the majority leader has said, has been before the Senate many times. I do not intend to delay this body unduly this evening. I simply would like to say that this amendment would end impounding of highway trust funds.

Many Senators who are Members of this body now were Members of this body when the trust fund was established, and I believe it was not the intent of Congress when it set up the trust fund that this President or any President could impound these funds and interrupt the highway system.

My information is that at the present time there are $2.5 billion of highway trust funds impounded, and this measure would have the effect of releasing those funds and starting the orderly flow of this fund back to the States, so the States could build the system in an orderly fashion.

I hope the amendment will receive the approval of the Senate today.

The purpose of this amendment is to prohibit the executive branch from further frustrating the legislative purpose of the Federal Highway Act by im-

pounding money from the highway trust fund. Its language is simple and direct. The amendment basically provides that:

> No highway trust funds which have been appropriated by Congress for expenditure shall be impounded or withheld from obligation . . . by an officer or employee of any department, agency, or instrumentality of the Executive Branch of the Federal Government.

This amendment has an interesting history. This is not the first time the Senate has undertaken to stop this impoundment practice. My distinguished colleague from West Virginia and chairman of the Public Works Committee, Senator RANDOLPH, and I first proposed as cosponsors almost identical language as an amendment to the temporary debt ceiling bill on June 30, 1972. Many Senators joined then in urging its enactment. After considerable discussion in support of this amendment, it was withdrawn due to the urgent demand for enactment of the debt ceiling bill. It was reintroduced as a bill in August 1972, and again this session on January 31, 1973. On both occasions over 20 Senators, representing both parties and all sections of the country, joined as cosponsors of this measure.

Today, I am pleased that my distinguished colleagues Senators BARTLETT, ERVIN, FULBRIGHT, HARTKE, HUMPHREY, MCGEE, METCALF, MONDALE, SCHWEIKER, and THURMOND have joined as cosponsors of this amendment, which will, in effect, alter the language of section 103(c) of title 23, which states that it is the "sense of Congress" that highway trust funds not be impounded or withheld from obligation. The Senate will, by adopting this amendment, go beyond simply expressing the "sense of Congress" by literally mandating that no funds shall be impounded. Judging from prior executive conduct, I am firmly convinced that such a change is absolutely essential in order to secure orderly and effective administration of the trust fund.

Some may ask: What is the need for this amendment, and why should the Senate act now to clarify the legislative intent of the Federal Highway Act? Let me explain by briefly reviewing the record. The practice of refusing to permit States to enter into highway construction contracts to the extent authorized by Congress was initiated in fiscal year 1967. The Director of the Bureau of the Budget ordered the reduction of obligational authority under the Federal highway program by $700 million, with an additional reduction of $600 million ordered on January 23, 1968, for calendar year 1968. Another withholding occurred in fiscal year 1971, when the $5.4 billion congressional authorization was reduced to $4.6 billion.

Although this reduction was partially in response to a congressional spending ceiling, it was also the direct result of fiscal policies announced by the President on July 18, 1970. Finally, for fiscal year 1972 and fiscal year 1973, further reductions in obligational authority were made until today there are 2.5 billion impounded Federal aid funds for highway construction. It is apparent that this is a long standing impoundment practice, not unique or confined to the present administration.

One thing is certain—this executive intrusion has had a devastating impact. First and foremost, such an impoundment practice represents a direct violation of the "separation of powers" doctrine. Congress has been given by the Constitution the legislative power, including the power under article 1, section 9, to appropriate funds. The executive branch is given no role to play in the legislative process other than to recommend legislation and a limited veto power. In addition, the President is required by article II, section 3 of the Constitution "to take care that the Laws be faithfully executed." In my view, it would be extremely difficult to formulate a constitutional theory to justify a refusal by the President to comply with the congressional directive to apportion money from the highway trust fund as enumerated in the Federal Highway Act.

Second, such a practice contributes significantly to the rapidly increasing cost of highway construction. And now that the Senate Public Works Committee has expanded the availability of trust funds for other forms of transit, it too will be faced with this inflationary spiral. Let me illustrate: from 1956, when the act was originally initiated, through 1970, highway construction costs rose by more than 41 percent. Certainly any further delay in full funding for either our interstate, primary and secondary roads or urban programs will only mean that additional expenditures must eventually be made.

In addition, completion of our interstate highways, the building of better primary and secondary roads, and improvement of our urban system is imperative if we are to reduce the slaughter which is presently taking place on our Nation's highways. The fatality rate on the Interstate System now stands at 2.9 for every 100 million miles of vehicle travel, while the rate on older, more congested roads is 5.7. The U.S. Department of Transportation estimates that when completed the 42,500-mile Interstate System will save 8,300 lives each year. It is a national disgrace that more than 55,000 persons lose their lives each year on our Nation's highways. Proper and orderly funding of our transportation program is essential if we are to reduce the number of lives presently being lost on our Nation's highways.

In addition, highway trust fund impoundment has meant construction delays resulting in periodic unemployment for literally thousands of highway workers. Not only Oklahoma, but almost every State has felt at some time the severe economic consequences of this practice.

Senator METCALF illustrated the problems well in his Senate statement on August 3, 1972, when he stated:

> Due to the 35 percent reduction of highway construction in Montana over the past two years there has been extensive and wide ranging unemployment.

In one county the unemployment rate increased from 4 to 9 percent in 1 month. Senator METCALF stated that failure of the executive to "use funds duly apportioned and appropriated has caused economic chaos in Montana."

What possible authority or legal justification does the executive branch have to indulge in the withholding of obligational authority from the States? Certainly none as far as I am concerned. The administration apparently believes this practice is necessary in order to prevent further inflation. In search of its goal, the executive branch, by using its power of the purse to thwart the will of Congress, must have forgotten the rapidly increasing cost of construction, the disruptive economic impact of unemployment, and the literally thousands who lose their lives due to poor and inadequate roads.

The Congress has gone on record on several different occasions to express the sense of this body that this practice be stopped. Up to now the executive branch has ignored the will of the Senate and continues to impound the funds.

Members of the Senate must be aware that a Federal district court in Missouri recently held that the executive branch has unlawfully impounded that part of the highway trust fund which should be apportioned to the State of Missouri. The U.S. District Court for the Western District of Missouri ruled on June 12, 1972, in the case of Missouri Highway Commission against Volpe that the Secretary of Transportation and the Director of the Office of Management and Budget do not have discretion under the Federal Aid Highway Act of 1956 to impound trust monies except for very specific reasons. The case was argued on appeal on January 10, 1973, before the U.S. Court of Appeals for the Eighth Circuit in St. Louis and a decision is currently pending.

Judge Becker, in the lower court's opinion, found that the withholding of funds from obligational authority was not "within the lawful discretion of the Secretary." He further stated that:

> The reasons advanced by the Secretary for the current and past withholding of obligational authority are foreign to the standards and purposes of the Act and Fund.

It may be argued that the Senate should await the ultimate outcome of this case. In my view, this would be a mistake, due to the many possible variables. Regardless of the circuit court's decision, this case will undoubtedly be appealed to the Supreme Court. The Court may refuse to hear the case on the basis that it represents a "political question:" not to be decided by the court.

If it does accept the case, it may take months for a decision and even then we are not certain of the results. There is just too much uncertainty, too many factors which could go wrong, for the Congress to sit this one out, and refuse to act. Let the Senate act now to finally set the record straight, upon the enactment of this new highway program. Let us insure that the expanded transportation program provided by S. 502 is properly funded. Let the Senate assert its will to end stop-and-go financing, which not only thwarts the will of Congress but has caused economic disruption in every State.

It is time that the Congress required that funds appropriated be expended in an orderly way for the purpose intended. It is time that Congress reasserted its

proper role in the appropriations process. It is time that Congress acted to regain its rightful place as a coequal partner in Government.

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

Mr. BELLMON. I yield.

Mr. AIKEN. Does the Senator's amendment mean that the full amount should be expended promptly, or would it depend on such a situation as President Johnson found himself in? The operators of road machines might be demanding $20 an hour. Of course, in President Johnson's time many operators were demanding $10 an hour which was rather excessive at that time, and the work was slowed up for 3 or 4 months, to have an orderly construction program.

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. AIKEN. Would the Senator's amendment prevent a slowdown as President Johnson put into effect to keep the program from going hog wild?

Mr. BELLMON. All this amendment would do would be to require that these funds be apportioned to the States in an orderly manner. They are not spent directly by the Federal highway authority, in any event. They are turned over to the States and they decide when to spend them, and I am sure they will not allow the program to be conducted in a wasteful manner.

Mr. AIKEN. I was pointing out the problem that President Johnson ran into and it could easily happen again at any time. I realize that even though the funds are all allocated to the States yet the construction contracts have to have Federal approval.

By withholding approval the executive branch could still hold up expenditures for a long, long time. Requiring that all funds be allocated without delay simply means that these funds would just be tied up.

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

Mr. BENTSEN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, it is with great reluctance that I oppose the amendment introduced by the Senator from Oklahoma. All of the members of the Committee on Public Works are deeply concerned with the practice of this administration and its predecessor of withholding of highway funds.

Members of the Senate have on many occasions expressed their deep concern and firm opposition to this practice. But under the circumstances that now exist with a case having been argued in the court of appeals in Kansas City this past January, where the chairmen of 15 committees of the Senate are on a brief as friends of the court, I think any action which we take today would cloud the clarity of our legal position in opposition to impounding.

If we adopt the amendment as proposed by Senator BELLMON, we run the risk of having the court find that Congress was so unsure of the President's lack of authority to impound in the past that it has for the future removed any question; or if in order to protect our position as litigants, we reject the amendment, then it could be argued that in rejecting the amendment, the Senate was upholding the President's authority to impound. I believe we are left with an impossible situation if the Senate pursues this amendment. I request that he withdraw it so that the court can reach its decision on the merits of the case without any clouding by our subsequent action. If the Senator feels he must pursue his amendment, then I must ask the Senate to join with me in opposing it with the understanding that our opposition is not a confirmation of Presidential authority to impound, but rather that under existing law, the President clearly has no authority to impound funds as long as there are sufficient sums in the highway trust fund to liquidate those obligations.

Mr. President, in effect we are in the position of saying, if we pass this amendment, "Mr. President, we really meant it when we passed amendments and appropriated these funds." He says, "Yes, I really meant it when I impounded."

The matter is now before the court and we should leave it to them.

Mr. BELLMON. Mr. President, I understand and appreciate the argument of the distinguished Senator from Texas. But the fact is that nothing we are about to do here today is going to confuse the court. The language in the law already states that:

> It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure under any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation.

The law says "It is the sense of Congress." We are now taking out the "sense of Congress" language and saying it shall be unlawful for the President to impound these funds.

The fact is, as the Senate knows, the matter is before the circuit court and regardless of what they find, it will in all likelihood go to the Supreme Court and it will be tied up for months, if not years. I would like to see the matter cleared up.

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

Mr. BENTSEN. I yield.

Mr. BAKER. Mr. President, I confess at the outset that I am reluctant to support the Bellmon amendment, but I intend to do so.

One of the first colloquies I engaged in after coming to the Senate was in opposition to the impoundment of highway trust funds by President Johnson. I have contended all along that the generic nature of the trust fund and the statute make it clear that this is one of the few cases of cash and carry we have left in Government. The matter is in the courts and I am encouraged that the District Court for the Western District of Missouri rendered a decision favorable to the Bellmon contention.

I do not want to vote against the Bellmon amendment and create the impression that Congress does not agree with the amendment's point of view. The reason I am reluctant to support the proposal, even though I am going to do so, is that Congress has not faced up to its fiscal responsibilities until we have a congressional coordinating agency similar to OMB to perform a review of the fiscal impact of our appropriations, not unlike the environmental impact review required by the National Environmental Policy Act, under NEPA I feel we will not get out of the economic thicket we are in.

I hope we will supply the fiscal restraint and the discipline we must have if we are to relieve the President of the fiscal burdens we have placed on him in the last several years, burdens which have given rise to the impoundment controversy.

I am going to support the amendment because I want to keep intact the cash-and-carry nature of the highway trust fund. I am going to support the amendment with reluctance, because I do not think we have faced our own fiscal responsibility.

Mr. BELLMON. Mr. President, I am ready to yield back the balance of my time.

Mr. BENTSEN. Mr. President, if the Senator from Oklahoma is ready to yield back his time, I yield back my time.

The PRESIDING OFFICER. All time on the amendment is yielded back.

Mr. BENTSEN. Mr. President, I move to lay the amendment on the table.

I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. We are voting now on the motion to table the Bellmon amendment. Is that correct?

The PRESIDING OFFICER. That is correct; the vote is on the motion to table the Bellmon amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished senior Senator from Rhode Island (Mr. PASTORE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from

Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Ohio (Mr. SAXBE), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 29, nays 59, as follows:

[No. 38 Leg.]

YEAS—29

| | | |
|---|---|---|
| Aiken | Domenici | Hruska |
| Allen | Dominick | Johnston |
| Bennett | Eastland | Long |
| Bentsen | Fannin | Pell |
| Brock | Fong | Proxmire |
| Byrd, Harry F., Jr. | Goldwater | Roth |
| Byrd, Robert C. | Gravel | Scott, Pa. |
| Cotton | Griffin | Stafford |
| Curtis | Hansen | Taft |
| | Helms | Tower |

NAYS—59

| | | |
|---|---|---|
| Abourezk | Hartke | Montoya |
| Baker | Haskell | Moss |
| Bartlett | Hatfield | Muskie |
| Beall | Hathaway | Nelson |
| Bellmon | Hollings | Nunn |
| Bible | Huddleston | Packwood |
| Biden | Hughes | Pearson |
| Brooke | Humphrey | Percy |
| Burdick | Inouye | Randolph |
| Cannon | Jackson | Schweiker |
| Case | Javits | Sparkman |
| Chiles | Kennedy | Stevens |
| Church | Magnuson | Stevenson |
| Clark | Mathias | Symington |
| Cook | McClellan | Thurmond |
| Cranston | McClure | Tunney |
| Dole | McGee | Weicker |
| Ervin | McGovern | Williams |
| Gurney | Metcalf | Young |
| Hart | Mondale | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—11

| | | |
|---|---|---|
| Bayh | McIntyre | Scott, Va. |
| Buckley | Pastore | Stennis |
| Eagleton | Ribicoff | Talmadge |
| Fulbright | Saxbe | |

So the motion to lay on the table the Bellmon amendment was rejected.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the Senator from Rhode Island (Mr. PASTORE). If he were present and voting he would vote "yea." If I were at liberty to vote, I would vote "nay," even though I have already voted in the affirmative.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Ohio (Mr. SAXBE), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 64, nays 21, as follows:

[No. 39 Leg.]

YEAS—64

| | | |
|---|---|---|
| Abourezk | Gurney | Metcalf |
| Baker | Hart | Mondale |
| Bartlett | Hartke | Montoya |
| Beall | Haskell | Moss |
| Bellmon | Hatfield | Muskie |
| Bible | Hathaway | Nelson |
| Biden | Hollings | Nunn |
| Brooke | Huddleston | Packwood |
| Burdick | Hughes | Pearson |
| Byrd, Harry F., Jr. | Humphrey | Pell |
| Byrd, Robert C. | Inouye | Randolph |
| Cannon | Jackson | Schweiker |
| Case | Javits | Sparkman |
| Chiles | Johnston | Stevens |
| Church | Kennedy | Stevenson |
| Clark | Long | Symington |
| Cook | Magnuson | Thurmond |
| Cranston | Mathias | Tunney |
| Dole | McClellan | Weicker |
| Eastland | McClure | Williams |
| Ervin | McGee | Young |
| | McGovern | |

NAYS—21

| | | |
|---|---|---|
| Aiken | Dominick | Percy |
| Allen | Fannin | Proxmire |
| Bennett | Fong | Roth |
| Bentsen | Griffin | Scott, Pa. |
| Brock | Hansen | Stafford |
| Cotton | Helms | Taft |
| Domenici | Hruska | Tower |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—14

| | | |
|---|---|---|
| Bayh | Goldwater | Saxbe |
| Buckley | Gravel | Scott, Va. |
| Curtis | McIntyre | Stennis |
| Eagleton | Pastore | Talmadge |
| Fulbright | Ribicoff | |

So Mr. BELLMON's amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, there will be no further action on this bill tonight.

## BOARD OF VISITORS OF THE U.S. AIR FORCE ACADEMY—APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84–1028, appoints the following Senators to the Board of Visitors to the U.S. Air Force Academy: The Senator from Colorado (Mr. DOMINICK), the Senator from Nevada (Mr. BIBLE), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Colorado (Mr. HASKELL).

## BOARD OF VISITORS OF THE U.S. NAVAL ACADEMY—APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 80–816, appoints the following Senators to the Board of Visitors to the U.S. Naval Academy: The Senator from Georgia (Mr. NUNN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maryland (Mr. MATHIAS), and the Senator from Oklahoma (Mr. BARTLETT).

## BOARD OF VISITORS OF THE U.S. MILITARY ACADEMY—APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84–1028, anannounces the appointment of the following Senators to the Board of Visitors to the U.S. Military Academy: The Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. MCGEE), the Senator from Alaska (Mr. STEVENS), and the Senator from Delaware (Mr. BIDEN).

## ORDER FOR RECOGNITION OF SENATORS ERVIN AND HELMS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that on tomorrow following the orders previously entered, the distinguished senior Senator from North Carolina (Mr. ERVIN) be recognized for not to exceed 10 minutes, and that he be followed by the distinguished junior Senator from North Carolina (Mr. HELMS) for not to exceed 5 minutes.

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

## ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of all orders for the recognition of Senators tomorrow there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 5 minutes each.

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

## ORDER FOR CONSIDERATION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that at the conclusion of routine morning business tomorrow the Senate proceed to the consideration of the unfinished business.

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

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

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. SPARKMAN. Is there any estimate as to how long this bill will require tomorrow?

Mr. ROBERT C. BYRD. Mr. President, I cannot answer the distinguished Senator, except to say there are at least four more amendments that I know about, on one of which there is a 2-hour limitation; on another one there is a 1-hour limitation; on the other two, there is no limitation.

Mr. SPARKMAN. Is it contemplated that following the conclusion of the pending business, the economic stabilization bill will be called up?

Mr. ROBERT C. BYRD. That is the present intention of the leadership.

Mr. SPARKMAN. Would the Senator suggest whether or not we can complete that bill tomorrow?

Mr. ROBERT C. BYRD. I should think it would be pretty late if we got to it tomorrow.

Mr. SPARKMAN. If we do not get to it tomorrow, is it contemplated it will be called up Friday?

Mr. ROBERT C. BYRD. That is the present intention of the leadership.

Mr. GRIFFIN. Will the distinguished assistant majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. May I ask the distinguished chairman of the Banking and Currency Committee when the bill and the report on that legislation will be available?

Mr. SPARKMAN. It was filed today.

Mr. GRIFFIN. I thank the Senator very much.

Mr. SPARKMAN. They should be on our desks in the morning. We hope that by Tuesday we can have the gold devaluation bill reported. That bill was cleared in our committee, but we referred it to the Foreign Relations Committee because, as the Senator knows, of the obligation to make payments to the various international organizations to make up for the lost amounts. The Foreign Relations Committee, as the Senator knows, voted that bill out today with the understanding that one Senator, Senator SYMINGTON, wants to file separate views.

After talking with the majority leader, it was suggested we have that bill reported by Monday. Therefore, it should be ready for action by the Senate on Tuesday.

Mr. GRIFFIN. I thank the distinguished Senator.

## ORDER FOR ADJOURNMENT TO 11 A.M., THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

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

## ORDER FOR ADJOURNMENT FROM THURSDAY UNTIL FRIDAY, MARCH 16, 1973

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

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

## ORDER FOR RECOGNITION OF SENATOR TALMADGE ON FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees on Friday, the distinguished Senator from Georgia (Mr. TALMADGE) be recognized for not to exceed 15 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## ORDER FOR RECOGNITION OF SENATOR THURMOND TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, following the remarks of the distinguished junior Senator from North Carolina (Mr. HELMS), the distinguished senior Senator from South Carolina (Mr. THURMOND) be recognized for not to exceed 15 minutes.

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

## ORDER WITH RESPECT TO CONSIDERATION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow the unfinished business not be laid before the Senate until the completion of all the orders previously entered into for the recognition of Senators.

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

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 11 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized for not to exceed 15 minutes each and in the following order: Mr. MANSFIELD, Mr. ROBERT C. BYRD, Mr. JACKSON, Mr. RIBICOFF, Mr. JAVITS, Mr. GURNEY, and Mr. HARRY F. BYRD, JR.

Then Mr. ERVIN will be recognized for 10 minutes.

Mr. HELMS will then be recognized for 5 minutes. Then Mr. THURMOND will be recognized for 15 minutes.

There will then be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 5 minutes each, after which the Senate will resume its consideration of the unfinished business, S. 502, the Federal highway bill.

Yea-and-nay votes are expected on amendments.

It is hoped that final action will occur on the highway bill tomorrow.

## ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 6:57 p.m., the Senate adjourned until tomorrow, Thursday, March 15, 1973, at 11 a.m.

## NOMINATIONS

Executive nominations received by the Senate, March 14, 1973:

DEPARTMENT OF COMMERCE

Betsy Ancker-Johnson, of Washington, to be an Assistant Secretary of Commerce, vice James H. Wakelin, Jr., resigned.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

*To be lieutenant general*

Lt. Gen. William Joseph McCaffrey, [redacted] Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

*To be lieutenant general*

Maj. Gen. Gilbert Hume Woodward, [redacted] Army of the United States (major general, U.S. Army).

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of brigadier general:

| | |
|---|---|
| Nolan J. Beat | William J. White |
| Edward A. Parnell | Noah C New |
| Thurman Owens | Harold L. Coffman |
| Edward B. Meyer | Maurice C. Ashley, Jr. |

## CONFIRMATION

Executive nomination confirmed by the Senate, March 14 1973:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Floyd H. Hyde, of California, to be Under secretary of Housing and Urban Development.

H. R. Crawford, of the District of Columbia, to be an Assistant Secretary of Housing and Urban Development.

Sol Mosher, of Missouri, to be an Assistant Secretary of Housing and Urban Development.

Michael H. Moskow, of New Jersey, to be an Assistant Secretary of Housing and Urban Development.

James L. Mitchell, of Illinois, to be General Counsel of the Department of Housing and Urban Development.

NATIONAL CREDIT UNION BOARD

Lorena Causey Matthews, of Tennessee, to be a Member of the National Credit Union Board for a term expiring December 31, 1978.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Lyle S. Garlock, of Virginia, to be a member of the Foreign Claims Settlement Commission of the United States for the term of 3 years from October 22, 1972.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Willie J. Usery, Jr., of Georgia, to be Federal Mediation and Conciliation Director.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

U.S. CIRCUIT COURTS

Joseph F. Weis, Jr., of Pennsylvania, to be a U.S. circuit judge, Third Circuit.

U.S. DISTRICT COURTS

Herbert A. Fogel, of Pennsylvania, to be a U.S. district judge for the Eastern District of Pennsylvania.