SENATE—*Thursday, March 22, 1973*

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

PRAYER

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

Eternal Father, we thank Thee for a new day of service to our Nation in this place. Forgive us, if by forgetfulness or carelessness, our lives contribute to our problems or obstruct the doing of Thy will. Create in each of us the life of purity, honesty, and unselfishness which contributes to the solution of our concerns. Make us better that we may do better. Give us the wisdom which comes from above. Attune our will to Thy will.

We pray in Jesus' name. Amen.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of March 20, 1973, the Secretary of the Senate, on March 21, 1973, received the following message from the House of Representatives:

That the House had agreed to the concurrent resolution (S. Con. Res. 16) to authorize certain corrections in the enrollment of S. 7.

EXECUTIVE REPORTS OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of March 21, 1973, the following favorable reports were submitted on March 21, 1973:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive U, 92d Congress, 2d session, Consular Convention with Poland (Ex. Rept. No. 93–6);

Executive V, 92d Congress, 2d session, Consular Convention Romania (Ex. Rept. No. 93–6);

Executive W, 92d Congress, 2d session, Consular Convention with Hungary (Ex. Rept. No. 93–6);

Executive B, 93d Congress, 1st session, Exchange of Notes with Ethiopia Concerning the Administration of Justice (Ex. Rept. No. 93–7); and

Executive R, 92d Congress, 2d session, Convention with Japan for the Protection of Birds and Their Environment (Ex. Rept. No. 93–8).

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of March 20, 1973, the following reports of committees were submitted:

On March 21, 1973:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. 929. A bill to amend the Par Value Modification Act (Rept. No. 93–78); and

S.J. Res. 21. Joint resolution to create an Atlantic Union delegation (Rept. No. 93–79).

On March 22, 1973:

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

S. 13. A bill to amend title 18 of the United States Code to provide civil remedies to victims of racketeering activity and theft, and for other purposes (Rept. No. 93–80).

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

S. 15. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the surviving dependents of public safety officers (Rept. No. 93–81); and

S. 300. A bill to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes (Rept. No. 93–83), together with additional views.

By Mr. McCLELLAN (for Mr. KENNEDY), from the Committee on the Judiciary, with amendments:

S. 33. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance (Rept. No. 93–82), together with additional views.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 20, 1973, be dispensed with.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 5446) to extend the Solid Waste Disposal Act, as amended, for 1 year, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 7) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

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.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore 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.)

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the 15 minutes allocated to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) to speak today be transferred to the control of the distinguished Senator from Arkansas (Mr. McCLELLAN).

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, except the Committees on Commerce and Labor and Public Welfare, may be authorized to meet during the session of the Senate today.

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

AUTHORIZATION FOR PRINTING JOINT ECONOMIC REPORT

Mr. MANSFIELD. Mr. President, on behalf of Senator PROXMIRE, I send to the desk a resolution which I understand has been cleared all around, and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 85

Authorizing the printing of additional copies of the 1973 Joint Economic Report

Resolved, That there be printed for the use of the Joint Economic Committee three thousand three hundred additional copies of the current report to the Congress entitled "The 1973 Joint Economic Report".

Mr. MANSFIELD. Mr. President, this resolution would authorize the printing for the use of the Joint Economic Committee of 3,300 additional copies of its current report to the Congress entitled "The 1973 Joint Economic Report." If these additional copies, sure to be needed by the joint committee, are printed subsequent to the time of printing the regular number of copies of the report their cost will be approximately $1,787. If printed at the same time as the regular copies, the additional copies will cost approximately $1,187—a small but definite savings to the taxpayer of $600.

In view of the urgent need of the joint committee for these additional copies and the savings which would be involved, the regular procedure is not being followed in this case and it is requested that the Senate proceed now to consider this proposal on its own merits. This action

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has been cleared with the leadership on both sides, and within the distinguished chairman (Mr. CANNON) and distinguished ranking minority member (Mr. COOK) of the Committee on Rules and Administration.

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

There being no objection, the resolution was considered and agreed to.

PROPOSED DAILY SUMMARY OF CONGRESSIONAL PROCEEDINGS

Mr. MANSFIELD. Mr. President, the Joint Committee on Congressional Operations has undertaken a study of the feasibility of producing a daily summary of the Chamber proceedings of Congress.

At the request of the distinguished chairman of the committee, my colleague from Montana (Mr. METCALF), and the distinguished vice chairman of the committee. Representative JACK BROOKS, of Texas, I ask unanimous consent that during the next 3-week period, two members of the staff of the joint committee may be allowed the privilege of the floor.

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

THE WATERGATE CASE—EXECUTIVE PRIVILEGE

Mr. SCOTT of Pennsylvania. Mr. President, an article written by Richard Wilson and published in the March 21 issue of the Washington Star-News merits the attention of all those interested in the so-called Watergate case.

I ask unanimous consent to have it printed in the RECORD.

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

ISSUE IS NOT EXECUTIVE PRIVILEGE ALONE

If the U.S. Senate wishes to make itself look ludicrous, it will instruct its sergeant-at-arms to handcuff the counsel to the President of the United States and bring him to the Capitol for cross-examination.

This will have to be done in the dark of the night, or at least at John W. Dean III's residence, because the Senate's lawman wouldn't stand a prayer of getting into the White House grounds during office hours.

The scenario is too absurd to imagine, and this will probably occur to a majority of senators if they are ever presented with Sen. Sam J. Ervin's proposition that Dean be arrested to testify regarding the Watergate case, and, if he refuses, undergo trial by the Senate for contempt.

The confrontation will undoubtedly come in some other way, if it ever comes at all, but there is no harm in having it come. A clearer definition of what is executive privilege and what is not is needed, even if a reluctant Supreme Court merely befogs the issue more than is already the case.

Of course, what is involved here is that the Senate committee does not have hard evidence and wishes Dean to convict himself or commit perjury by his own admission. Unlike an accused criminal in the courts, Dean would be summoned before a public inquisition wherein there were no charges, he would not catch a glimpse of his accusers and he would be judged in a supercharged political atmosphere.

No bill of indictment has been presented that Dean transmitted to the Watergate raiders the content of FBI reports which Dean had extracted from the acting director, L. Patrick Gray III, or, if so, that this was an abuse, impropriety or illegality.

Only an "inference" exists, according to Sen. Ervin, that somebody might have let the Watergate defendants know what the FBI had found out, and maybe that somebody was Dean because of his "close relations" with one of the defendants.

This is the way Joe McCarthy abused the privilege of congressional investigation, and it is astonishing that a senator with as much grounding in fair practice as Ervin would indulge in such tactics.

Supposing for a moment that there were hard evidence of Dean's complicity, and that this was connivance after the fact in a crime, Dean would be shorn of the decency accorded to a private citizen. A private citizen could go before a secret grand jury, take the Fifth Amendment protecting him from self-incrimination, and then the grand jury could decide if there was sufficient evidence to indict him.

Dean has no such protection. He would be required to go before a public political inquisition where taking the Fifth Amendment would be tantamount to a public confession of guilt. The committee desires to cross-examine him to get him to contradict himself or lie or otherwise incriminate himself in a character-destroying extra-legal proceeding.

At another time the country had enough of this kind of guilt-finding based on "inferences." If Ervin has evidence that the consel to the President of the United States connived in the commission of a crime, no doctrine of executive privilege can protect him from the due process of law.

President Nixon has instructed Dean to respond to written questions by the congressional committee on those "inferences" which Ervin draws. But he has refused to instruct Dean to appear in person before the committee to become the butt of inferences, innuendoes and implications of hostile questioners.

COUNTERBUDGET

Mr. SCOTT of Pennsylvania. Mr. President, an editorial published in the March 20 issue of the Wall Street Journal should be of interest to Members on both sides of the aisle. 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:

WE CAN HARDLY WAIT

The good news is that Senate Democrats are going to compile their own federal budget to counterpoise President Nixon's. The bad news is that they plan to do it all in two weeks.

By now practically everyone recognizes that Congress is at an immense disadvantage in the budget debate with the President because it has no way to view the total budget. Each committee dispenses largess on its own turf, but no one watches what total spending comes to. But you have to control total spending to have any effect in controlling inflation, and at the moment controlling inflation, and at the moment controlling inflation is a far more important domestic priority than almost anything the individual committees attend to. So the debate pits Congress armed with all its little priorities against the President armed with priority number one.

To overcome this handicap, Congress has to come up with a budget no more inflationary than the President's, but with funds juggled from one program to another to suit congressional tastes. Seriously working out such a program would necessitate facing real issues of priority, and thus would be the biggest single step we could think of toward restoring Congress' sense of responsibility and therefore reversing its lamented loss of prestige. If it can find no way to gain budget oversight, Congress will remain merely a collection of spokesmen for assorted vested interests. If it can gain oversight, Congress would have to be taken seriously in a debate on national priorities.

Serious oversight, though, is going to require running the budget through the serious power centers of Congress—Appropriations, Ways & Means, Armed Services. That is, through men who understand the underlying complexities that have already shaped the President's budget. So while we suppose any step in the right direction needs to be saluted, we have our doubts about the current proposal for a counter-budget, which is supposed to come from the Democratic Policy Committee, a center not of responsiblity but of partisanship.

With a little help from the Brookings Institution, any junior staff member can run through the presidential budget, lopping $5 billion off defense to add to the poverty war, and running up tax reform savings to be spread here and there. In fact, the Policy Committee staff may even be able to meet the two-week deadline because so much of the spadework for this sort of effort was done during last year's presidential campaign.

The Democratic candidate's advisers redid the whole Pentagon budget, you remember, proving that huge savings were at hand. It would have been more convincing if they hadn't overlooked the necessity of buying gas to run the planes and ships. There was also a highly detailed plan for tax reform, proving that it could raise enough money to give $1,000 to everybody.

That sort of "counter-budget" wouldn't be the huge step toward responsibility we have had in mind, but we must concede that it would probably be quite helpful in clarifying the debate over priorities. Counting ourselves among those who think the President's priorities are about right, in fact, we can hardly wait.

FOOD PRICES

Mr. SCOTT of Pennsylvania. Mr. President, on the general question of food prices, on certain kinds it is incontestable that they are high. They are higher than they should be for the comfort and well-being of consumers.

Everyone is a consumer. Who is to blame?

A considerable part of the rising costs of food prices, which causes the housewife considerable concern at the marketplace, is due to inflationary pressures. Inflation has been kept under moderate control in that the overall rate of increase is lower than it has been previously.

But Congress has a responsibility, as does the Executive. The executive department is moving in an all-out fight against an increase in costs through its actions regarding milk imports, meat imports, the release of stockpiled materials, and the President's request that a 3-cent tariff per pound on beef be removed. All these are helpful actions. It is quite likely that more needs to be done, and will be done, at the Executive end.

Meanwhile, Congress needs to exert more discipline, more prudence. It does not do the consumer much good if we point to the fact that a comparative rise

in food prices is lower in this country than in any other of the major countries, because we cannot eat the statistics. It does not do the consumer much good to have Congress say, "We are going to do everything under the sun for your benefit, no matter what the cost," because if Congress does this, and orders the President to spend the money, he will have so much that he could not conceivably spend it within the fiscal period, unless, as someone has said, he takes the dollar bills and nails them to the trees for all to observe.

That is the kind of forced feeding of the consumer which only adds to inflationary burdens and puts additional tax burdens on the consumer. It is no way to run a railroad, let alone a nation.

I feel that Congress ought to face up to its responsibilities and do everything we can to bring down the cost of food, and the cost of items generally, which the consumer has to buy. I believe it is the joint responsibility of the minority as well as the majority. It is our responsibility. I hope we will address ourselves to it.

Mr. MANSFIELD. Mr. President, I think I can assure the distinguished minority leader that Congress has acted, and will act, with fiscal prudence. I would point out that in the last 4 years Congress reduced the President's budget by $22.3 billion. In that period, this administration increased the deficit by $104.2 billion. We have done our share, and we would like to continue to do our share. When it comes to fiscal responsibility, I think the Senate will take a back seat to no one.

It is true that the economy is expanding. Profits are increasing very much, and the inflationary trend is as evident as ever before in history. If this trend is not changed, the way prices are going at the present time, both at the wholesale and the consumer level—I have the figures for the past 2 months; the February figures were released just yesterday—it will not be long before they will go through the roof.

Phase III, with its flexibility and its club in the closet, is not the answer to the inflation which now besets us and which will, if not controlled, climb upward in the months ahead. Even the administration concedes that. The administration says that prices are going to go up slightly in the months ahead and that this trend will continue well into the second half of this year, perhaps even later. Then they are going to decrease slowly. But a lot of people are going to starve in the meantime.

As I say, the club in the closet under phase III is not the answer to the inflation which now besets us and which will, if not controlled, climb ever upward in the months ahead.

There are, in reality, no controls of any significance so far as phase III is concerned. There were reasonable controls under phase II, and we knew where we were going, and the results overall were most encouraging.

In the period under phase II which the President described as "a very good year," inflation was reduced to 3.4 percent, and the prospects for going under 3 percent looked good. With the present upsurge in prices, the continuing upsurge in prices, that trend has now been reversed, to the detriment of the consumer; and if allowed to continue, it will mean that everybody—the producer, the middleman, and the consumer—will be caught in the middle of inflation, and we will all pay the price.

The factors to consider are inflation, especially in foods; the second devaluation of the dollar; the drop in the stock market; and the continued adverse balance of trade. These four factors together have put us all in a serious economic bind; and if economic confidence is to be restored, something must be done along the lines of phase II.

It would be my hope that with regard to any relevant legislation, Congress would insist again on wage and price controls. The Senate has acted on phase III just this week, but I am confident in the days and weeks ahead, there will be additional legislation offered to help restore a sound economy. It is my hope that the President would act in accord with Congress, to the end that prices can be brought into line, inflation controlled, and the dollar, which in my opinion is most seriously undervalued, restored to its real value.

Flexibility and the club in the closet—the trademarks of phase III—are not working and, in my opinion, will not work.

Mr. SCOTT of Pennsylvania. Mr. President, we play with figures here, not to our confusion but to the confusion of the public, I fear.

When it is asserted that Congress has cut the budget over a period of several years by $22 billion, it should be remembered that, at the same time, Congress has exceeded the budget in other areas and in other categories; that most of the cuts are made in favorite scapegoats of Congress—the foreign aid program, the defense program.

The increase of $20 billion in the next budget submitted by the administration contains only a $4.6 increase for the Defense Department, an increase which Congress, itself, voted—and more—by increasing the salaries and pay of the Armed Forces.

The distinguished majority leader is quite right when he makes the point that this administration has undertaken to engage in the expenditure of $100 billion in excess of the budget. But where did the $100 billion come from? It came from the only place it could come from, which is Congress. Congress is in control of the majority party.

It should be remembered that this or any other President can never spend a single Lincoln cent that is not appropriated by Congress. So any money the President spends, he got from Congress; and any money Congress ordered spent, it got from the people's hide.

So you cannot have it both ways. You cannot argue that you save $22 billion, but the President spent $100 billion, when Congress did both of these things, and when Congress says to the President, "You not only must spend $100 billion which we gave you and expect you to spend, but hereafter we are going to order you to spend even more."

That kind of procedure exactly illustrates my pont that the blame is on Congress. If the President is compelled to expend moneys which incur a deficit, the President reacts by saying, "All right, within limitations I will spend that; but beyond certain limitations, I ought not be required to spend it unless Congress is prepared to impose a 15-percent tax increase on every family, every taxpayer, in America to pay for it."

So I do this simply to keep the record clear. The majority party has been in control of Congress more than 90 percent of the time in the last 40 years; and more than 90 percent of the time, therefore, the spending has been spending by Congress and the paying has been paying by the people.

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

Mr. SCOTT of Pennsylvania. I am glad to yield.

Mr. MANSFIELD. The minority leader says that Congress plays with figures. I would say, in brief, that the administration's figures play.

I point out that when the Senator talks about Congress, he talks about his party, on that side of the aisle, as well as the Democrats over here, and we just cannot split the difference, because this aisle is not made that way. The RECORD will speak for itself.

Figures may be parlayed into this, that, or the other thing; but the figures do not lie so far as administration budget deficits and savings by Congress in administration budget requests are concerned. Congress simply does not provide the administration with as much spending money as the administration seeks. That has been the case in every single year this current administration has been in office. It was the case before, and I am confident it will continue to be the case. And we should be proud that we, as a Congress—Republican and Democrat alike—have compiled such an outstanding record on budget cuts.

Mr. SCOTT of Pennsylvania. At least 33 Republican Senators have signed on the line for fiscal responsibility; and if they can manage to live up to that, then the responsibility will move even more markedly and more clearly toward the majority side.

Mr. MANSFIELD. Fifty-seven Democratic Senators have indicated that they are going to keep within the budget presented by Congress this year and reduce it, if possible. But we will reorder priorities in the meantime.

Mr. MANSFIELD subsequently said: Mr. President, the Wall Street Journal editorial on Tuesday, March 20, 1973, comments on the desirability of the Senate Democrats preparing a budget. They rightly comment that it is only in this way that the issue of priorities can be met. It is the only way that the Congress will restore to itself the responsibility that is so appropriately that of Congress—determining where this Nation's resources will be directed.

I would advise the editorial writers of the Wall Street Journal, however, to reserve comment on the substance of the proposals until they see them. This undertaking has been under study by the Senate Democrats since January of this

year. It will not be a partisan effort, but it will be, I hope, a sensible and responsible proposal that will permit the Congress to determine priorities and emphases—a responsibility that is so appropriate for elected officials of this Government.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial published in the Wall Street Journal which the distinguished minority leader (Mr. SCOTT of Pennsylvania) has already inserted, but I ask again that it be printed in the RECORD at this point.

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

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By now practically everyone recognizes that Congress is at an immense disadvantage in the budget debate with the President because it has no way to view the total budget. Each committee dispenses largess on its own turf, but no one watches what total spending comes to. But you have to control total spending to have any effect in controlling inflation, and at the moment controlling inflation is a far more important domestic priority than almost anything the individual committees attend to. So the debate pits Congress armed with all its little priorities against the President armed with priority number one.

To overcome this handicap, Congress has to come up with a budget no more inflationary than the President's, but with funds juggled from one program to another to suit congressional tastes. Seriously working out such a program would necessitate facing real issues of priority, and thus would be the biggest single step we could think of toward restoring Congress' sense of responsibility and therefore reversing its lamented loss of prestige. If it can find no way to gain budget oversight, Congress will remain merely a collection of spokesmen for assorted vested interests. If it can gain oversight, Congress would have to be taken seriously in a debate on national priorities.

Serious oversight, though, is going to require running the budget through the serious power centers of Congress—Appropriations, Ways & Means, Armed Services. That is, through men who understand the underlying complexities that have aleady shaped the President's budget. So while we suppose any step in the right direction needs to be saluted, we have our doutbs about the current proposal for a counter-budget, which is supposed to come from the Democratic Policy Committee, a center not of responsibility but of partisanship.

With a little help from the Brookings Institution, any junior staff member can run through the presidential budget, lopping $5 billion off defense to add to the poverty war, and running up tax reform savings to be spread here and there. In fact, the Policy Committee staff may even be able to meet the two-week deadline because so much of the spadework for this sort of effort was done during last year's presidential campaign.

The Democratic candidate's advisers redid the whole Pentagon budget, you remember, proving that huge savings were at hand. It would have been more convincing if they hadn't overlooked the necessity of buying gas to run the planes and ships. There was also a highly detailed plan for tax reform, proving that it could raise enough money to give $1,000 to everybody.

That sort of "counter-budget" wouldn't be the huge step toward responsibility we have had in mind, but we must concede that it would probably be quite helpful in clarifying the debate over priorities. Counting ourselves among those who think the President's priorities are about right, in fact, we can hardly wait.

Mr. McCLELLAN. Mr. President, I would like to state, in connection with the remarks of the distinguished majority leader on the suggestion that Congress could balance its own budget, that we are taking some efforts to establish a ceiling in the Senate. As you may know, Mr. President, I have requested from the Appropriation Subcommittee chairman to submit to me figures which set a tentative ceiling—an overall goal that the subcommittee will undertake to achieve in processing its appropriation bill.

We have heard from all, but two of these chairmen. When these reports are received, the full committee will arrive on an overall appropriation ceiling and at that time I will make a report to the Senate.

This will not be one man's idea. This will be a composite of the collective judgment of the chairmen of the Appropriations Subcommittees that are handling the various appropriation bills.

Mr. MANSFIELD. It should be emphasized, though, that the initiative has come from the chairman of the Appropriations Committee, the distinguished Senator from Arkansas (Mr. McCLELLAN).

This is another indication that what we are trying to do is not only to live within the budget sent by the President but also, if possible, to cut that budget and bring about a reordering of the priorities, so that all the people can be taken care of and that their money will not go into additional military appropriations abroad, or operational bases to be maintained, or another foreign aid program, and things of that sort.

I believe that under the chairmanship of the distinguished Senator from Arkansas (Mr. McCLELLAN) we are going to succeed.

Mr. McCLELLAN. I thank the distinguished Senator from Montana.

ORDER OF BUSINESS—INTRODUCTION OF BILLS

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized for not to exceed 15 minutes.

(The remarks Senator BEALL made at this point on the introduction of S. 1318, the Elementary School Reading Emphasis Act of 1973, and the cosponsoring remarks are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized for not to exceed 15 minutes.

(The remarks Senator DOMINICK made at this point on the introduction of S. 1319, the Better Schools Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized for not to exceed 15 minutes.

WITHDRAWAL OF U.S. FORCES FROM EUROPE

Mr. GRIFFIN. Mr. President, last Thursday our distinguished majority leader placed in the RECORD a copy of a resolution adopted by the policy committee of the majority party—a resolution which seems to have a rather disarming objective: Reduction of military expenditures overseas.

The resolution is "disarming" because it is couched in benign general terms, mentioning no particular area or country where our forces should be reduced.

But a discussion among Democratic Senators that followed on the Senate floor last Thursday left no doubt as to the real purpose of the resolution.

It is a call for the unilateral withdrawal of up to 200,000 U.S. troops from Europe, depending upon which Senator was presenting his policy analysis.

Mr. President, such a partisan resolution comes at a most inappropriate time. For, if unilateral withdrawal from Europe were mandated, as advocates of this resolution suggest, there can be no real doubt but that President Nixon's effort to negotiate a mutual and balanced reduction of forces in Europe by the United States and the Soviet Union would be seriously eroded and undermined.

In addition, ironically, such a move would serve to repudiate the policy of a Democratic President, John F. Kennedy, when he said in Bonn, Germany:

. . . our troops are in Western Europe because it meets a very vital need of the United States. The security of Europe, the freedom of Western Europe, is essential to the security of the United States. This is why we are here.

Who will forget that it was President Kennedy who stood in the Rudolph Wilde Platz and said:

Ich bin ein Berliner.

To be sure, that was at a time when the cold war was hotter than is the case today. But then, as now, our NATO alliance was a keystone of our global defense policy.

No one denies now—no one has ever denied—that keeping American troops in Europe is costly. But the real questions are: What is freedom worth? What is the cost of peace?

President Kennedy's statements in 1963 made clear the importance of U.S. forces in West Berlin and in Western Europe. They served to inspire a sense of unity in NATO.

They must also have given pause to expansionist advocates behind the Iron Curtain.

Since then, during the past 10 years, some remarkable changes have been wrought in our foreign and defense policies, particularly under the Nixon doctrine.

But let us not forget that a cardinal and basic point of the Nixon doctrine is that we have not repudiated our alliances—even though we do intend, in

accordance with a careful, rational timetable, to reduce our overseas commitments in terms of conventional forces.

The Nixon doctrine is attuned and orchestrated on a global basis. It is not directed or confined to one country or to one area of the world.

Of course, one of the most noticeable changes has come in Vietnam, where we have already withdrawn 543,000 U.S. troops as the South Vietnamese have gradually assumed responsibility for defense of their own country.

A peace agreement has been negotiated, and most of our known prisoners of war have been returned to American soil.

We have seen diplomatic relations established with the People's Republic of China, a nuclear arms control agreement was entered into with the Soviet Union, stability has been maintained in the Near East, Okinawa was returned to Japanese control, an agreement on the status of Berlin, and a detente between West and East Germany were achieved.

Clearly, the next logical step in the implementation of President Nixon's policy would be a mutual and balanced reduction of forces in Europe.

But it is precisely the wrong moment—when negotiations are about to begin to achieve the goal of mutual and balanced force reductions—to be met with a resolution such as that which has come from the Senate Democratic Policy Committee—a resolution generally interpreted as a call for unilateral withdrawal of U.S. Forces without any commitment on the part of the Soviet Union.

Mr. President, the views on this complex and sensitive subject are not delineated or limited along partisan political lines.

Because that is true and because this matter goes to the heart of the defense policy of the United States and the free world, I believe it was particularly inappropriate for the Democratic Party in the Senate to adopt such a resolution on a party basis.

Such a move, on a party basis, erodes still further any pretense of preserving in the Senate the desirable and traditional concept that when the Nation's security is at stake partisan politics stops at the water's edge.

Mr. President, I ask unanimous consent to have printed in the RECORD a very illuminating article entitled "America in Europe," written by Jeffrey Record and published in the Washington Sunday Star of March 18, 1973.

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

[From the Washington Star and Daily News, Mar. 18, 1973]

AMERICA IN EUROPE—SOVIET FORCE DESIGNED FOR BLITZKRIEG

(By Jeffrey Record)

Since it assumed office in 1969, the Nixon administration has confronted growing domestic and international pressures to reduce the number of U.S. troops in Europe. Those troops—some 300,000 of them—not only contribute heavily to America's imbalance of payments abroad but also appear to a war-weary public and to many congressional critics an anachronism in a Europe presumably capable of protecting itself.

So far the White House has successfully parried demands for withdrawals. The President has quite correctly asserted that any unilateral abridgement of U.S. combat power in Europe would irreparably weaken NATO's ability to defend itself. The foundation of that assertion is a recognition that the nature of Soviet military might on the continent has remainded basically unchanged despite a definite and much-heralded thawing of relations between East and West.

Indeed, it is the character and not the fact of Soviet military power in Europe that has generated unease in the West since the close of the Second World War. The North Atlantic Treaty Organization was created in 1949 to counter that power, the preliminary discussions on mutual and balanced force reductions (MBFR) now underway in Vienna invite the prospect of diminishing it.

My purpose here is not to explore the intricate complexities of MBFR or investigate possible means of achieving it, but to review certain aspects of Soviet conventional military power in Europe which continue to give rise to suspicion, mistrust and even fear on the part of NATO, and to which the Vienna conference must of necessity address itself. I would focus upon the size, disposition and structure of ground forces, particularly those deployed in central Europe (the Central Front or NATO Center) the arena of major military confrontation on the continent.

Three basic conclusions emerge: (1) the size of Soviet ground forces in Europe is grossly disproportionate to their stated purposes; (2) their structure reveals preparation for offensive and not defensive military operations; and, (3) truly "balanced" force reductions will require a contraction of existing Soviet military power far in excess of what NATO may safely entertain for its own forces.

Perhaps the most significant assymetry between NATO and the Soviet Union is their respective assessments of the duration of future conflict in Europe. In sharp contrast to NATO's doctrinal and structural emphasis on protracted war, Warsaw military power (which for all practical purposes is Soviet military power), is postured for a short, intense conflict of perhaps no more than six weeks.

Warsaw Pact (Soviet) military doctrine calls for the speedy conquest of NATO Center by means of a massive, unstinting blitzkrieg—regardless of whether or not nuclear weapons are employed or of the circumstances attending the outbreak of hostilities. Tactical guidelines established by the Soviet General Staff for armored units postulate initial penetrations of up to 100 kilometers, and subsequent daily advance rates of 40 to 80 kilometers.

Motorized rifle units are to follow advancing armor, encircling and mopping up remaining pockets of resistance. The object of such a strategy is clear: to overrun Western Europe before NATO can mobilize its potentially greater resources.

The size, disposition and structure of Soviet and Warsaw Pact forces reflect close adherence to the doctrine of blitzkrieg. The magnitude of the Russian garrison in Eastern Europe (31 divisions) is grossly disproportionate to any conceivable requirements for either maintenance of the Kremlin's political preponderance in the region or its defense from external attack.

The concentration of 20 crack divisions in East Germany suggests that they would be the cutting edge of any major Communist thrust into NATO Center and that their primary axis of advance would be across the North German Plain. A rapid southward turning movement here could quickly cut off the U.S. and West German divisions which are located well forward of the Rhine River.

Not only is the terrain there much more suitable for swift armored penetration than the more mountainous topography further south, but also Soviet forces stationed in East Germany are closer to such key objectives as the Rhine and the Channel ports than are Soviet forces deployed elsewhere along the Central Front.

The structure of the Russian garrison in Eastern Europe, no less than its disposition and inordinate size, indicates a military establishment designed for highly mobile offensive operations at the theater level.

A major manifestation of this posture of quick-win is the high ratio of combat to support troops maintained at the divisional level, estimated at between 3 and 4 to 1. Thus 75–80 percent of Soviet divisional manpower is allocated to combat functions and only 20–25 percent is assigned to support units. Such an extraordinary ratio clearly favors a short, intensive war, since a protracted conflict would compel support-poor Warsaw Pact forces to rely increasingly on inferior and less manageable civilian transportation and supply resources.

In fact, from a purely logistical standpoint a war of extended duration would be doubly disadvantageous for the Soviet alliance because it would be confronting NATO formations on the battlefield whose relatively low ratio of combat to support troops (about 3:2 at the divisional level) is designed to sustain combat for much longer periods of time.

The Warsaw Pact's emphasis on combat at the expense of support is graphically revealed in the high proportion of tanks in their divisons. For example, of the 31 Soviet divisions stationed in Eastern Europe, 16 are armored; all of the remaining 15 are motorized rifle divisions possessing an unusually large number of tanks.

The USSR's strong reliance on tanks—inherently offensive weapons—is reflected in the high ratio of tanks to men. Although the number of men in a Soviet armored division (8,400) is less than half that assigned to a U.S. armored division (17,500), the former fields 324 tanks while the latter counts eight fewer. Thus the 1:54 tank-men ratio for the U.S. is exactly 50 percent of the 1:27 ratio maintained by the USSR. With respect to mechanized infantry/motorized rifle divisions, the figures are 216 tanks/16,000 men for the U.S. versus 188 tanks/10,500 men for the Soviet Union.

Additional evidence of an offensive short-war posture includes the Warsaw Pact's power to mobilize and deploy rapidly extra military formations along the Central Front and its reliance on a unit replacement system.

Warsaw Pact mobilization and deployment capabilities oppose NATO Center are formidable. At no expense to its formation deployed along the Sino-Russian border, the Soviet Union can double the number of its divisions, tanks, and men now available in Eastern Europe for immediate combat against NATO within 30 days, and almost triple them witin 120 days.

The key to the USSR's capacity for such swift mobilization is its reliance on cadre rather than simple reserve units to augment its combat-ready forces. In addition to 65 full-strength divisions the Soviet Army musters almost 100 divisions in lesser stages of readiness, over 60 of which are stationed within relatively easy reach of central Europe.

Unlike U.S. reserve formations, which are composed entirely of part-time and in many cases poorly trained soldiers (thus requiring larger periods of post-mobilization training), Soviet cadre divisions are a combination of active, full-time personnel and comparatively well-drilled reservists.

Non-Soviet armed forces of the Warsaw Pact vary with respect to political reliability, and it is questionable whether even active Hungarian and Rumanian units would

be employed to bolster a Pact buildup. At a minimum, however, the Warsaw pact should be able to count on an additional Czechoslovakian and 11 Polish divisions within the first month following the decision to mobilize.

NATO's capacity to offset the Pact's ability to mobilize and deploy additional military power in central Europe during the crucial first 120 days of buildup is at best marginal.

Notwithstanding the greater size of NATO divisions and the generally recognized qualitative superiority of the alliance's major weapon systems (particularly tanks and aircraft) over those of the adversary, NATO is currently incapable of maintaining even a 1:2 ratio of divisions, main battle tanks, and combat troops vis a vis the Pact during most stages of the first four months of mobilization. Yet achievement of this ratio is considered essential by many analysts for an effective forward defense, which in turn, is a prerequisite for protracted war.

Twenty and one-third non-U.S. NATO divisions are currently allocated to NATO Center. Yet, even drawing upon a large portion of their national forces not formally committed to the alliance, together, Belgium, the Netherlands, Great Britain, Canada, West Germany and France probably could not add more than 15⅔ additional divisions within 120 days.

The central weakness of NATO's mobilization potential, however, is the inability of the United States—the ultimate source of major reinforcement for the alliance—to mobilize its own reserves at a pace equivalent to that of the Soviet Union. The United States currently maintains 4⅓ divisions on the continent. The 3⅔ divisions based in the continental United States but earmarked for European contingencies could, of course, be deployable to NATO within 60 days as could perhaps another three divisions drawn from the U.S. strategic reserve and the Marine Corps. National Guard and regular service reserves, however, are not considered deployable for at least four months. Indeed, some recent studies have concluded that a minimum of 200 days would be required before reserve divisions could be made combat-ready.

Thus there exists the very prospect that the Warsaw Pact's potential military power may be fully mobilized before the first reserve division from the United States could reach the continent.

A final indication of the Pact's quick-victory stance is its use of the unit system of replacement. Restoring combat loses on a unit rather than an individual basis permits greater amounts of men and equipment to be transported to the front and in a much shorter time. The unit system is much more suited for a short, intense conflict than is NATO's individual replacement scheme.

By sending forward entire units rather than single individuals, the Pact can offset the high attrition rates projected for a brief, decisive war in Europe and at the same time avoid much of the tedious paperwork inherent in NATO's method of replacement.

This terse analysis of certain aspects of Soviet military power in Europe suggests a number of conclusions. First, the size of both deployed and mobilizable Soviet armed forces on the continent far surpasses that necessary to serve Russian security interests in Europe. Existing forces are more than sufficient to protect Eastern Europe against a NATO which, in its current posture, provides no offensive threat to the Warsaw Pact.

More importantly, with respect to the maintenance of Soviet political preponderance in Eastern Europe, it is questionable whether even a token military presence in that region is necessary to insure Moscow's ability to intervene forcibly in the affairs of individual Pact states. For example, the absence of a Soviet military presence in Czechoslovakia in 1968 did not hinder the USSR's capability for a lightning occupation of that country and replacement of its "deviant" regime. Conversely, the presence of Soviet forces has proved no guarantee of immunity from anti-Soviet uprisings such as those that erupted in East Germany in 1953 and in Hungary three years later.

Second, notwithstanding, Moscow's pretensions to the contrary, the structure of these forces indicates that they were designed for an offensive campaign. This is not to imply that a war is on the horizon or even that the prospect of conflict is not remote, particularly in an era of budding detente between the United States and the USSR. It *is* to say, however, that a disturbing disparity exists between the stated rationale of the Soviet garrison in Eastern Europe and its actual posture.

Finally, with respect to MBFR, no agreement can be satisfactory to the West that does not call for significantly disproportionate reductions in Russian ground forces since anything approaching a one-to-one stand-down would reduce NATO's already marginal ability to sustain a succession forward defense of Western Europe.

Mr. SPARKMAN. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. GRIFFIN. If I have any time remaining.

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. GRIFFIN. I yield it to the Senator from Alabama.

ORDER FOR JOINT REFERRAL OF MESSAGE FROM THE PRESIDENT

Mr. SPARKMAN. Mr. President, I ask unanimous consent that a message received today from the President of the United States, together with an accompanying report, be referred jointly to the Committee on Banking, Housing and Urban Affairs and the Committee on Foreign Relations.

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

The message from the President is as follows:

To the Congress of the United States:

The Nation is again at peace. We also are firmly on the course of strong economic growth at home. Now we must turn more of our attention to the urgent problems we face in our economic dealings with other nations. International problems may seem to some of us to be far away, but they have a very direct impact on the jobs, the incomes and the living standards of our people. Neither the peace we have achieved nor the economic growth essential to our national welfare will last if we leave such matters unattended, for they can diminish our prosperity at home and at the same time provoke harmful friction abroad.

Our major difficulties stem from relying too long upon outdated economic arrangements and institutions despite the rapid changes which have taken place in the world. Many countries we helped to rebuild after World War II are now our strong economic competitors. Americans can no longer act as if these historic developments had not taken place. We must do a better job of preparing ourselves—both in the private sector and in the Government—to compete more effectively in world markets, so that expanding trade can bring greater benefits to our people.

In the summer of 1971, this Administration initiated fundamental changes in American foreign economic policy. We have also introduced proposals for the reform of the international monetary and trading systems which have lost their ability to deal with current problems. The turmoil in world monetary affairs has demonstrated clearly that greater urgency must now be attached to constructive reform.

At home, we have continued our fight to maintain price stability and to improve our productivity—objectives which are as important to our international economic position as to our domestic welfare.

What is our next step?

In my State of the Union message on the economy last month, I outlined certain measures to strengthen both our domestic and international economic position. One of the most important is trade reform.

In choosing an international trade policy which will benefit all Americans, I have concluded that we must face up to more intense long-term competition in the world's markets rather than shrink from it. Those who would have us turn inward, hiding behind a shield of import restrictions of indefinite duration, might achieve short-term gains and benefit certain groups, but they would exact a high cost from the economy as a whole. Those costs would be borne by all of us in the form of higher prices and lower real income. Only in response to unfair competition, or the closing of markets abroad to our goods, or to provide time for adjustment, would such restrictive measures be called for.

My approach is based both on my strong faith in the ability of Americans to compete, and on my confidence that all nations will recognize their own vital interest in lowering economic barriers and applying fairer and more effective trading rules.

The fact that most of these comments are addressed to the role of our Government should not divert attention from the vital role which private economic activity will play in resolving our current problems. The cooperation and the initiative of all sectors of our economy are needed to increase our productivity and to keep our prices competitive. This is essential to our international trading position. Yet there are certain necessary steps which only the Government can take, given the worldwide scope of trading activity and the need for broad international agreement to expand trade fairly and effectively. I am determined that we shall take those steps.

I know that the American people and their representatives in the Congress can be counted on to rise to the challenge of the changing world economy. Together we must do what is needed to further the prosperity of our country, and of the world in which we live.

RICHARD NIXON.

THE WHITE HOUSE, *March 22, 1973.*

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized for not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I may yield my time to the distinguished Senator from Arkansas (Mr. McCLELLAN), and that the time allotted to the Senator from Arkansas be allotted to the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arkansas is recognized for not to exceed 15 minutes.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senator from Virginia for yielding to me at this time.

THE FISCAL RESPONSIBILITY OF CONGRESS

Mr. McCLELLAN. Mr. President, in recent years, the Congress has clearly failed to observe the discerning counsel of Thomas Jefferson, who said:

> To preserve our independence we must not let our leaders load up with perpetual debt. We must make our election between economy and liberty, or profusion and servitude.

We have piled debt upon debt, stacked deficit upon deficit, and incurred continuing financial obligations that are most difficult, if not impossible, for our Government to accommodate. We have created a fiscal strain that is moving rapidly toward dimensions of a grave fiscal crises. The strength and capacity of our economy and borrowing power are not unlimited. They cannot and will not indefinitely support and tolerate the unsound and irresponsible fiscal policies that we have been and are now pursuing. Yet, in every session of Congress, we propose and continue to establish new and more costly services and programs which increase Federal obligations and help to fuel the fires of inflation. These new obligations open even wider the appropriations faucet and continually increase the flow of Federal spending.

The 92d Congress alone enacted legislation authorizing the spending of more than $320 billion over the next 5-year period to fund some 148 new and expanded governmental services and programs.

Among them are:

First. The Rural Development Act of 1972—Public Law 92–419—which has an estimated cost of $1.7 billion over the next 5 years.

Second. The Military Procurement Appropriation Authorization of 1972—Public Law 92–436—which will cost an estimated $20.9 billion in this 1973 fiscal year.

Third. An amendment to the Public Debt Limitation Act of 1972—Public Law 92–336—which will increase social security benefits by $40 billion over the next 5 years.

Fourth. The Education Amendments of 1972—Public Law 92–318—which have an estimated $18.5 billion cost during the 1972–75 fiscal years.

Fifth. The State and Local Fiscal Assistance Act of 1972, the general revenue sharing act—Public Law 92–512—which will cost an estimated $29.6 billion over the next 5 years.

Sixth. The National Cancer Act of 1971—Public Law 92–218—which has an estimated cost of $1.59 billion during the 1972–74 fiscal years.

Seventh. The Emergency Employment Act of 1971—Public Law 92–54—which will cost an estimated $2.25 billion over 5 years.

Eighth. An amendment to the Water Resources Research Act of 1971—Public Law 92–175—which has an estimated 5-year cost of $41.4 billion.

Ninth. The Federal Water Pollution Control Act Amendments of 1972—Public Law 92–500—which are estimated to cost $24.6 billion during the 1972–75 fiscal years.

These nine acts alone, if fully funded, will add a total of $180 billion to the cost of the Federal Government during the next 5 years. It is significant to note that this will increase the cost of our Federal Government by an average of $36 billion each year over what we are now spending in fiscal 1973.

I submit that such exorbitant increases, together with other budgetary demands, will dangerously exceed our tax revenues unless there is an equivalent reduction in the present level of annual appropriations. And, I see no prospect whatsoever that such substantial reductions in current spending obligations can or will be made

Mr. President, the foregoing clearly demonstrates that the practice of enacting authorization measures which incur Federal spending obligations greatly in excess of our fiscal resources is continuing unabated and unrestrained.

As an illustration of this continuing trend, we find that for the first 2 months in which the 93d Congress was in session—from January 3 to February 28 of this year—a total of 1,057 bills have been introduced in the Senate. An examination and cost appraisal of these measures indicates that should they all be enacted into law and adequately funded they would increase the cost of the Federal Government by an astonishing $20.4 billion during the fiscal year immediately following their enactment. This does not include spending which would result from those measures that provide for open ended authorizations.

Among the proposals introduced within the first 2 months of this session to which I have referred are:

First. S. 12—To establish an Urban Parkland Heritage Corporation at a cost of $1 billion.

Second. S. 38—The Airways Development Acceleration Act which was passed by the Senate on February 5, 1973, and authorizes appropriations of $420 million.

Third. S. 361—which authorizes appropriations of $500 million for housing and community development in rural areas.

Fourth. S. 502—which authorizes appropriations of $5.9 billion for various kinds of highway and mass transit aid.

Fifth. S. 606—The omnibus rivers, harbors and flood control bill which was passed by the Senate on February 1, 1973, and authorizes about $590 million in appropriations.

Sixth. S. 880—which authorizes appropriations of $3 billion for the National Aeronautics and Space Administration.

Seventh. S. 1031—which provides some $450 million for the establishment of essential rail lines.

It will be noted that these seven measures alone, if enacted and fully funded, add a total of $11.860 billion to future Federal obligations. Current Federal revenues and the potential borrowing power of our treasury are simply not adequate to meet such heavy demands.

Since fiscal 1969 alone, the gross Federal debt has been increased by more than $106 billion, and the current budget for fiscal 1974 projects another $32 billion being added to this swollen national liability. How long can this continue? I do not know, and I doubt very much if the collective judgment of the Congress can supply the answer. But, good sense tells us that it cannot continue indefinitely, and the better part of wisdom suggests the compelling necessity for ending the reckless practice of spending beyond our means.

I am sure we all share a common interest in bringing Federal spending into better balance with revenues and in funding our commitments more nearly on a pay-as-you-go basis. Our current efforts to achieve this goal are not sufficient; they are wholly deficient. And we, the elected representatives of the people, whose duty it is to adopt and pursue sound fiscal policies, have woefully failed to meet that responsibility.

Mr. President, we must now begin meeting that responsibility. As Thomas Jefferson said, "We must make our election"—the choice is ours. Indifference, procrastination, or lack of courage to act—lack of courage to do what must be done—will surely doom us to the fate of "profusion and servitude" about which Jefferson so profoundly warned us more than 157 years ago.

REMOVAL OF INJUNCTION OF SECRECY FROM THE AMENDMENTS TO THE INTERNATIONAL CONVENTION ON LOAD LINES, 1966, AND THE STRASBOURG AGREEMENT CONCERNING THE INTERNATIONAL PATENT CLASSIFICATION

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the amendments to the International Convention on Load Lines, 1966, adopted at London on October 12, 1971—Executive D, 93d Congress, 1st session—and the Strasbourg agreement concerning the international patent classification, signed March 24, 1971—Executive E, 93d Congress, 1st session—transmitted to the Senate today by the President of the United States, and that the amendments and agreement with accompanying papers be referred to the Committee on Foreign Relations and or-

dered to be printed, and that the President's messages be printed in the RECORD.

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

The messages from the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to acceptance of the Amendments to the International Convention on Load Lines, 1966, adopted at London on October 12, 1971, I transmit herewith a certified copy of those amendments. I transmit also the report of the Department of State with respect to the amendments recommending early acceptance of the amendments by the United States.

The 1966 Load Lines Convention established new uniform rules concerning the limits to which ships on international voyages may be loaded. Its purpose was to bring international load line regulations into accord with modern developments and techniques in ship construction. The purpose of the new amendments is to correct errors and ambiguities in the 1966 Convention on Load Lines which have become apparent since 1966.

The new Amendments should make the 1966 Convention more effective in bringing improvements in safety of ships as well as in the economics of shipping. I recommend that the Senate give the Amendments early and favorable consideration.

RICHARD NIXON.

THE WHITE HOUSE, *March 22, 1973.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Strasbourg Agreement Concerning the International Patent Classification, signed March 24, 1971. I transmit also, for the information of the Senate, the report from the Department of State with respect to the Agreement.

The purpose of the Agreement is generally similar to that set forth in the Nice Agreement Concerning International Classification of Goods and Services to which Trademarks are Applied, as revised at Stockholm July 14, 1967, and the Lacarno Agreement Establishing an International Classification for Industrial Designs, signed October 8, 1968. Both of these earlier Agreements were approved by the Senate on December 11, 1971. The countries party to the Agreement constitute a Special Union under the Paris Union established by the Paris Convention for the Protection of Industrial Property, last revised in 1967 at Stockholm. The Special Union consists of an Assembly of all contracting parties and a Committee of Experts. Pursuant to the Agreement a common classification is adopted for patents for invention, inventors' certificates, utility models and utility certificates, to be known as the "International Patent Classification" and provisions are included for its amendment.

It is important from the standpoint of the interest of patent owners and from the standpoint of effective government administration of its patent functions that the United States become a party to the Agreement so that it may participate as a member of the Special Union.

I recommend that the Senate give early and favorable consideration to this Agreement and give its advice and consent to ratification.

RICHARD NIXON.

THE WHITE HOUSE, *March 22, 1973.*

ORDER TO HOLD TWO BILLS AT DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 5446, to extend the Solid Waste Disposal Act, as amended, for 1 year, and H.R. 5445, to extend the Clean Air Act, as amended, for 1 year, when received, be held at the desk.

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

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BIDEN). Under the previous order, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) is now recognized for not to exceed 15 minutes.

DEVALUATION OF THE DOLLAR

Mr. HARRY F. BYRD, JR. Mr. President, the leadership has notified the Senate that next week the legislation dealing with gold revaluation or dollar devaluation, either way we want to express it, will be called up for consideration.

The legislation, S. 929, would amend existing law by striking four lines and inserting four new lines. But in doing that, it will, because of the maintenance of value clauses in the articles of agreement establishing the international lending institutions, result in additional appropriations totaling some $2.2 billion.

Another way of saying it, Mr. President, is that the devaluation of the American dollar which took place just recently will cost the Treasury in additional appropriations over a period of time, $2.2 billion.

The report of the Committee on Foreign Relations dealing with this legislation points out that the budgetary effect of S. 929 with respect to the international lending institutions could be relatively modest in a particular year if it is spread out over a long period of years by extending letters of credit. But that is a bookkeeping fiction. The fact is that devaluation, whether it is done immediately or over a period of time, will cost the taxpayers $2.2 billion in additional appropriations.

In substantiation of those statements, Mr. President, I cite the report from the Committee on Foreign Relations dealing with S. 929. The figures I have cited are on page 2 of that report.

I have not heretofore opposed devaluation, for the simple reason that it merely formalizes what already has taken place—namely, the dollar has deteriorated in value. The dollar is worth less. There have been two formal devaluations of the dollar in the last 14 months. As a result of those two formal devaluations, the dollar formally is worth at least 20 percent less than it was before December 1971. The reason for this gets back to the lack of confidence in the dollar; it gets back to the smashing Government deficits that the Federal Government has been running over a period of time.

I have prepared a tabled captioned "Deficits in Federal Funds and Interest on the National Debt, 1955–1974, Inclusive," and it shows that our Government has had a deficit in its administrative budget every year since 1960. During the 20-year period of 1955 through 1974, there have been 17 deficits. The only three times when the budget was balanced, when it showed a small surplus, were during the administration of the late President Eisenhower. Since 1960 there has been a deficit in the Federal funds accounts of our Government. The deficits, unfortunately, have increased in the last few years. The heaviest deficits in the history of our Nation have occurred during the 4-year period of fiscal 1971 through fiscal 1974.

The only exception to that was during the 4 years of World War II, when the United States was fighting a war in Europe and another war in the Pacific, and when we had 12 million men under arms.

Mr. President, unless Congress and the President, working together, are able to put the Government's financial house in order, I predict that there will be continuing devaluations of the dollar. There will be continued deteriorations in the value of the dollar. That means that every workingman will feel the effect of this, every housewife will feel the effect of it, in the way of increased inflation. Inflation is on the upgrade. It was slowed for a while—a year ago, a few months ago—but every sign today points to increasing inflation. Every housewife knows that. Maybe we in Congress do not know that, but every housewife knows it.

I submit that the major cause of these inflations is the smashing deficits. In this current fiscal year we have the highest Federal funds deficit in the history of the Nation, with the exception of that short period during World War II, when we had 12 million men under arms.

So as we consider the proposed legislation, S. 929, which will be submitted to the Senate next week, it seems to me that it is important to focus attention on the Government's financial situation.

Mr. President, I ask unanimous consent to have printed in the RECORD three tables which I have had prepared, one showing deficits in Federal funds and interest on the national debt, 1955–74, inclusive; another showing receipts in billions and expenditures in billions, for the fiscal years 1969 through 1974; and a third table showing U.S. gold holdings, total reserve assets, and liquid liabilities to foreigners, for selected periods.

There being no objections, the tables were ordered to be printed in the RECORD, as follows:

	Fiscal year—						
	1968	1969	1970	1971	1972	1973 [1]	1974 [1]
RECEIPTS IN BILLIONS							
Individual income taxes	$69.0	$87.0	$90.0	$86.0	$95.0	$99.0	$112.0
Corporate income taxes	29.0	37.0	33.0	27.0	32.0	34.0	37.0
Total	98.0	124.0	123.0	113.0	126.0	133.0	149.0
Excise taxes (excluding highway)	10.0	11.0	10.3	10.5	9.1	9.4	9.6
Estate and gift	3.0	3.5	3.6	3.7	5.2	4.6	5.0
Customs	2.0	2.3	2.4	2.6	3.2	3.0	3.3
Miscellaneous	2.5	3.0	3.4	3.9	3.5	4.0	4.1
Total, Federal fund receipts	116.0	143.0	143.0	134.0	149.0	154.0	171.0
Trust funds (social security retirement, highway)	38.0	44.0	51.0	54.0	60.0	71.0	85.0
Total	154.0	188.0	194.0	188.0	209.0	225.0	256.0

	Fiscal year—						
	1968	1969	1970	1971	1972	1973 [1]	1974 [1]
EXPENDITURES IN BILLIONS							
Federal funds	$143.0	$149.0	$156.0	$164.0	$178.0	$188.0	$199.0
Trust funds	36.0	36.0	40.0	48.0	54.0	62.0	70.0
Total	179.0	185.0	196.0	212.0	232.0	250.0	269.0
Unified budget surplus (+) or deficit (−)	−25.0	+3.1	−2.0	−24.0	−23.0	−25.0	−13.0
Federal funds deficit	−27.0	−6.0	−13.0	−30.0	−29.0	−34.0	−28.0

[1] Estimated figures.

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1955–74 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.3
1958	66.6	69.7	−3.1	7.8
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	10.7
1965	90.9	94.8	−3.9	10.3
1966	101.4	106.5	−5.1	12.0
1967	111.8	126.8	−15.0	13.4
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1970	143.2	156.3	−13.1	19.3
1971	133.7	163.7	−30.0	21.0
1972	148.8	178.0	−29.2	21.8
1973 [1]	154.3	188.4	−34.1	24.2
1974 [1]	171.3	199.1	−27.8	26.1
20-year total	2,039.5	2,272.1	232.6	264.7

[1] Estimated figures.

Source: Office of Management and Budget and Treasury Department.

U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS AND LIQUID LIABILITIES TO FOREIGNERS

[Selected periods in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
Dec. 31, 1957	22.8	24.8	15.8
Dec. 31, 1970	10.7	14.5	43.3
Dec. 31, 1971	10.2	12.2	64.2
Dec. 31, 1972	10.5	13.2	79.0

Source: U.S. Treasury Department.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. MANSFIELD. The distinguished Senator from Virginia has, as always, been determined in bringing the financial situation and the economic situation which confronts this country to the attention of the Senate. It is something which is applicable not only to the domestic and economic situation, but also to American expenditures of various kinds, private and public, overseas.

If the Senator would allow me to do so, I should like to read a portion of a letter which I have just received from a GI in Europe. He says:

I look around at the prosperity here, the availability of manpower, the booming factories and economy in general, and I wonder why am I here. I wonder why our country has to pay such an enormous amount of money to defend countries absolutely indifferent about defending themselves. There is no reason why the Common Market countries cannot defend themselves eventually. If these countries can "float" their currencies against our dollar, then they ought to be able to pay for defending themselves.

Since the dollar devaluation my two bedroom apartment rent increased from $196.00 to $220.00 per month. Now with the Mark revalued upward 3% and the floating of Common Market currencies against our dollar, it is bound to get worse. Gasoline for instance has increased from $15.85 to $18.65 for 5 gallons. Commissary, BX, and other EES services have increased as much as 10%. As an E5 it is very difficult to live here.

Mr. President, I thought I would bring those comments to the attention of the distinguished Senator from Virginia and the Senate, as a whole, to indicate that the cost of living, inflation, is not a domestic problem but affects our bases overseas and affects them drastically.

Mr. HARRY F. BYRD, JR. I thank the distinguished majority leader. The letter he has just read is most interesting and informative. It dramatizes the devaluation of the American dollar. It does have a definite effect on American citizens.

My comments dealt only with the Federal funds deficit. However, I want to point out, before concluding the discussion today, that we also have, in addition to a smashing Federal funds deficit, a very large trade deficit, and we have been running a smashing balance-of-payments deficit. All of this adds up to creating a very severe situation for the United States insofar as its dollar is concerned.

The letter just read by the distinguished majority leader points out the problem which will be faced by our servicemen all over the country, as a result of the last devaluation of our currency.

Mr. MANSFIELD. Mr. President, will the Senator yield further?

Mr. HARRY F. BYRD, JR. I yield to the distinguished majority leader.

Mr. MANSFIELD. The Senator is correct in emphasizing the adverse balance of trade, which I think was somewhere in the vicinity of $7 billion last year.

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. MANSFIELD. The year previous it was somewhere between $5 billion and $6 billion. Those were the first two adverse balances of trade, I understand, since the year 1888.

Mr. HARRY F. BYRD, JR. Well over 75 years, or some such period as that.

Mr. MANSFIELD. So we have an adverse balance of trade, the dollar has been devalued twice in the last year and a half, and I think the dollar is highly undervalued at the present time. It is more valuable than our competitors in the currency area think. Then, we have in the last 2 months the highest rate of inflation, as far as foodstuffs are concerned, in approximately 22 years. All these factors indicate that we do face a serious situation, that something like phase III will not be the answer, but that some form of controls, whether we like them or not, will be the answer.

In addition to what I had to say about inflation, especialy in food, the second devaluation of the dollar and the continuing adverse balance of trade, we have the drop in the stock market which has plummeted about 125 points since the first of the year. I own no stock, but I understand this also is an indicator and that it demonstrates a lack of confidence in the economy at home. Once we lose that confidence, that faith, I think we are in serious trouble.

I commend the distinguished Senator from Virginia for day after day and year after year rising on the floor of the Senate and making his views known, and all the time waving the warning flag because the situation is serious, and if it is not given attention, it could become much worse.

Mr. HARRY F. BYRD, JR. I thank the able Senator from Montana. The Senator from Virginia is deeply disturbed about the Government's financial situation. I see it getting worse and not better. I see inflation getting worse. That means the average citizen is going to be more adversely affected in the future than even in the past.

The PRESIDING OFFICER (Mr. JOHNSTON). The time of the Senator has expired.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 3 minutes each.

The Senator from Oklahoma is recognized.

PROPOSAL FOR CONGRESSIONAL CONTROL OVER EXPENDITURES

Mr. BARTLETT. Mr. President, President Nixon has incurred the wrath of many Members of Congress because of his impoundment of funds. This wrath, I believe, is misdirected. Congress can blame no one but itself for its virtual abdication of providing any budgetary controls. The President, of necessity, is having to apply the brakes on a runaway budget.

I shall introduce on Wednesday, March 28, 1973, for appropriate reference, a concurrent resolution establishing the mechanism within the rules for Congress each year to set an appropriation ceiling. I shall ask unanimous consent that the resolution be referred jointly to the Committee on Rules and Administration and the Committee on Government Operations.

Mr. President, this resolution is fairly simple in its application. It provides the following:

First. At the beginning of each year, after the submission of the President's budget, the House Committee on Ways and Means shall meet jointly with the House Committee on Appropriations to prepare for House consideration legislation establishing a congressional appropriation ceiling.

Second. The Senate Finance Committee and the Senate Appropriations Committee shall follow the same procedures and report legislation to the Senate.

Third. If after passage there is a different figure in the two bills, a conference shall be held and the differences resolved.

This would provide an opportunity for an objective determination of what the spending ceiling should be within the economics of the Nation.

Fourth. After a ceiling has been established, the appropriation process shall proceed just as it does now with hearings, executive sessions, and congressional action. However, no appropriation bill shall be enacted into law until all appropriation bills have been acted upon.

Fifth. When all appropriation bills have received House and Senate approval, a conference shall be called to consider each appropriation bill separately, keeping in mind the aggregate ceiling established earlier by the Congress.

Sixth. Under no circumstances shall the conference committee report out legislation, which in the aggregate exceeds the ceiling, unless the Congress by the procedures set forth above enacts a higher limitation.

Mr. President, this procedure will enable the Congress, I believe, to act responsibly in fiscal matters, while at the same time reflect its social priorities without exceeding its own appropriation ceiling.

Mr. President, this is as workable as it is simple. It works in my State of Oklahoma in its budgetary approach. It is simple because it requires only for Members of Congress to determine any spending limit and then to keep total appropriations within that spending limit.

ALASKA HISTORY BEING REPEATED BY CANADIANS

Mr. STEVENS. Mr. President, much has been made of the argument that the so-called trans-Canada pipeline could be constructed more quickly than the trans-Alaska pipeline. This argument is largely based on the premise that the environmental laws in our country are more stringent and more widely utilized than the Canadian laws. Specifically, the argument is premised on the fact that extreme American environmental groups will utilize our laws to block pipelines and other construction projects more frequently and with greater vigor than will their Canadian counterparts.

Because the trans-Canada pipeline is in a much more formative stage than the trans-Alaska pipeline, it has been relatively difficult until now to provide factual information to refute this argument. However, it is now becoming apparent that the extreme Canadian environmental and Native groups will likely mount an attack of greater vigor against the trans-Canada route.

In the February 21, 1973, issue of the Alaska Scouting Service, in section 1 at page 4, appeared an article entitled "Alaska History Being Repeated by Canadians." This summarizes the future prospects for the trans-Canada pipeline route.

As more information becomes available on this interesting and important aspect of the problem, I shall publish it. I request unanimous consent that the article be printed in its entirety in the RECORD at this point.

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

ALASKA HISTORY BEING REPEATED BY CANADIANS

In a classic case of "monkey see, monkey one-ups", various Canadian vested interests groups are forging together in a coalition that promises to be even more powerful and effective than the environmentalist organizations opposing Alaska arctic development in the form of the Prudhoe Bay oil pipeline. An organization called Centre for Northern Studies is pushing a railroad instead of pipelines from arctic Canada, Native land claims are being pushed ahead of pipeline permits and a coalition group called Canadian Arctic Resources Committee is demanding a general slowdown in northern development. CASC wants a Native settlement, a thorough study of pipeline economics, a comprehensive northern transportation analysis and a complete study of the potential environmental impact on the entire polar region before any pipelines are approved. No timetable is mentioned for completion of these projects but presumably oil and gas could be moving to market by 2000, or so.

Mr. STEVENS. Mr. President, on March 21, 1973, the Washington Post published a letter to the editor by W. F. Martin, president and chief executive officer, Phillips Petroleum Co. Also, on Saturday–Sunday, March 10–11, 1973, the Chicago Daily News published an editorial entitled "U.S. Needs Alaskan Oil." The editorial states:

A second dispute is over whether the pipeline should traverse a 3,200-mile route through Canada and end in Chicago instead of crossing Alaska. The Canada route would parallel a natural-gas pipeline planned for the late 1970s or early '80s. The pipeline companies themselves, however, favor the trans-Alaska route for oil. They point out that natural gas, critically needed in the Midwest, cannot flow until after oil production begins in Alaska. To build the trans-Canada oil line first would only delay the gas flow by several years.

The joint city councils of Anchorage and Fairbanks passed another resolution requesting the Congress of the United States and the Secretary of the Interior to give special consideration to expediting the issuance of a pipeline construction permit which would allow the construction of a pipeline from Trudeau Bay to Valdez.

I intend to call the attention of the Senate to developments here on the floor of the Senate in connection with construction of the pipeline. I think it is time that more and more people realize the problems we are facing, including the problems mentioned by the distinguished majority leader, the Senator from Montana, in terms of the balance-of-payments problems the country has, which are related to the Alaskan pipeline.

Last year, with our first staggering increase in the imbalance of payments, and with our increase in the importation of oil products, to the tune of $5 billion, we should read that imbalance of payments problem in connection with the increasing demand of the American people to bring in foreign energy—this despite the fact that we have in Alaska a vast reserve of oil and gas that could be developed if we could just get on with the job.

I ask unanimous consent that the editorial, article, and resolution to which I referred be placed in the RECORD.

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

UNITED STATES NEEDS ALASKAN OIL

It is time for Congress to step in and speed the building of the trans-Alaska pipeline. After 3½ years of delay, the need for new supplies of oil and natural gas grows more critical each month that the deposits in the Arctic go untapped.

Frustrated by a round of court decisions blocking the issuance of right-of-way permits, the Nixon administration and several lawmakers acting on their own have introduced more than half a dozen bills in Congress to get the pipeline moving.

The latest court setback came when a federal appeals judge ruled that the 200-foot right-of-way planned for the line violated the 1920 Mineral Leasing Act. That law would limit the Alaskan right-of-way to 54 feet, which engineers say is not room enough for the construction and maintenance equipment to be used in Alaska.

The pipeline corridor's width, however, is only one matter that would be solved under pending legislation.

A major dispute has been over the pipeline's potential damage to the Alaskan wil-

derness. The choice is between risking some environmental harm and reaping a guaranteed payoff in added energy resources. Protection of the wilderness is no small consideration, but it should be understood that extensive technical safeguards have been taken against the most feared occurrences—damage to the tundra's ecology and oil spills on land and at sea. In fact, the valid safety precautions mandated by the government have contributed to a near tripling of the expected cost of building the line.

A second dispute is over whether the pipeline should traverse a 3,200-mile route through Canada and end in Chicago instead of crossing Alaska. The Canada route would parallel a natural-gas pipeline planned for the late 1970s or early '80s. The pipeline companies themselves, however, favor the trans-Alaska route for oil. They point out that natural gas, critically needed in the Midwest, cannot flow until after oil production begins in Alaska. To build the trans-Canada oil line first would only delay the gas flow by several years.

The economic payoffs from the Alaskan oil would be large. If the oil starts to flow about three years from now, it will come as U.S. dependence on oil imports is soaring. The President's Council of Economic Advisers estimates that over the expected 20-year life of the Alaskan field the United States would save $15 billion to $17 billion in foreign oil spending—at current prices.

Hearings on the pipeline-permit bills are under way in Washington. And on the basis of the vast store of evidence accumulated, the responsible action of Congress would be to clear the Alaska pipeline quickly with a bill specifically eliminating the legal problems that now block construction.

THE PRESIDENT OF PHILLIPS PETROLEUM ON THE CASE FOR THE ALASKA PIPELINE

Your Feb. 15 editorial entitled "No Clear Path for the Alaska Pipeline" states: "The issue in the Alaska pipeline controversy is not oil for Midwestern schools this winter or next, but the best way to meet a portion of the nation's energy needs in the 1980s and beyond."

This is exactly the type of reasoning that has led our nation to its present energy crisis.

In fact, oil from Alaska's North Slope is needed today. Moreover, it would be available today if construction of the Alaska pipeline had been allowed to begin on its original schedule.

It has been more than a year since the Interior Department's two-year study of this issue concluded that the proposed Alaska pipeline would provide the "earliest and most practicable" means of delivering North Slope reserves to market and "on balance create the fewest number of environmental problems of all alternate means considered."

But in failing to rule on the environmental aspects of this case, after they had been so thoroughly studied, the Circuit Court of Appeals for the District of Columbia has side-stepped this issue and further delayed this badly needed project. One of the three judges who dissented with the majority decision termed the refusal to decide the environmental issue "monstrous" and "completely unjustified."

Your editorial observes: "Setting aside the question of timing, there is much to recommend use of a Canadian corridor for oil as well as natural gas." Secretary of the Interior Rogers Morton said last year that a Canadian pipeline "would involve substantial and unacceptable time delays" in bringing North Slope oil to market. With the nation facing a fuels shortage and oil imports climbing rapidly, I do not believe the question of timing should be set aside so easily.

Your editorial seems to overlook the point that Canada is a sovereign nation and, as such, could demand controlling interest in the pipeline and a share of the crude oil, or could impose other conditions on their approval to build the line across their country. The recent policy statement by the Canadian Minister of Energy, Mines and Resources that Canada will restrict oil exports to the United States to ensure meeting its own energy needs demonstrates that Canada probably would assert considerable authority over such a pipeline.

There are other problems which would be encountered in building the pipeline across Canada. Because such a pipeline would be so costly to build, an estimated $8 billion at 1971 prices, it would be extremely difficult for the oil companies and the Canadian interests to raise enough money to do the job. The higher transportation costs would have to be offset by higher prices to consumers. In addition, a Canadian pipeline would raise a completely different set of environment problems, such as the need for 12 major river crossing of a half-mile or more in width. Undoubtedly there would be Canadian environmental roadblocks at least as severe as those already encountered by the Alaska line.

Your editorial also suggests that there is a greater need for Alaskan oil in the Midwest than on the West Coast. Certainly the Midwest does need additional crude oil supplies, but from both a time and cost standpoint it is more practical to supply these needs from the mid-continent oil producing states and, to the extent necessary, with imports brought up from the Gulf Coast, than from Alaska via a Canadian pipeline.

Production on the West Coast is declining, so additional supplies will be needed there in the years ahead. Therefore, this region provides the most logical market for Alaskan oil.

Regardless of where the Alaskan oil is used, the nation will be relying on imports to offset the imbalance between domestic supply and demand. Thus, for national security and balance of payments reasons, it is in the national interest to produce and market the Alaskan oil as soon as possible.

I believe that the entire energy issue must be faced with a sense of national purpose and urgency. As long as energy projects such as the Alaskan pipeline are subjected to years and years of delay, the nation's energy situation will continue to deteriorate.

W. F. MARTIN.

BARTLESVILLE, OKLA.

JOINT RESOLUTION NO. A/F 4–73

A RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND THE SECRETARY OF THE INTERIOR TO EXPEDITE THE ISSUANCE OF A PIPELINE CONSTRUCTION PERMIT

Whereas, the United States is currently experiencing a severe shortage of oil, necessitating its importation from foreign sources; and

Whereas, the dollar has recently been devaluated resulting in increased costs for imported goods; and

Whereas, the United States is also faced with a large balance of trade deficit; and

Whereas, Alaska has large reserves of undeveloped mineral resources; Now, therefore, be it

Resolved, That the Councils of Anchorage and Fairbanks in joint session, urge the Congress of the United States and the Secretary of the Interior, to give special consideration to expedite the issuance of a pipeline construction permit allowing construction of an oil pipeline running from Prudhoe Bay to Valdez, Alaska.

Copies of this resolution shall be distributed to the Secretary, Department of Interior, Washington, D.C.; members of the Alaska Congressional Delegation, Washington, D.C.; Chairman of appropriate Senate and House Committee; Congress of the United States, Washington, D.C.; and the Governor of Alaska.

Passed and approved this 23rd day of February, 1973.

GEORGE M. SULLIVAN,
Mayor, City of Anchorage.

APPOINTMENT TO COMMISSION ON HIGHWAY BEAUTIFICATION

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of section 123(a), Public Law 91–605, appoints the Senator from West Virginia (Mr. RANDOLPH) to the Commission on Highway Beautification, in lieu of the Senator from Indiana (Mr. BAYH).

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

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

STATEMENT OF CASPAR W. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Mr. TAFT. Mr. President, this morning the Subcommittee on Health of the Committee on Labor and Public Welfare met for the consideration of S. 504, the Public Health Service Extension bill.

As Members of the Senate will recall, that bill came to the floor last week after directly bypassing the committee, and the Senate took action to send that bill back to the Committee on Labor and Public Welfare, with the desire expressed on my part, and the part of others, that we have the opportunity to have the Secretary of Health, Education, and Welfare appear before the committee.

Secretary Weinberger appeared this morning and gave a rather full statement of the reasons behind the opposition of the administration to the extension of this bill in the form in which it presently is being proposed in committee.

Because of the action of the Senate, which called for a return of that bill to the floor next Tuesday automatically, and because it seems unlikely that a committee report or the transcript is likely to be printed and available to the Members of the Senate by that time, I feel it wise and desirable to introduce into the RECORD at this point a copy of the statement of the Secretary of Health, Education, and Welfare before the Subcommittee on Health this morning, and I ask unanimous consent that it be done.

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

STATEMENT OF CASPAR W. WEINBERGER

MARCH 22, 1973.

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE: I am appearing in response to your request to present the position of the Department on S. 1136, the "Public Health Service Act Extension of 1974." We are strongly opposed to the bill and urge the Subcommittee to address the numerous sections of the PHS Act and the Community Mental Health Centers Act contained in the bill, on their individual merits, and not

as a group solely because they contain the common expiration date of June 30, 1973.

DESCRIPTION OF THE PROPOSED LEGISLATION

S. 1136 would extend for one year the expiring authorities contained in the Public Health Service Act (other than Title X), and the Community Mental Health Centers Act. It would also extend through fiscal year 1974 the provision designed to limit the President's discretion in assuring the economical use of Federal funds that was enacted as Section 601 of P.L. 91-296.

The bill would extend 44 separate sections of law affecting nearly every facet of current Federal support of the Nation's health care system. Many of the authorities to which these sections relate overlap or duplicate each other. Many others have proven to be outdated, insufficient, or otherwise inappropriate channels for such support. Moreover, the bill has a one year authorization level of $1.796 billion at a time when the President is attempting to limit Federal expenditures in order to prevent a tax increase and protect the purchasing power of the dollar. An omnibus bill of this nature does not invite the thorough examination that the individual authorities should have. We feel that if the Congress and its responsible Committees were carefully to examine each such authority in light of its relative priority in the competition for scarce Federal dollars, it would agree with the Administration that many of these authorities should be allowed to terminate on June 30, 1973. For those that the Administration believes should be extended, it has proposed $750 million in the 1974 budget. This compares with a total authorization level of $1.8 billion for the programs that S. 1136 would extend.

THE ADMINISTRATION'S OVERALL HEALTH STRATEGY

The reason for proposing this type of continuation, as expressed by Senator Kennedy in the March 8 Congressional Record, is to give this Subcommittee time to work out a total recodification and restructuring of the Public Health Service Act. While we would encourage any effort to scrutinize, rationalize and consolidate the existing myriad of health authorities, we are not in favor of extending existing authorities solely for this purpose. There seems to us to be no valid reason for avoiding, through a stopgap measure, the issues that have now been drawn by the Administration. Such a course serves only to prolong the anxiety and confusion of those affected in the field.

Our position is that the time has come to "bite the bullet" and assess what is working and what is not; what has achieved its original goal and should now be returned to States and localities, and what still needs Federal direction and nourishment. We are asking you to address these questions with us, fully recognizing that decisions as to what has not been effective, and as to when Federal support should be withdrawn, will never be universally popular.

Our recommendations as to proposed legislative extensions, terminations, and revisions are closely tied to the President's determination to present the country with a fiscally-sound budget which does not exceed Federal funding ability. Such an *a priori* restriction requires difficult, even agonizing, choices between competing demands for the Federal dollar. Yet, I firmly believe the acknowledgement that the Federal purse is not bottomless serves a constructive goal in making our evaluation of all assisted programs somewhat more critical and rigorous.

Moreover, many of our decisions with respect to continuing activities have served to bring them back to the goals or purposes that the Congress had originally set for them—to use the original legislatively prescribed criteria to measure their present effectiveness and to guide their future course.

In this context, let me outline for the Subcommittee our legislative approach for health, as primarily reflected at this time in the budget.

In broad outline, I would describe the Department's role in health as follows:

First priority should be on reducing financial barriers affecting access to health care through the financing of health services. The principal vehicles for accomplishing this at present are Medicare and Medicaid which supplement the income of persons who otherwise could not afford to purchase the medical care they need and which allow individuals to pay for health protection during the working years. We will shortly, however, be presenting proposals to Congress for a new and more comprehensive approach to national health insurance. Many people seem to say that Medicare and Medicaid are not really health programs. I would say not only are they health programs, they are the Nation's most important health programs and national health insurance will be our most important health initiative.

There is also a valid Federal interest in supporting health and medical research. These kinds of activities have very broad national benefits, but the high investment costs make it difficult for the private sector or State and local governments to make an adequate annual investment.

Preventive health and consumer protection activities also have very significant benefits which can only result from collective action. Private individuals cannot and should not be expected to carry out all these activities on their own, even if assisted by national health insurance. The hazards to the public presented by new drugs and food processing and handling must be addressed at the Federal level. Likewise, traditional public health activities, such as the control of epidemics across State lines are properly a concern of the Federal Government, though we see a very large role for State and local government as well as the Federal Government in this area.

We believe a more limited Federal role is appropriate with respect to special financing for structural changes in the health care system, either by providing new facilities or demonstrating new types of delivery systems. The role here typically should be confined to technical assistance and providing special start-up funds to demonstrate ideas.

The direct provision of medical care by the Department should only be undertaken as a last resort. Wherever possible, these activities should be carried out by local government or private organizations. Moreover, we see this as a separate issues from assuring financial access for health services.

With regard to the education of health manpower, principal reliance should continue to be placed on existing private and public education institutions. Federal involvement should be centered on the general student assistance programs administered by the Office of Education. Limited Federal programs may be necessary to overcome especially difficult supply problems, assure a proper geographic distribution of health workers, or demonstrate the role of valid new types of health professionals.

OVERALL FUNDING FOR HEALTH PROGRAMS

Overall, HEW's spending for health programs has been increasing rapidly in recent years. Total health spending in 1974 by HEW, proposed in the President's budget, would reach $21.9 billion, $3.5 billion more than our current estimate for 1973 and nearly double the amount spent in 1969.

The principal factor in this increase has, of course, been rising health benefit payments through Medicare and Medicaid. However, many other aspects of the Department's health programs have also been increased significantly. Biomedical research, health manpower training, mental health programs, and food and drug safety are the principal areas of expansion since 1969.

DEVELOPMENT OF HEALTH RESOURCES AND FACILITIES AND GRANTS FOR DIRECT DELIVERY OF MEDICAL SERVICES

We are making a substantial departure from past practices in the area of stimulating change in the health service delivery system through various kinds of narrow-purpose categorical grant programs. We intend to reform this area of Federal activity so that it is sharply focused and involves only limited Federal intervention and commitment. We are proposing to phase-out or terminate several ongoing programs—principally, community mental health centers, Hill-Burton hospital construction, and regional medical programs—redirect others—such as comprehensive health planning and services, and maternal and child health—and have again submitted legislation to stimulate the development of health maintenance organizations on a demonstration basis.

COMMUNITY MENTAL HEALTH CENTERS

We are not proposing extension of the community mental health centers legislation which expires on June 30, 1973, because we believe this program has proven itself and should now be absorbed by the regular health service delivery system. To date, we have aided the development of 515 community mental health centers across the Nation. The 1974 budget requests adequate budget authority—in exces of $600 million—to honor all commitments which have been made to these centers. We will not, however, make any new commitments. We believe that the current program supports enough community mental health centers for a sufficient time to demonstrate adequately the value of community-based delivery of mental health care. Furthermore, we believe that continued preferential treatment by the Federal Government of a few communities—through operational support—is unwarranted.

These centers should now face the test of operating on their own without special Federal assistance. Moreover, those that cannot meet this test should not be perpetuated by extending the period of Federal assistance beyond the 8 years which they are entitled to under the current law. In addition, the success of the individual centers which do prove viable should be adequate incentive for other localities to undertake to bring these services to its people. The need for Federally-funded demonstrations, however, has been met.

HILL-BURTON HOSPITAL CONSTRUCTION

We are also proposing that the Hill-Burton hospital construction program not be extended beyond its expiration date of June 30, 1973. We have clearly passed the point where this kind of special Federal intervention is needed by our health service delivery system. During the time since the program was first begun 26 years ago, two things have happened which make it unnecessary to continue a special Federal hospital construction program. Since 1952, the share of Hill-Burton funds going to hospital construction has declined from 12% to less than 5% in 1972; non-Hill-Burton construction more than tripled during that period.

First, the country now has a generally adequate supply of hospital beds. In fact, in some parts of the country, a definite surplus in hospital beds now exists. Second, the rise of health financing systems, such as private and public health insurance plans, has made a fundamental change in the way that hospitals do or should do their business. Nearly all types of health insurance, including Medicare and Medicaid, Blue Cross-Blue Shield, and other private plans, recognize depreciation as a valid component in the reimbursement of hospital and medical facilities. This aspect of current medical care

financing should permit hospitals and medical facilities to either set aside funds for facility improvements or pay back loans for construction over the use life of the facility. We have estimated that approximately $800 million will be paid in the form of depreciation payments through Medicare and Medicaid in 1974 and that private insurance will provide over a billion dollars in depreciation payments. A special Federal grant program for hospital construction is now unwarranted.

REGIONAL MEDICAL PROGRAMS

We are proposing the termination of the Regional Medical Program because we believe that it has not achieved its promise when it was first enacted seven years ago, and shows no reasonable chance of doing so in the future. From the outset, the RMP has had great difficulty in defining a clear role for itself.

Originally conceived as covering a limited number of major regions in the United States, a total of 56 regions were funded. In 34 cases, the regions became coterminous with State boundaries. This fact alone brings RMP into direct conflict with State-based and areawide health planning, coordinating and service programs, such as comprehensive health planning. There is no significant evidence that the RMP's have achieved their goal of getting research advances rapidly into regular medical practice. The training programs undertaken are typically of limited scope and duration, and there is no substantial evidence that they have had an effect on actual medical practice. Further, we believe that continuing education for physicians should be paid for by physicians and not by the Federal Government.

A major RMP activity has been the funding of demonstration projects, but many other HEW programs, and many different Federal, State and local agencies similarly fund demonstration projects, thus adding to proliferation of separate projects. In the final analysis, it has become increasingly apparent that RMP's have not succeeded in developing the efficient, rational and regional health systems which their original purpose sought.

COMPREHENSIVE HEALTH PLANNING AND SERVICES

We are developing extensions of all but the graduate training authority in Section 314 of the Public Health Service Act. We believe the comprehensive health planning agencies, both State and areawide, must become increasingly effective in the development of health systems which are oriented to their own needs. The budget request for supporting the planning agencies in 1974 is $38 million. This is $3 million more than in 1973 and $12 million more than in 1972 and is in keeping with our efforts to confer more responsibility on these organizations.

Let me emphasize that this increased funding level does not reflect complete satisfaction with the performance of comprehensive health planning activities on a nationwide basis. Nevertheless, we believe that a properly constituted health planning effort carefully designed to coordinate the overall planning activities of general purpose units of State and local governments can potentially make an important contribution to getting greater benefit from the resources available.

The Social Security Amendments enacted last year prohibit Medicare and Medicaid reimbursement of costs related to capital expenditures by a health facility which has made capital improvements against the advice of the comprehensive health planning organizations. We are hopeful that increasing the authority of the CHP agencies will lead to a more rational development of State and local health resources and contribute to the future fiscal independence of the agencies. In the long term, the planning process must be viewed as essentially the responsibility of State and local government and as an important management tool of officials at that level

FAMILY PLANNING

We propose continuation of the present family planning projects grant program, including projects formerly supported by the Office of Economic Opportunity. These activities would be supported under the general authority of Section 314(e) of the PHS Act, rather than continued as a separate categorical authorization.

In addition, we might note that the Social Security Amendments enacted last year increased the Federal matching rate for family planning services under Medicaid and Social Services to 90 percent and also provided a penalty for any State which failed to establish a family planning program under these authorities. We believe that this new stimulus will facilitate continued progress toward achieving the President's goal of providing family planning services to all women who want but cannot afford them.

MIGRANT HEALTH

Another authority now categorically separated in the statute would also be funded under the general provisions of Section 314 (e). We propose to continue and improve our migrant health activity but do not feel we need to extend the present categorical support for it to do so.

OTHER AUTHORITIES TO BE EXTENDED

We will be sending forward in the near future proposals to extend the authorities contained in Sections 304 and 305, relating to health services research and development and health statistics. Also, a proposal to continue the medical library authorities has now been sent up. We therefore see no need to act now to extend these provisions for a one-year period.

DRUG ABUSE AND ALCOHOLISM

The special efforts under the general leadership of the Special Action Office of Drug Abuse Prevention will be expanded in 1973 and maintained in 1974. There were 145 projects underway in 1972. In 1973 we expect to have started 162 new projects. Evidence so far available indicates that this effort is having a very significant impact on drug addiction. Our data indicates that up to 50 percent of drug addicts will volunteer for treatment if adequate services are available, including detoxification, methadone maintenance, rehabilitation and after care services. Currently, drug abuse continues to be a special case of Federal concern. There is, however, adequate authority to respond to the problems in other laws, notably, the Drug Abuse Office and Treatment Act of 1972.

Because of the rapid buildup during the last couple of years, the Department's alcoholism program now funds 469 projects in communities across the Nation. These projects will be maintained in 1974. These projects have gone a long way toward creating the kind of national awareness needed to overcome the problem of alcoholism. Our project grants have pointed the way and created a substantial new capacity but the real test will occur at the local level. We are hopeful that the results of the Federally-funded projects will be incorporated both in expanded community initiated efforts and in projects begun with Federal formula grants to the States.

As mentioned previously, we are not requesting renewal of the Community Mental Health Centers project grant authority for either drug abuse or alcoholism. Projects undertaken through these authorities will be continued under the Drug Abuse Office and Treatment Act of 1972 and existing PHS Act authority to support projects in the mental health field.

HEALTH MANPOWER AND SPECIALIZED TRAINING PROGRAMS

The 1974 budget attempts to carry out the President's commitment to remove financial barriers to a college education. The budget includes full funding for the new program of basic opportunity grants for undergraduate education authorized by the Education Amendments of 1972. In addition, guaranteed and subsidized student loans remain available for both undergraduate and graduate training.

Against this background of general aid to higher education, we have reassessed the need for specialized academic training programs, and have recommended that most of them be phased out. This is true of the large research training program supported by the National Institutes of Health, as well as the smaller programs of the Health Services and Mental Health Administration. We are providing continuation support for students already enrolled in approved research training programs. We are not providing, however, funds for awards to new students. Our broad student assistance programs together with the salary scales in these professions and individual student motivation should produce an adequate supply of this kind of trained manpower.

The exception to this policy is retention of special Federal support for the health professions, particularly physicians and dentists. The critical role of these professionals in the current health care delivery system, the very high cost of their training and the difficulties attendant upon getting training facilities to expand their capacity, justify at this time continuation of special Federal intervention in medical and dental education to continue the momentum which will produce substantial increases in the aggregate supply by the end of this decade.

The 1974 budget continues the current rate of capitation support for schools of medicine, osteopathy, and dentistry. This increased amount of Federal financial support will grow along with the actual increases in enrollment which Federal assistance has engendered. We are, however, recommending the termination of capitation payments for schools of nursing, veterinary medicine, optometry, pharmacy, and podiatry. We would also discontinue the special programs for allied health and public health when these authorities expire on June 30. In all of these cases, we see the Federal role as limited to the special demonstration projects. Nursing education, of course, has been funded through State and local support, private sources and portions of patient care revenues. We believe the substitution of Federal financing for these more traditional means of support is undesirable. We are, however, proposing the expansion of the health manpower education initiative awards which will provide targeted Federal assistance in areas of greatest priority and continuation of significant special project awards in both the health professions and nursing.

We are also recommending changes in the student aid programs for the health professions. We are requesting an increase in the authorization of National Health Service Scholarships. Over the long run, we intend to use this authority as our sole vehicle for providing scholarship assistance to students of the health professions and nursing because the mandatory service provisions will assist in ameliorating the maldistribution of health manpower, as well as help us meet the long-term staffing needs of the Public Health Service.

SECTION 601 OF PUBLIC LAW 91-296

We do strongly oppose provisions which attempt to force expenditures in all events where there has been an appropriation made and which are intended to thwart the Chief Executive's discretion and duty not to expend such sums where it would be unwise or irresponsible. S. 1136, of course, contains such a provision designed to extend Section 601 of P.L. 91-296.

CONCLUSION

The Administration undertook a comprehensive and thorough reexamination of all currently authorized and funded health programs in the preparation of the President's budget for 1974. The budget recognizes the necessity to contain total Federal outlays at a level which will avoid tax increases and limit inflation. It reflects decisions on a program-by-program basis that retain activities which carry out a valid Federal role and phase out activities which have achieved their purpose, are unproductive, or are more appropriately conducted at the State and local level. The 1974 budget assumes the extension of significant sections of the Public Health Service Act which expire on June 30 and requests $750 million for their support in 1974.

To obtain this improvement in the effectiveness of our support for health programs while maintaining the total budget at a responsible level, it is essential to permit those health authorities to expire which do not meet the tests of a valid Federal role or a high likelihood of significant results. S. 1136 would extend sections of the Public Health Service Act and the Community Mental Centers Act which do not meet these tests.

I can only reiterate, therefore, that we are strongly opposed to this short-term and short-sighted across-the-board extension of existing health authorities. We think it would be in everyone's interests to face the issues now, and our forthcoming legislative proposals will certainly do that. Little purpose can, we think, be achieved in further financing of completed demonstrations or of unfulfilled dreams.

Mr. Chairman, this concludes my prepared statement. My colleagues and I would be pleased to try to answer any questions you and other Members of the Subcommittee might have. We have appreciated this opportunity to state the Administration's views.

PROGRAMS THAT S. 1136 WOULD EXTEND PROGRAM

Research and demonstrations relating to health facilities and services; systems analysis of national health care plans, $94 million.

National health surveys and studies, $25 million.

Traineeships for professional public health personnel, $18 million.

Project grants for graduate or specialized training in public health, $16 million.

Project grants for provision of comprehensive professional training; specialized consultative service, and technical assistance in public health, $15 million.

Health services for domestic agricultural migrants, $30 million.

Grants to States for comprehensive State health planning, $20 million.

Project grants for areawide health planning, $40 million.

Project grants for training, studies, and demonstrations, $12 million.

Grants for comprehensive public health services, $165 million.

Project grants for health services development, $157 million.

Assistance for construction of medical library facilities, $13 million.

Grants for training in medical library sciences, $2 million.

Assistance for compilation or writing of contributions to scientific, social, or cultural advancements in sciences related to health, $0.5 million.

Projects of research and development in medical library science and related fields, $3 million.

Grants for establishing, expanding, and improving the basic resources of medical libraries and related instrumentalities, $4.5 million.

Grants for establishment of regional medical libraries, $3.5 million.

Financial support of biomedical scientific publications, $1 million.

Grants for construction of public or other nonprofit facilities for long-term care, $85 million

Grants for the construction of public or other nonprofit outpatient facilities, $70 million.

Grants for the construction of public or other nonprofit rehabilitation facilities, $15 million.

Grants for the construction of public or other nonprofit hospitals and public health centers, $157.5 million.

Grants for modernization of public or other nonprofit hospitals, public health centers, long-term care facilities, outpatient facilities, and rehabilitation facilities, $90 million.

Loan guarantees and loans for modernization and construction of hospitals and other medical facilities, $1,500 million cumulative loans and loan guarantees outstanding.

Construction or modernization of emergency rooms, $20 million.

Grants for construction of teaching facilities for allied health professions personnel, $40 million.

Basic improvement grants to improve the quality of training for allied health professions, $15 million.

Special improvement grants for projects in allied health professions training, $30 million.

Special projects for experimentation, demonstration, and institutional improvement related to training of allied health personnel, $30 million.

Traineeships for advanced training of allied health professions personnel, $12 million.

Grants and contracts to encourage full utilization of educational talent for allied health professions, $1.25 million.

Allied health professions scholarship grants, $6 million,

Allied health professions work-study program, $6 million.

Loans for students of the allied health professions, $10 million.

Grants to assist in establishing and operating regional medical programs of research, training, and demonstration in the fields of heart disease, cancer, stroke, kidney disease, and related diseases, $250 million.

Grants for construction of public and other nonprofit community mental health centers, $100 million.

Grants for initial cost of professional and technical personnel of community mental health centers, $60 million.

Grants and contracts for the prevention and treatment of alcohol abuse and alcoholism, $50 million.

Direct grants for special projects relating to training and demonstration in the delivery of health services to alcoholics and the prevention of alcoholism; grants for construction and initial operation of treatment facilities for narcotic addicts and other persons with drug abuse problems; direct grants for special projects relating to training and demonstration in the delivery of health services to drug addicts and other persons with drug abuse problems, and the prevention of drug abuse; and grants for construction of alcoholism facilities, $80 million.

Grants for drug abuse education, $14 million.

Grants for compensation of personnel providing consultation services in the mental health, alcoholism, and drug abuse fields, $5 million.

Grants for construction and operation of treatment facilities related to the mental health of children, $30 million.

Total authorizations (excluding Hill-Burton loan guarantee and loan programs), $1,796.25 million.

Mr. TAFT. Mr. President, I would continue for just a moment to say that I was somewhat disturbed this morning, in the Subcommittee on Health, with regard to the handling of this particular measure. The senior Senator from Massachusetts (Mr. KENNEDY) was chairman of the subcommittee, or the committee—it was never entirely clear to me whether it was a committee meeting or a subcommittee meeting. It was noted as a subcommittee meeting, but the statement was made at the beginning of the meeting which indicated that it was a committee meeting. I see present the chairman of the full committee. Perhaps he could make a clarifying statement.

Mr. WILLIAMS. Mr. President, that can be clarified very quickly. Because of the importance of moving this legislation, which deals really with 17 aspects of our public health program, we decided to go to a hearing that would include all of the members of the committee. So it was a full committee hearing, again directed toward full committee participation, so that the measure would be expedited in meeting the Senate's time schedule and be ready to be reported to the Senate in 2 weeks, which I believe is next Tuesday. So it was a full Labor and Public Welfare Committee meeting.

Mr. TAFT. I appreciate the explanation of the chairman of the committee.

I may simply add that an executive meeting of the committee, as I understand, was called for this afternoon at 3 o'clock. I have expressed reservations, and I believe that the general permission for committees to sit today during the session of the Senate excepted the Committee on Labor and Public Welfare. My reason for that was that I felt there was in the committee session this morning a completely inadequate opportunity for Members generally, on both sides of the aisle, to examine the Secretary as to the nature of the program the administration is recommending. I think it is unfortunate that the measure comes to this House under those circumstances.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Is there further morning business?

THE SHORTAGE OF LUMBER

Mr. SCOTT of Virginia. Mr. President, I just returned from a luncheon that was given by the Virginia Homebuilders. They gave me this piece of lumber. They told me it was more precious than gold. We know that might be an exaggeration, but the price of lumber has increased.

The homebuilding industry is experiencing considerable difficulty. I do not presume to know the answers to the problem, but I think it is a problem that the Congress should concern itself with. They tell me that 25 percent of our lumber production is being exported to Japan and that the Japanese homebuilding industry is thriving, while our own home industry is in difficulty.

It may be that we should open our national forests to a greater extent for the exploitation of lumber. There may be many solutions. Certainly I am going to check into it. I hope that each Member of the Senate will look into this serious problem, because I think that if we have a healthy homebuilding industry, it con-

tributes materially to the economic welfare of the country.

Mr. President, that is a serious problem. I hope the Senate will concern itself with it.

The PRESIDING OFFICER. Is there further morning business?

NOMINATION OF L. PATRICK GRAY III TO BE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement which I made today at the Judiciary Committee hearing on the confirmation of the nomination of Mr. L. Patrick Gray III.

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

STATEMENT OF SENATOR ROBERT C. BYRD AT SENATE JUDICIARY COMMITTEE HEARINGS ON NOMINATION OF PATRICK L. GRAY III

Mr. Gray, I have completed my questions with respect to this hearing. I have always been a strong supporter of the FBI, and I made law and order speeches, to my recollection, before President Nixon started making them. Several weeks ago, I stated my position with respect to this nomination, and I stated my reasons therefor. My conclusions have only been substantiated by the developments that have occurred in the course of the hearings. To be specific, they are as follows, as I see them:

(1) As Acting Director, you made speeches which you yourself have, during the hearings, admitted were political or, at least, could rightly have been considered as political in the eyes of others. You accepted an invitation, at the request of the White House, to make a speech in Cleveland, Ohio, a state which was considered vital to the Republican campaign; although you earlier testified that, prior to the White House request, you had received a formal invitation directly from the Cleveland Club, you later testified that this was not the case and that the White House invitation antedated any formal invitation from Cleveland.

(2) The FBI, again at the request of the White House, secured information from 21 field offices in 14 states to be used in support of the Presidential campaign, such request for information having gone out over your name—and, although you earlier left the impression with the Judiciary Committee that you had launched an investigation into the matter, you subsequently revealed that such investigation had really not been instigated until the story broke in the press several weeks after the political act occurred, and the evidence shows that the investigation really was not pursued vigorously and produced little, if any, results.

(3) What started out initially to be a "full court press" investigation, soon was reduced to an investigation only with respect to the IOC statute; possible violations of other statutes were not pursued, the pretext being that there were no indications of other violations and that the FBI was not requested to go beyond the IOC statute by the Attorney General's office.

(4) Serious questions have been raised about the judgment of the FBI's Acting Director regarding the actions taken in shooting out the tires of the Southern Airways aircraft on November 10, 1972; additionally, the statements under oath by the Acting Director are completely at odds with statements by the captain of that aircraft and by the president of the Air Line Pilots Association.

(5) The repeated absences from Washington at critical times by the FBI Acting Director—for example, during the Southern Airways skyjacking; and often during the Watergate investigation, an investigation which the Acting Director himself recognized initially as an extremely serious matter, one which had every indication of involving people in high positions in the Administration.

(6) The handling of the Watergate investigation which has raised serious questions regarding thoroughness, independence, and objectivity.

(7) Failure on the part of the FBI Acting Director to demonstrate independence in dealing with John Dean, Counsel to the President, and accepting at face value and almost without question the statements, directions and requests of John Dean, all of which indicate a pattern either of blind loyalty, faith, and trust in, or subservience to, the White House. Specific examples can be cited:

(a) Transmission of the July 21 letterhead memorandum to John Dean.

(b) Transmission of 82 investigative reports (raw files) directly to John Dean, at Dean's request, without authorization by the Attorney General and apparently without knowledge of others in the FBI.

(c) Allowing, without protest, John Dean to sit in on interviews of White House personnel.

(d) Supplying John Dean with investigative reports of reinterviews of certain personnel of the Committee for the Re-election of the President, such reinterviews having been made at the request of the CRP personnel who wanted to be interviewed out of the presence of CRP attorneys.

(e) Accepting, without question, the response of John Dean to the inquiry of the FBI Acting Director regarding whether or not Dean had shown Donald Segretti certain FBI files as implied by press reports.

(f) Trusting implicitly in, and justifying his actions upon, a "presumption of regularity," the FBI Acting Director repeatedly turned over raw files to John Dean and failed to ask Dean questions where questions logically should have been asked regarding the use of those files and regarding leaks of information, etc.

(g) Dean's recommendation of Gordon Liddy to CRP and Liddy's later involvement in the Watergate break-in created no apparent concern on the part of the FBI Acting Director with regard to Dean's being repeatedly entrusted with raw FBI files.

(h) Although Dean had Mr. Howard Hunt's property removed from Hunt's office on the night of June 19, 1972, and stored it in his own office until he turned it over to the FBI six days later, the FBI Acting Director saw no reason to seriously question Dean's actions, even though Hunt proved to be involved in the Watergate break-in, and even though Dean knew at the time the property was stored in his office that Hunt was being investigated by the FBI and even though Dean, during those six days, failed to inform the FBI of what had transpired, notwithstanding the fact that Dean talked by telephone six times with the FBI Acting Director and met with the FBI Acting Director on two separate occasions in the latter's office during the six days Dean was in possession of Hunt's property.

(i) During the Kleindienst hearings, Mr. Gray turned over to John Dean the famous Dita Beard memorandum which had been entrusted to the FBI by the Judiciary Committee under orders that it not leave the possession of the FBI. The Beard memorandum subsequently went to the ITT before being returned to the Justice Department and the Judiciary Committee. Notwithstanding this experience, FBI Acting Director Gray demonstrated an implicit faith in John Dean in turning over to him all FBI raw files requested by Dean with respect to the Watergate break-in. Here again, Mr. Gray acted, in his words, on the "presumption of regularity."

(8) FBI Acting Director repeatedly stated during the hearings, and as recently as yesterday, that he would continue to turn over FBI raw materials to John Dean as requested. The supplying of FBI raw files to Mr. Dean has continued without questions being raised by Gray even subsequent to August 29, 1972, the date on which President Nixon stated in a press conference in San Clemente, California, that "Within our own staff, under my direction, Counsel to the President, Mr. Dean, has conducted a *complete investigation* of all leads which might involve any present members of the White House staff or anybody in the government." (Emphasis supplied)

(9) Even though Mr. Gray sought a legal opinion before supplying Mr. Dean with the July 21 letterhead memorandum, Mr. Gray sought no legal opinion whatsoever in following up repeatedly with supplying FBI raw files (FD302's, interview reports, teletype info, etc.) which were even more sensitive than an LHM.

(10) FBI Acting Director Gray sought no request orally or in writing from the President before supplying Mr. Dean with letterhead memoranda and FBI raw files, and has continued to send raw files to Mr. Dean as late as October 10, 1972, on the "assumption" that the White House investigation is "continuing."

(11) Submission of raw files to White House echelon personnel, even those FBI reports regarding private reinterviews made at the request of CRP personnel, have seriously compromised the "presumption of confidentiality" which heretofore could be assumed with respect to information given to the FBI by informants.

(12) In view of the exorbitant claim of Executive Privilege that has been advanced to deny a formal appearance by Mr. John Dean before the Judiciary Committee to answer questions bearing upon the qualifications of Mr. Gray, I believe that the Senate Committee should reject the nomination.

(13) Although I have nothing personal against the FBI Acting Director and could possibly vote to confirm his nomination for some other office, I cannot vote to confirm his nomination for the office of Director of the FBI. I think that the image of the FBI has suffered, in view of all the developments which occurred during his acting directorship, and I think that the professionalism, morale, and efficiency of the FBI have likewise suffered, as has public confidence in the FBI. There is too much evidence of political activity on the part of the Acting Director; there is too much evidence of subservience to the White House; there are too many unanswered questions with respect to the possible misuse of FBI files in connection with the Watergate investigation—all of these, together with the foregoing detailed reasons, are sufficient to justify a fear that the FBI could, in the future, become a White House national police force to be used in political campaigns, thus endangering the constitutional liberties of all Americans.

For the foregoing reasons, I would hope to see an up or down vote on the nomination of Mr. Gray. I think he is entitled to an up or down vote, but more than he, the FBI is entitled to an immediate decision in this matter, and I believe that for the good interests of the FBI, as the top law enforcement agency and intelligence-gathering network in this Country, the nomination ought to be rejected.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGOVERN. 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 BY THE DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend title V of the Housing Act of 1949 to expressly authorize the collection of taxes and insurance from rural housing borrowers, to authorize fees and charges to be available for administrative expenses, and for other purposes (with an accompanying paper). Referred to the Committee on Banking, Housing, and Urban Affairs.

REPORT ON CERTAIN PROPERTY PROVIDED UNDER GERMAN OFFSET AGREEMENT

A letter from the Acting Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, a report of the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement, for the first two quarters of Fiscal Year 1973 (with an accompanying report). Referred to the Committee on Appropriations.

REPORT ON INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS FOR DEFENSE DEPARTMENT

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, data used on report on independent research and development and bid proposal costs (with accompanying papers). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION BY TREASURY DEPARTMENT

A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to amend section 14(b) of the Federal Reserve Act, as amended to extend for two years the authority of Federal Reserve banks to purchase United States obligations directly from the Treasury (with accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

DOCUMENTS OF THE FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a copy of the following publications: "Sales of Firm Electric Power for Resale, 1967–1971," and "Sales by Producers of Natural Gas to Interstate Pipeline Companies, 1971" (with accompanying documents). Referred to the Committee on Commerce.

PROPOSED LEGISLATION OF THE DEPARTMENT OF COMMERCE

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 502(a) of the Merchant Marine Act, 1936 (with accompanying papers). Referred to the Committee on Commerce.

PRINCIPAL ELECTRIC FACILITIES IN THE UNITED STATES, 1972

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a copy of the map "Principal Electric Facilities in the United States, (1972)" (with an accompanying map). Referred to the Committee on Commerce.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Additional Actions Needed to Minimize Adverse Environmental Impacts of Timber Harvesting And Road Construction On Forest Lands", Department of Agriculture, Department of the Interior, dated March 20, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Legal Services Program Accomplishments Of And Problems Faced By Its Grantees", Office of Economic Opportunity, dated March 21, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED LEGISLATION BY THE ATTORNEY GENERAL

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to assure the imposition of appropriate penalties for persons convicted of offenses involving heroin or morphine, to provide emergency procedures to govern the pretrial and post-trial release of persons charged with offenses involving heroin or morphine, and for other purposes (with accompanying papers). Referred to the Committee on the Judiciary.

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes (with an accompanying paper). Referred to the Committee on the Judiciary.

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to consolidate and extend the authorizations for appropriations for assistance to medical libraries, to repeal provisions for assistance for construction of facilities and for grants for training in medical library sciences, and for other purposes (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

WASHINGTON, D.C. CONVENTION CENTER-SPORTS ARENA

A letter from the Acting Administrator, General Services Administration, requesting the Committee on Public Works to drop from consideration the proposed Convention Center-Sports Arena to be built in the Mt. Vernon Square area of Washington, D.C. Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A memorial of the Senate of the State of Arizona. Referred to the Committee on the Judiciary:

"SENATE MEMORIAL 1002

"A memorial urging the President and the Congress of the United States to oppose unreasonable Federal firearms control legislation and laws which place restrictions on sale of certain ammunition

"To the President and the Congress of the United States of America: Your memorialist respectfully represents:

"Whereas, defense of one's person against assault by another is a natural right recognized by every generation; and

"Whereas, every individual's right to the possession of adequate weapons for his defense or the defense of his home and family is essential to the protection of this natural right; and

"Whereas, the Bill of Rights of the Consituation of the United States and Article 2, Section 26 of the Constitution of the State of Arizona guarantee to its citizens the right to keep and bear arms; and

"Whereas, the handgun is the most effective weapon for self-defense, and its mere possession frequently is sufficient to repel an invader or attacker; and

"Whereas, crime statistics only cover the use of firearms in crimes, and do not disclose the many instances where the lawful possession or use of firearms for defense have prevented crimes; and

"Whereas broad handgun control legislation, proposing to restrict the sale or delivery of handguns generally, could result in banning many existing high quality handguns manufactured in the United States; and

"Whereas, such legislation, including H.R. 845 introduced in the 93rd Congress by Representative Murphy of New York, would deny a citizen the right to obtain weapons for self-defense, but would not prevent the acquisition of weapons by criminals or their misuse by criminals; and

"Whereas, there are adequate laws now on the books to punish criminals for the misuse of firearms in crimes if properly enforced. Wherefore your memorialist, the Senate of the State of Arizona, prays:

"1. That the President and the Congress of the United States take those steps necessary for the proper enforcement and judicial punishment of criminals, rather than consider legislation which would curtail the right of honest citizens to acquire weapons for sport or self-defense.

"2. That the President and the Congress of the United States consider legislation such as H.R. 3611 introduced in the 93rd Congress by Representative John D. Dingell of Michigan which would limit the prohibition on the sale or delivery of handguns to handguns the frame or receiver of which is a die casting of zinc alloy or any other material which has a melting temperature less than eight hundred degrees fahrenheit, thereby eliminating only cheaply constructed handguns and preserving the honest citizen's right to acquire quality handguns suitable for self-protection and sport.

"3. That the President and the Congress of the United States consider legislation which would eliminate present requirements of record keeping on .22 ammunition which requirements infringe on the guarantee of citizens to keep and bear arms.

"4. That the Secretry of State of the State of Arizona transmit a copy of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Arizona Congressional delegation."

A joint memorial of the Legislature of the State of Idaho. Referred to the Committee on Finance:

"HOUSE JOINT MEMORIAL NO. 14

"A joint memorial to the Congress of the United States and the Senators and Representatives representing the State of Idaho in the Congress of the United States; requesting that the principle of capital gains treatment of income from the cutting or disposal of timber be continued

"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 hereby respectfully represent that:

"Whereas, increasing and conflicting demands and management direction on the public lands is creating uncertainty and a lowering of the timber cut from these lands each year; and

"Whereas, the public lands owned by the federal government constitute the bulk of the land area in Idaho and the chief supply of timber and the lowering of the annual allowable cut from these lands is placing additional emphasis on replacing a portion of this lost raw material supply on the private lands of the State of Idaho; and

"Whereas, timber growing is a unique enterprise which requires investments for long periods of time, during which they are continuously subject to great physical and economic risks; and

"Whereas, capital gains tax treatment on long-term timber gains provided under Section 117(k) of the Revenue Act of 1943 and Sections 631(a) and (b) of the 1954 Revenue Code recognizes these unique features; and

"Whereas, such treatment has been effective in stimulating private forest owners to adopt forest management practices which will provide timber to meet future needs; and

"Whereas, the proposed repeal of capital gains treatment of timber revenues would substantially reduce the generally low rate of return upon investments in timber growing and would thereby materially reduce the incentive of private landowners to manage forest lands for continuous production of timber to meet national lumber demands; and

"Whereas, the Nation needs a continuing long-term supply of timber which can be assured only by protecting and continuing the forestry advances made in the last twenty years.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the State of Idaho endorses the principle of capital gains tax treatment of income from the cutting of timber as being in the public interest and urges the Congress of the United States to reject any legislation that would endanger this principle.

"Be it further resolved that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and Representatives representing this state in the Congress of the United States."

A joint memorial of the State of Idaho. Referred to the Committee on the Judiciary:

"HOUSE JOINT MEMORIAL NO. 11

"A joint memorial to the Congress of the United States requesting that an amendment be proposed to the constitution of the United States reaffirming the right of the States to regulate abortion

"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 hereby respectfully represent that:

"Whereas, on January 2, 1973, the United States Supreme Court invalidated the laws of the states of Texas and Georgia which specified limited conditions under which abortions would be allowed; and

"Whereas, these same decisions also stated that residency requirements would not be upheld in statutes regulating abortions; and

"Whereas, the people of the State of Idaho believe that it is a power reserved to the state to determine the laws regulating the general health and welfare of the citizens of this state in a matter so unique to the citizenry of the state; and

"Whereas, in view of this decision and the concurrent infringement upon the diverse views which may be held among the various states of this union, this state is denied the alternatives of regulating and restricting abortions.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the House of Representatives and Senate concurring, that we respectfully urge the Congress of the United States to prepare and submit to the states for ratification an amendment to the Constitution of the United States reaffirming the right of the various states to regulate, in a manner they deem necessary and proper, abortions.

"Be it further resolved that the Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and Representatives representing this state in the Congress of the United States."

A joint memorial of the Legislature of the State of Idaho. Referred to the Committee on Labor and Public Welfare:

"HOUSE JOINT MEMORIAL NO. 6

"A joint memorial to the Honorable Senate and House of Representatives in Congress assembled the Honorable congressional delegation of the State of Idaho, and the Secretary of Labor of the United States, relating to repeal of the overtime exemption of the Fair Labor Standards

"We, your Memorialists, the House of Representatives and the Senate of the state of Idaho assembled in the First Regular Session of the Forty-second Idaho Legislature, do hereby respectfully represent that:

"Whereas, provisions of the Fair Labor Standards Act authorize overtime work without overtime pay for a twenty week period during the harvest season in the perishable food processing industry; and

"Whereas, the effect of this provision is to require the employees to work during the peak period of harvesting, but to deny them extra compensation for this work; and

"Whereas, there is little other time when the employees are given the opportunity for overtime work with overtime pay and as a result employees have no chance to increase to increase their income to equal the time invested in their work; and

"Whereas, the United States Congress has the power to amend this legislation in the best interests of the working people, to insure that it operates more fairly for the employees as well as the employers.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully urge that there is a need for the United States Congress to amend the Fair Labor Standards Act in order to remove the exemption for harvesting periods and require overtime payment for the overtime work required. We urge the Congress to consider this change in the interests of providing a fair return for the work perfomed.

"Be it further resolved that the Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States Senate, the Speaker of the House of Representatives of the United States, the Senators and Representatives representing this state in the Congress of the United States, and the Honorable Secretary of the Department of Labor of the United States."

A joint memorial of the Legislature of the State of Idaho. Referred to the Committee on Public Works:

"HOUSE JOINT MEMORIAL NO. 9

"A joint memorial to the Honorable Senate and House of Representatives of the United States in Congress assembled, requesting the United States Congress to repeal the size and weight limitations placed on interstate trucking

"We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Forty-second Idaho Legislature, do hereby respectfully represent that:

"Whereas, the people of the State of Idaho and the rest of the United States rely on an efficient and dependable transportation system to supply their daily needs; and

"Whereas, the motor truck transportation system has fully discharged that need and trust within the limitations placed upon it by federal law; and

"Whereas, the fuel needed to power the nation's transportation system has reached a critically short supply; and

"Whereas, the health, safety and well-being of our people are now placed in jeopardy by this lack of fuel needed to power the nation's trucks which deliver goods and materials; and

"Whereas, the capability to deliver substantially more cargo with very little increase in fuel consumption has long been available, but has been denied by the freeze on size and weight limitations on the federal interstate highway system which has been in existence since 1956; and

"Whereas, the bureau of public roads, the American association of state highway officials, and the several states, including the State of Idaho, have long recommended that the sizes and weights be allowed on the interstate system for which it was designed and which are allowed on the noninterstate system;

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Legislature of the State of Idaho, the House of Representatives and Senate concurring therein, that the President and the Congress of these United States do speedily act to repeal the existing size and weight limitations placed on the interstate system by the freeze of 1956. In order to preserve the well-being of our citizens and the integrity of the environment as well, the nation's transportation network must be allowed to deliver cargo to our people at maximum efficiency and capability.

"Be it further resolved that the Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of his Memorial to the Speaker of the House of Representatives of Congress, to the Vice-President of the United States and to the Representatives and Senators representing the State of Idaho in Congress."

A resolution of the Legislature of the State of Nebraska. Referred to the Committee on the Judiciary:

"LEGISLATIVE RESOLUTION 9

"Whereas, the 92d Congress of the United States of America at its second Session, in both Houses, by a Constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"'JOINT RESOLUTION

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled* (*two-thirds*

of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when 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. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"'"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'"SEC. 3. This amendment shall take effect two years after the date of ratification"'; and

"Whereas, the Eighty-second Legislature, Second Session of the Legislature of Nebraska, approved Legislative Resolution 86.

"Now, therefore, be it resolved by the members of the eighty-third Legislature of Nebraska, first session:

"1. That such proposed amendment to the Constitution of the United States be and the same hereby is withdrawn.

2. That copies of this resolution duly certified by the Secretary of State with the Great Seal of Nebraska attached thereto be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

A joint resolution of the General Assembly of the State of Tennessee. Reference to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION NO. 61

"A resolution encouraging and petitioning the Congress of the United States to restore the dates of November 11 as the legal federal holiday for the celebration of Veterans Day and May 30, as the legal federal holiday for the celebration of Memorial Day

"Whereas, the Congress of the United States has declared that Veterans Day will be celebrated on the fourth Monday in October and Memorial Day will be celebrated on the fourth Monday in May; and

"Whereas, Veterans Day and Memorial Day historically have been celebrated on November 11 and May 30 since their inception; and

"Whereas, the members of Tennessee Chapters of the Veterans of Foreign Wars as well as the Tennessee Chapter of the American Legion have requested that these holidays be restored to the dates of November 11 and May 30; now, therefore,

"Be it resolved by the Eighty-eighth General Assembly of the State of Tennessee, the Senate concurring, That this General Assembly encourage and petition the Congress of the United States to reinstate November 11 as the official federal holiday celebrating Veterans Day and May 30 as the official federal holiday celebrating Memorial Day.

"Be it further resolved, That a copy of this Resolution be forwarded to all members of the United States Congress, all members of the United States Senate, all state American Legion officers, all state officers of the Veterans of Foreign Wars, and the State Commander of the Veterans of Foreign Wars."

A joint resolution of the Legislature of the State of Vermont. Referred to the Committee on the Judiciary.

"J.R.H. 8

"Joint resolution ratifying a joint resolution of the Congress of the United States of America, entitled "Joint Resolution proposing an amendment to the Constitution of the United States"

"Whereas, at the second session of the ninety-second Congress of the United States of America, it has been resolved by a joint resolution of the Senate and the House of Representatives of the United States in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the Legislatures of three-fourths of the several states wihin seven years from the date of its submission by the Congress.

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

"Now therefore be it

"Resolved by the Senate and House of Representatives:

"That the said amendment to the Constitution of the United States be, and the same hereby is, ratified by the Legislature of the state of Vermont, and be it further

"Resolved: That the Secretary of State be, and hereby is, directed to forward certified copies of this resolution to the Administrator of General Services, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

A resolution adopted by the Council of the City and County of Honolulu, Hawaii, praying for the enactment of legislation to protect Hawaiian pineapple production. Referred to the Committee on Finance.

A resolution adopted by the Lafayette Parish Police Jury, Lafayette, La., expressing objection to the proposed rebuilding of North Vietnam. Referred to the Committee on Foreign Relations.

A resolution adopted by the King County Council, Seattle, Wash., requesting that all resources available be utilized to keep the public health hospital in Seattle open and properly funded. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the Parish of Jackson, La., expressing opposition to the proposed rebuilding of North Vietnam. Referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 3577. An act to provide an extension of the interest equalization tax, and for other purposes. (Report No. 93–84).

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

H.R. 1975. An act to amend the emergency loan program under the Consolidated Farm and Rural Development Act, and for other purposes (Rept. No. 93–85).

By Mr. CURTIS, from the Committee on Agriculture and Forestry, without amendment:

S. 1021. A bill to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 per centum the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes (Rept. No. 93–86).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. CURTIS, from the Committee on Agriculture and Forestry:

Robert W. Long, of California, and Clayton Yeutter, of Nebraska, to be members of the Board of Directors of the Commodity Credit Corporation.

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. THURMOND, from the Committee on Armed Services:

Carl S. Wallace, of Virginia, to be an Assistant Secretary of the Army.

The 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. SYMINGTON, from the Committee on Armed Services:

William W. Woodruff, of Virginia, to be an Assistant Secretary of the Air Force.

The 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.

Mr. ERVIN. Mr. President, from the Committee on Armed Services, I report favorably the nominations of Vice Admiral Calvert, USN, Lt. Gen. William J. McCaffrey, USA, and Lt. Gen. James V. Edmundson, USAF, to be placed on the retired list; the temporary appointment in the Marine Corps Reserve of: one to the grade of major general, and two to the grade of brigadier general; eight appointments in the Marine Corps to the temporary grade of brigadier general; Maj. Gen. Gilbert Hume Woodward to be lieutenant general in the Army; seven temporary appointments in the Marine Corps in the grade of major general. I ask that these names be placed on the Executive Calendar.

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

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Lt. Gen. James V. Edmundson (major general, Regular Air Force) United States Air Force, to be placed on the retired list in the grade of lieutenant general;

Lt. Gen. William Joseph McCaffrey, Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of lieutenant general;

Maj. Gen. Gilbert Hume Woodward, Army of the United States (major general, U.S. Army), to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Vice Adm. James F. Calvert, U.S. Navy, for appointment to the grade of vice admiral, when retired;

Louis Conti, Marine Corps Reserve, for tem-

porary appointment to the grade of major general;

Alan T. Wood, and Hugh W. Hardy, Marine Corps Reserve, for temporary appointment to the grade of brigadier general;

Kenneth J. Houghton, and sundry other officers, for promotion to the grade of major general in the Marine Corps; and

Nolan J. Beat, and sundry other officers, for promotion to the grade of brigadier general in the Marine Corps.

Mr. ERVIN. Mr. President, in addition, there are 1,274 for permanent promotion in the Army—1,166 to lieutenant colonel, 29 to major, and 79 to captain; 1,649 appointments in Regular Army—three captains, 14 to first lieutenant, four to second lieutenant, 802 distinguished military students for appointment to second lieutenant, 826 scholarship students to second lieutenant; the appointment of 306 in the Army in the grade of colonel and below and 58 majors in the Reserve of the Air Force of Air National Guard for appointment to the grade of lieutenant colonel. Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

Omar R. Adame, and sundry other Air National Guard of the United States officers, for promotion in the Reserve of the Air Force;

Laverne H. Dahl, and William C. Turpin, for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list;

David G. Doane, and sundry other persons, for appointment in the Regular Army of the United States;

Michael A. Richardson, distinguished military student, for appointment in the Regular Army of the United States;

Joseph E. Bradey, and sundry other persons, for reappointment in the active list of the Regular Army of the United States;

Colin P. Kelly, and sundry other persons, for appointment to the Regular Army, by transfer;

Sara E. Baucom, and sundry other persons, for appointment in the Regular Army of the United States;

Stephen A. Abel, and sundry other distinguished military students, for appointments in the Regular Army of the United States;

Charles Abner, Jr., and sundry other scholarship students, for appointment in the Regular Army of the United States; and

Richard L. Absher, and sundry other officers, for promotion in the Regular Army of the United States.

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

Stephen Alan Wakefield, of Texas, to be an Assistant Secretary of the Interior.

Mr. JACKSON. Mr. President, in submitting this report of the Committee on Interior and Insular Affairs on the nomination of Stephen A. Wakefield to be Assistant Secretary of the Interior for Energy and Minerals, I wish to state that this nominee has agreed and committed himself in open hearing before the Interior Committee to appear and testify at such reasonable times as the Interior Committee or any other duly constituted Senate committee might request his presence.

By Mr. CANNON, from the Committee on Armed Services:

Hadlai A. Hull, of Minnesota, to be an Assistant Secretary of the Army.

The 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. NUNN, from the Committee on Armed Services:

Byron V. Pepitone, of Virginia, to be Director of Selective Service.

The 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. PEARSON:

S. 1313. A bill for the relief of Mr. Samuel T. Aguirre. Referred to the Committee on the Judiciary.

By Mr. ERVIN (for himself, Mr. ABOUREZK, Mr. BROOKE, Mr. CANNON, Mr. CRANSTON, Mr. EAGLETON, Mr. EASTLAND, Mr. FULBRIGHT, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HRUSKA, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. TUNNEY, and Mr. WILLIAMS):

S. 1314. A bill to more fully protect the freedom of speech of Members of Congress and to enforce Article I, Section 6 of the Constitution, the "Speech or Debate" Clause. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 1315. A bill to extend diplomatic privileges and immunities to the Liaison Office of the People's Republic of China and to members thereof, and for other purposes. Referred to the Committee on Foreign Relations.

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

S. 1316. A bill to amend Section 311 and Section 509 of the Federal Water Pollution Control Act. Referred to the Committee on Public Works.

By Mr. FULBRIGHT (by request):

S. 1317. A bill to authorize appropriations for the United States Information Agency. Referred to the Committee on Foreign Relations.

By Mr. BEALL (for himself and Mr. DOMINICK):

S. 1318. A bill to amend the Elementary and Secondary Education Act of 1965, to authorize reading emphasis programs to improve reading in the primary grades, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. DOMINICK:

S. 1319. A bill to strengthen education by consolidating certain elementary and secondary education grant programs through the provision of a share of the revenues of the United States to the States and to local educational agencies for the purpose of assisting them in carrying out education programs reflecting areas of national concern. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY (for Mr. MONDALE):

S. 1320. A bill for the relief of George Simon Abdallah. Referred to the Committee on the Judiciary.

By Mr. HART:

S. 1321. A bill for the general reform and revision of the Patent Laws, title 35 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself, Mr. MAGNUSON, Mr. RANDOLPH, Mr. MOSS, Mr. SPARKMAN, and Mr. BENTSEN):

S. 1322. A bill to require the Secretary of Housing and Urban Development to disregard the increase in the benefits under title II of the Social Security Act pursuant to Public Law 92-336 in determining eligibility or the amount of assistance under certain laws relating to low-income housing. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. WILLIAMS:

S. 1323. A bill to amend title XVIII of the Social Security Act to provide for the automatic coverage, without premium, under the supplementary medical insurance program established by part B of such title of individuals who are covered (without payment of premium) under the hospital insurance program established by part A of such title;

S. 1324. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain drugs under the insurance system established by part A of such title; and

S. 1325. A bill to amend title XVIII of the Social Security Act to cover, under the hospital insurance program established by part A thereof, inpatient hospital services provided outside the United States to individuals insured under such program. Referred to the Committee on Finance.

S. 1326. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia. Referred to the Committee on Labor and Public Welfare.

By Mr. TUNNEY:

S. 1327. A bill to require the labeling of electrical appliances with respect to their comparative efficiency in the use of electricity and to provide for the establishment of minimum standards of efficiency for such appliances. Referred to the Committee on Commerce.

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

S. 1328. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California. Referred to the Committee on Commerce.

By Mr. SPARKMAN (for himself and Mr. TOWER):

S. 1329. A bill to amend laws relating to the Federal National Mortgage Association. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SPARKMAN:

S. 1330. A bill for the relief of Albien L. Taylor;

S. 1331. A bill for the relief of George W. Wright; and

S. 1332. A bill for the relief of Miss Bessie Villegas. Referred to the Committee on the Judiciary.

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

S. 1333. A bill to provide for the establishment of a veterinary biologics facility by the U.S. Department of Agriculture, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. BURDICK:

S. 1334. A bill to authorize the mortgaging of tribal lands on the Fort Berthold Reservation for certain purposes; and

S. 1335. A bill to provide for the disposition of funds appropriated to pay a judgment entered by the Indian Claims Commission in favor of the Three Affiliated Tribes of Fort Berthold Reservation in dockets No. 350–A, E, and H, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE:

S. 1336. A bill 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, and for other purposes. Referred to the Committee on Armed Services.

By Mr. NELSON (for himself, Mr. PELL, Mr. MCINTYRE, and Mr. HUGHES):

S. 1337. A bill to protect the public health by amending Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices. Referred to the Committee on Labor and Public Welfare.

By Mr. BEALL (for himself and Mr. CRANSTON) (by request):

S. 1338. A bill to authorize appropriations for ACTION, and for other purposes. Referred to the Committee on Labor and Public Welfare.

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

S. 1339. A bill to provide for the creation of the Indian Trust Counsel Authority, and for other purposes;

S. 1340. A bill to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits, for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes;

S. 1341. A bill to provide for financing the economic development of Indians and Indian organizations, and for other purposes;

S. 1342. A bill to amend acts entitled "An act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", and "To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes" and for other purposes;

S. 1343. A bill to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government, and for other purposes;

S. 1344. A bill to amend certain laws relating to Indians; and

S. 1345. A bill to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PROXMIRE:

S. 1346. A bill for the relief of Leticia (Escobar) Richardson. Referred to the Committee on the Judiciary.

By Mr. HRUSKA:

S. 1347. A bill for the relief of Ilona Kocsan. Referred to the Committee on the Judiciary.

By Mr. BROCK (for himself and Mr. SPARKMAN, Mr. HATHAWAY, Mr. BENNETT, and Mr. TOWER):

S. 1348. A bill to provide for the establishment of safety standards for mobile homes in interstate commerce, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ABOUREZK (for himself, Mr. HUMPHREY, and Mr. MCGOVERN):

S. 1349. A bill to require the Secretary of Agriculture to carry out all rural housing programs of the Farmers Home Administration. Referred to the Committee on Agriculture and Forestry.

By Mr. MAGNUSON:

S. 1350. A bill to amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States. Referred to the Committee on Commerce.

By Mr. MAGNUSON (by request):

S. 1351. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes. Referred to the Committee on Commerce.

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

S. 1352. A bill to require load lines on United States vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON (by request):

S. 1353. A bill to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials. Referred to the Committee on Commerce.

By Mr. PELL:

S. 1354. A bill to establish a Regional Railroad Rights-of-Way Authority. Referred to the Committee on Commerce.

S. 1355. A bill to designate the first Sunday in November as the day for Federal elections. Referred to the Committee on Rules and Administration.

By Mr. HOLLINGS:

S.J. Res. 83. A joint resolution proposing an amendment to the Constitution of the United States to require that States providing public education provide it equally on a statewide basis to citizens residing therein. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ERVIN (for himself, Mr. ABOUREZK, Mr. BROOKE, Mr. CANNON, Mr. CRANSTON, Mr. EAGLETON, Mr. EASTLAND, Mr. FULBRIGHT, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HRUSKA, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. TUNNEY, and Mr. WILLIAMS):

S. 1314. A bill to more fully protect the freedom of speech of Members of Congress and to enforce article I, section 6 of the Constitution, the "Speech or Debate" clause. Referred to the Committee on the Judiciary.

S. Res. 86. A resolution to amend rule XXX of the Standing Rules of the Senate.

(Referred to the Committee on Rules and Administration.)

CONGRESSIONAL FREE SPEECH ACT OF 1973

Mr. ERVIN. Mr. President on behalf of Senators ABOUREZK, BROOKE, CANNON, CRANSTON, EAGLETON, EASTLAND, FULBRIGHT, HARTKE, HASKELL, HATHAWAY, HOLLINGS, HRUSKA, HUDDLESTON, HUMPHREY, MAGNUSON, MANSFIELD, MATHIAS, MCGEE, MCGOVERN, METCALF, MONDALE, MOSS, PELL, PERCY, RANDOLPH, RIBICOFF, TUNNEY, WILLIAMS, and myself, I introduce for appropriate reference a bill and a resolution designed to more fully protect the freedom of speech of Members of Congress and to enforce article I, section 6 of the Constitution, the "speech or debate" clause.

One overriding issue has dominated this Congress since it convened on January 3—the separation of powers between the three branches of the Federal Government. The forces of history and the Constitution have thrust upon the 93d Congress the awesome responsibility of drawing the line on over five decades of unchecked aggrandizement of power in the executive branch of Government. For the first time in my memory Congress is beginning to speak with a unified voice warning the executive branch that the legislative branch of Government will jealously resist encroachments upon its constitutional power and responsibilities and will begin to reassert its prerogatives. A growing consensus of Senators has reached the conclusion that assertions of unbridled power by the executive branch to impound funds, to assert executive privilege, to pocket veto legislation are undermining our republican form of government and will be resisted.

To my mind it is not only entirely proper but imperative that Congress boldly reassert its power under the Constitution. The Founding Fathers expected the Congress to be aggressive in defending those prerogatives. Indeed, the separation of powers—fundamental to our system of government—cannot function unless Congress jealously resists encroachments upon its responsibilities.

In Madison's words in Federalist 51:

> But the great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.

One of the gravest assaults upon the power and independence of the Congress took place on June 29 of last year when the Supreme Court handed down opinions in the cases of *United States* v. *Gravel* (408 U.S. 606 (1972)), and *United States* v. *Brewster* (408 U.S. 501 (1973)). Both of these cases involve the Supreme Court's interpretation of article I, section 6 of the Constitution, the so-called speech or debate clause. I believe that clause to be the single most important safeguard of the power and independence of the Congress. The speech or debate clause is our first amendment, preserving to Senators and Congressmen broad freedom to speak and act when we do the people's business. Like its equivalent in the Bill of Rights, it is the indispensable condition of all our other powers and prerogatives as Members of Congress.

The framers placed the speech or debate clause in the Constitution to remedy a very specific evil. Fresh in their minds was the history of harassment

of Members of Parliament who spoke out in the course of their legislative activities in a manner embarrassing to the Crown. The legislative immunity grew out of that turbulent period in English history marked by the beheading of Charles I and the glorious Revolution. Indeed, one reason Charles lost his head was his imprisonment of Members of Parliament who opposed his overseas military campaigns. Justice Frankfurter related this history in his excellent opinion in the case of *Tenney* v. *Brandhove* (341 U.S. 367 (1951)):

> In 1668, after a long and bitter struggle, Parliament finally laid the ghost of Charles I, who had prosecuted Sir John Elliott and others for "seditious" speech in Parliament. . . . In 1689, the Bill of Rights declared in unequivocal language: "That the Freedom of Speech, and Debate or Proceeding in Parliament ought not to be impeached or questioned in any Court or Place out of Parliament.
>
> Freedom of speech and action in the legislature was taken as a matter of course by those who severed the Colonies from the Crown and founded our Nation. It was deemed so essential for representatives of the people that it was written into the Articles of Confederation and later into the Constitution. . . .
>
> The reason for the privilege is clear. It was well summarized by James Wilson, an influential member of the Committee of Detail which was responsible for the provision in the Federal Constitution. "In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may occasion offense."

Before last summer, the Supreme Court had insisted on the broadest possible interpretation of the "speech or debate" clause so as to preclude the executive branch from intimidating the Congress by teaming up with the judicial branch via criminal investigation of Members or congressional aides for their legislative activity. The Court recognized that an Executive who had the power indiscriminately to call Members and their assistants before grand juries or criminal courts could effectively silence its critics as effectively as the Stuart and Tudor monarchs had in the 17th Century.

In March of last year as the Gravel case was working its way up the Federal Judiciary to the Supreme Court, I proposed to the Senate Senate Resolution 280. On March 23, 1972, the Senate adopted the resolution which resulted in the appointment of a committee consisting of Senators EASTLAND, PASTORE, TALMADGE, COTTON, DOMINICK, MATHIAS, SAXBE, and myself to appear as amicus curiae before the Supreme Court in the Gravel case. As stated in the resolution, the Senate took this action because it feared that an adverse decision would impair the constitutional independence and prerogatives of every individual Senator and the Senate as a whole. In handing down its decision in Gravel and in Brewster which involved similar issues, the Court did just that.

The effect of the Gravel and Brewster cases is to strip Members of Congress from immunity from interrogation into legislative activity. In the case of Senator Brewster, there were allegations that he cast a vote in committee in return for a bribe. In Senator GRAVEL's case there were allegations that he received classified information which he revealed to the American public. Both cases involve activities which the Senate perhaps should have dealt via its own disciplinary procedures. Quite clearly the Constitution gives the Senate the power and responsibility to discipline Members for conduct which violates the law or the Rules of the Senate. Furthermore, the "speech or debate" clause does not immunize Members of Congress from prosecution. They can still be called to task for activity outside their legislative responsibilities and they can be prosecuted for violating the law so long as their legislative actions or motives are not inquired into.

Unfortunately, when the executive branch decided to prosecute Senator Brewster and to investigate Senator GRAVEL's acquisition of the Pentagon Papers, in their haste they ignored the "speech and debate" restrictions. Especially in the Gravel case, the Justice Department ignored warnings by the Senate that inquiry into these activities was an internal Senate question and that the Founding Fathers never intended to permit the courts and the Executive to look into these matters. In its decisions, the Court not only ignored the Senate warning but cast its net so broadly and so carelessly that it sanctioned judicial and executive injury into very legitimate legislative activity.

For example, as Justice White points out in his dissent in Brewster, even the most fundamental legislative acts—speaking and voting on the floor of Congress—are now subject to indirect inquiry by the judicial branch. And, as Justice White also illustrates, the mere threat of a Government inquiry into a campaign contribution on the grounds of a possible violation of the bribery statutes can act as a powerful political deterrent on Congressmen and Senators. It is a political fact of life that rumors of criminal violations and threats of official investigations can seriously affect the independence of a legislator.

The impact of GRAVEL is more subtle but no less grave. Despite the constitutional responsibility to oversee the Executive's enforcement of the laws, Members of Congress are now stripped of immunity for the acquisition and publication of information about the administration's activities. The oversight function is rendered meaningless when a Member of Congress who attempts to find out what the administration is doing or informs his constituents of his findings risks retaliation by a defensive Executive. Viewed in the context of the increasing difficulty that Congress has in getting necessary information from the administration, these decisions not only limit the effective functioning of the legislative branch, but further increase the dominance of the Executive.

The two pieces of legislation which I plan to introduce today are intended to restore the "speech or debate" clause privilege to the status the Founding Fathers intended. The first piece of legislation is a proposed amendment to Senate rule XXX and the second is an amendment to title 18 of the United States Code. The two proposals are parallel in several important respects. Both would broadly construe the "speech or debate" privilege. In essence, they take the position advocated by the Senate in its brief, and by Justice White in his dissent in the Brewster case. Both would preclude inquiry, either directly or indirectly, of a Member or his aide, by a court or grand jury into a Member's protected legislative activity. "Protected legislative activity" is defined in such a manner as to include all activities involved in Congress' responsibility to oversee the executive branch as well as those activities involved in informing the public of its findings. Both provisions only speak of privilege in criminal proceedings and therefore do not address the issue of privilege for libelous statements or unconstitutional acts by Members which injure members of the general public.

The proposed rule would amend rule XXX of the Senate Rules, which deals with the delivery of official Senate papers to a court. The rule would be amended to recognize a broad "speech or debate" privilege on the part of Senators not to testify in criminal proceedings on "protected legislative activity." It would also prohibit an aide or former aide from testifying on "protected legislative activity" except where so instructed by his Senate employer. Finally, it would require a Senator to inform the Senate when he or an aide is subpenaed to testify or deliver official Senate papers covered by rule XXX, as amended The existing provision of rule XXX are unchanged, and appear as section 4 and 5 of the proposed rule.

These two proposals are patterned after a similiar provision in English law. As a result of the constitutional confrontation involved in Stockdale against Hansard in England in the 1800's, Parliament enacted the Parliamentary Papers Act. In effect, Parliament conceded that it could not restrain the courts by simple resolution of one House but could effectively enforce its privilege by exercising its power to legislate rules of criminal procedure and to define the subject matter jurisdiction of the courts. The Parliamentary Papers Act simply stays any subpena which would require a Member or aide to deliver to a court publications or extracts of publications concerning proceedings in Parliament—the precise infringement upon parliamentary privilege involved in the Stockdale case.

Congress has similiar authority to legislate rules of criminal procedure, to define the jurisdiction of Federal courts, to create evidentiary privileges and pursuant to the "necessary and proper" clause in article I, section 8, the power to enact legislation which strengthens or implements provisions of the Constitution. Therefore, the proposed statute would follow the format of the Parliamentary Papers Act except that it would go well beyond the delivery of legislative papers or publications and would prohibit inquiry into broadly defined "protected legislative activities."

Like the Parliamentary Papers Act, the provision would empower a Member to invoke the privilege himself or in be-

half of an aide in any criminal proceeding by staying and quashing subpenas issued to him or an aide. If the Member decides to invoke the privilege, the subpena is automatically stayed. Unlike the Parliamentary Papers Act, the proposed statute would vest discretion in the court to issue a protective order restricting inquiry to nonprotected activity so that the whole proceeding need not be dismissed as is required by the Parliamentary Papers Act. However, under the proposed statute the court must quash the subpena if there is no possible issue to which the Member or his aide might testify except "protected legislative activity." Finally, the proposed statute requires that all subpenas issued to Members of Congress must be personally authorized by the Attorney General and that the Attorney General notify the Member and the Speaker of the House and President pro tempore of the Senate 48 hours in advance of issuing the subpena.

The statute and the rule are complementary, and both are necessary. The statute defines the powers and responsibilities of courts, the Justice Department, and Members of Congress. The rule defines the procedures to be followed by Members of Congress and of aides in such cases, and declares their responsibility to inform the Senate. While adoption of either would go a long way toward remedying the present unsatisfactory situation, complete remedy cannot be assured unless both are adopted.

Ironically, at the same time that the administration and the Supreme Court have restricted the constitutional powers of Congress in the Gravel and Brewster cases, the privilege asserted by the Executive continues to expand. We have heard much of executive privilege in recent weeks in the context of the Gray nomination and the Watergate investigation. The administration is fond of citing their responsibility to uphold the separation of powers as the reason for invoking this privilege. However, unlike Members of Congress who can point to article I, section 6, the President can point to no clause in the Constitution which authorizes such a privilege. Indeed, executive privilege exists as a matter of practice only. The "legal" basis for the exercise of the privilege is executive fiat.

Even the most avid proponents of executive privilege concede that it is a manufactured privilege not expressly conferred by the constitution or statute. They justify the existence of such a privilege by asserting it to be an implicit constitutional prerogative. This executive practice has traditionally been a personal privilege extended to the President to protect confidential communications between himself and his personal advisers, just as congressional immunity has protected the personal relationship between a Senator and his aide and as such has been invoked infrequently. This administration, however, has conspicuously expanded executive privilege beyond its original scope and meaning and has simultaneously moved to have congressional immunity narrowly construed.

Both in the case involving Peter Flanigan's testimony before the Judiciary Committee last year and the request that John Dean appear before the Committee this year, the administration takes the position that it is the individual and the position which is to be protected, and not merely personal information or the individual's privileged function as a personal advisor to the President. The governing principle now appears to be that once an "Assistant to the President" has been anointed with presidential immunity, he can perform a myriad of tasks within the White House and the Federal Government free from any formal system of accountability. Regardless of the nature of an inquiry, the protection now claimed through the invocation of executive privilege is complete and eternal, concealing even those activities beyond the scope of a privileged relationship.

I believe that executive privilege, as it is asserted by the administration, cannot be so broadly construed. I can see some justification for a narrow privilege to protect conversations between an aide and the President even though such a privilege is nowhere mentioned in the Constitution. The President, like a judge and a Member of Congress, must as a matter of common law have such a privilege to assure that he gets unfettered advice from his subordinates. However, this common law privilege must be narrowly construed in the face of Congress' constitutional power to oversee the executive branch.

The "speech or debate" privilege, on the other hand, must be broadly construed for the same reasons that executive privilege must be narrowly construed. The "speech or debate" privilege is not a common law privilege but is mandated by an explicit clause in the Constitution. Furthermore, it is directly related to a function within the Constitution—the power to legislate and oversee the Executive free from harassment by the other branches. Indeed, it is so fundamental to the separation of powers that it is one of the explicit "checks and balances" placed in the Constitution to preserve the separation of powers.

Despite the fact that the "speech or debate" privilege should be broadly construed and executive privilege narrowly construed, the legislation which I introduce today is not nearly so broad as the executive privilege asserted by the administration. The President says his privilege attaches to any aide regardless of what he does for the President, that the inquiring body, in this case the Congress, has no power to question the legitimacy of the claim. We on the other hand concede that the "speech or debate" privilege as it applies to an aide only covers certain defined legitimate legislative activity and that the aide, indeed, the Member of Congress, might have to appear in court to quash a subpena and establish the legitimacy of their claim. If he cannot, he must testify, as he must always testify to matters not concerning legislative activity.

I recognize that this is a difficult area of the law. Indeed, the supposed parallel between executive privilege and the "speech and debate" privilege point up these problems. However, I also know that the congressional response to the erosion of its powers, reflected in the Gravel and Brewster cases will inevitably determine the future role it will play in our system of government. Congress can either reassert its constitutional prerogatives and restore itself as a coequal branch of government or it can accede to the control of the executive branch. If Congress concludes that the withering of legislative privilege is part of an irreversible trend of aggrandizement of power in the presidency, it may look upon these decisions fatalistically and with resignation. Members of Congress may be content to let pass this impairment of their constitutional rights and of the effectiveness of Congress. But if they do so, they profane their oaths to uphold the Constitution and invite the demise of our tripartite system of government.

I am deeply indebted to my subcommittee aides, Larry Baskir, Mark Gitenstein, and William Pursley, Jr., for assisting me in preparing this bill and this resolution.

I ask unanimous consent that copies of the bill and the resolution be printed in the CONGRESSIONAL RECORD following the conclusion of my remarks.

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

S. 1314

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

SHORT TITLE

SEC. 1. That this Act may be cited as the "Congressional Free Speech Act of 1973."

DEFINITIONS

SEC. 2. As used in this Act:

(1) the term "legislative activity" means any activity relating to the due functioning of the legislative process and carrying out the obligations a Member of Congress owes to the Congress and to his constituents and shall include, but not be limited to, speaking, debating or voting in Committee or on the floor of Congress, receipt of information for use in legislative proceedings, any conduct in Committee related to the consideration of legislation or related to the conduct of an investigation, speeches or publications outside of Congress informing the public on matters of national or local importance, and the motives and decision-making process leading to the above activity or leading to the decision not to engage in the above activity.

(2) the term "Member" means a present or former Member of Congress.

(3) the term "aide" means any person who assists a Member in his performance of legislative activity.

(4) the term "protected legislative activity" means legislative activity performed by a Member or by an aide on behalf of the Member while he was a Member of Congress.

LEGISLATIVE IMMUNITY GENERALLY

SEC. 3. No court or grand jury shall inquire of a Member or an aide either directly or indirectly into the protected legislative activities of a Member in a criminal proceeding without the Member's consent.

SUBPENAS—NOTIFICATION AND APPROVAL

SEC. 4(a). The Attorney General of the United States shall personally approve the issuance of any subpena to a Member who is at that time serving in Congress, and shall notify in writing that Member, the Speaker of the House of Representatives, in the case of a Representative, and the President Pro

Tempore of the Senate, in the case of a Senator, not less than 48 hours in advance of the issuance of the subpoena.

(b) The attorney for the government shall immediately notify the Attorney General of the United States of his intent to issue a subpena to a former Member of Congress or to an aide which the attorney for the government has reasons to believe may require testimony relating to protected legislative activity. The Attorney General shall personally approve the issuance of the subpena, and shall notify in writing that Member, the Speaker of the House of Representatives, in the case of a Representative, and the President Pro Tempore of the Senate, in the case of a Senator, not less than 48 hours in advance of the issuance of the subpena.

(c) When an aide is served with a subpena which he has reason to believe may require his testimony on the protected legislative activity of a Member, the aide shall immediately inform that Member.

COURT AND GRAND JURY PROCEEDINGS

SEC. 5(a). Any Member may move in United States District Court to quash any subpena issued by a court or grand jury in a criminal proceeding requiring him or an aide to appear to give testimony where the Member believes that the subpena seeks testimony about protected legislative activity

(b) The Court shall immediately stay such subpena until it has determined whether the subpena must be quashed or a protective order issued as required by subsection (c).

(c) The attorney for the Government shall specify the nature and scope of the proposed inquiry. If the court determines that the inquiry may require the Member or aide to give testimony either directly or indirectly concerning protected legislative activity, the court shall either:

(1) fashion an appropriate protective order restricting questioning in such a manner as to preclude questions concerning protected legislative activity;

(2) if there is no possible testimony which the Member or his aide could give on the subject matter of the injury contemplated by the court or grand jury, other than that which directly or indirectly concerns protected legislative activity, then the subpena shall be quashed; or

(3) if the procedures set out in subsection 4(a) were not complied with then the subpena shall be quashed.

(d) If at any time in the course of a criminal proceeding it appears that testimony is being heard or may be heard from an aide relating to a Member's protected legislative activity but that the provisions of subsections 4(b) or 4(c) have not been complied with then the court shall immediately stay the proceedings, notify that Member and give him an opportunity to move as provided by this section, to quash the subpena or subpenas, pursuant to which testimony is being taken.

S. RES. 86

Resolved, that Rule XXX of the Standing Rules of the Senate be amended as follows:

"RULE XXX. WITHDRAWAL OF PAPERS AND TESTIMONY BY SENATORS AND AIDES.

"1. As used in this Rule:

"(a) The term 'legislative activity' means any activity relating to the due functioning of the legislative process and carrying out of a Senator's obligations to the Senate and to his constitutents and shall include, but not be limited to, speaking, debating or voting in committee or on the floor of the Senate, receipt of information for use in legislative proceeding any conduct in committee related to the consideration of legislation or related to the conduct of an investigation, speeches or publications outside of Congress informing the public on matters of national or local importance; and the motives and decisionmaking process leading to the above activity or leading to the decision not to engage in the above activity.

"(b) The term 'Senator' means a present or former Member of the Senate.

"(c) The term 'aide' means any person who assists a Senator in his performance of legislative activity.

"(d) The term 'protected legislative activity' means legislative activity performed by a Senator or by an aide on behalf of the Senator while he was a Member of the Senate.

"2. Any Senator, or former Senator, may refuse to testify before any court or grand jury in a criminal proceeding concerning his legislative activity while a Member of the Senate.

"3. No aide or former aide to a Senator or to a former Senator, shall testify before a court or grand jury in a criminal prosecution concerning the aide's assistance to that Senator in the performance of legislative activity by that Senator while he was a member of the Senate, unless otherwise instructed by that Senator.

"4. No memorial or other paper presented to the Senate, except original treaties, finally acted upon, shall be withdrawn from its files except by order of the Senate. But when an act may pass for the settlement of any private claim, the Secretary is authorized to transmit to the officer charged with the settlement the papers on file relating to the claim.

"5. No memorial or other paper upon which an adverse report has been made shall be withdrawn from the files of the Senate unless copies thereof shall be left in the Office of the Secretary.

"6. A Senator shall immediately notify the President Pro Tempore of any demands for testimony or documents made upon him or an aide which might fall within the provisions of this rule. If the Senate is in session, such notification shall be entered in the Journal."

Mr. HRUSKA. Mr. President, I am pleased to have the opportunity to cosponsor the Congressional Free Speech bill introduced by the distinguished senior Senator from North Carolina. Senator Ervin has long been recognized for his unflagging interest and remarkable ability in the area of Constitutional rights. The entire area of congressional protection is one which merits the fullest attention and discussion by this body.

The Constitution has, for nearly 200 years, provided Members of Congress the facility to pursue the Nation's affairs in an atmosphere of freedom and forthrightfulness without fear of retribution from opposing interests. Developments in recent years, however, have cast some clouds of doubt into this previously sunny atmosphere.

The remarks by the esteemed Senator from North Carolina concerning this subject, earlier in the record, are indicative of his great scholarship and eloquently point out the paramount necessity of maintaining congressional integrity through its ability to freely debate and legislate on the vital issues which confront this country. Senator ERVIN's bill provides a most worthy basis upon which we all may reflect and explore the constitutional safeguards wisely provided Congress by our Founding Fathers.

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

S. 1316. A bill to amend section 311 and section 509 of the Federal Water Pollution Control Act. Referred to the Committee on Public Works.

Mr. BIDEN. Mr. President, I introduce today for myself and Mr. MUSKIE, for appropriate reference, a bill to regulate and control deepwater development of all types.

This bill will fill a gap in existing law by providing positive controls at both the Federal and State levels over the construction and operation of deepwater terminals for oil or other commodities as well as off-shore powerplants, airports, and solid waste disposal facilities. At the Federal level the bill would prohibit any Federal agency to permit construction or operation of any deepwater development unless the Administrator of the Environmental Protection Agency has certified that the development will not result in environmental degradation nor violate any provisions of the Water Pollution Control Act, the Clean Air Act or any other act administered by EPA.

The bill also requires the concurrence of the Governors of States adjacent to the proposed deepwater development. However, in order for the State to retain its veto power, it must first adopt an environmental protection program covering areas that might be affected by any deepwater development.

Nothing in the bill affects any present jurisdiction that a State has over deepwater development in any area within its terrtory or jurisdiction.

On the basis of the evidence presented so far, I am not satisfied that deepwater development is either necessary or desirable, at least off the coast of Delaware or New Jersey. My concerns lie in two areas—first, the possible damage to marine environment through construction or oil spills; and second, the possible uncontrollable development of the land adjacent to the port facilty.

The final report by the Council on Environmental Quality on the subject of environmental concerns is not yet finished. However, the evidence presented so far indicates that there can be no positive assurance that there might not be serious environmental hazards presented by the construction and operation of a deepwater port or other development. The bill speaks to this concern by requirng a determination by EPA that such hazards will not result from construction or operation of any such facility.

My other major concern is that the presence of offshore development may lead to industrial and commercial pressure on the land off which the port is situated. I am deeply troubled that with a port a physical reality adjacent States would be hard pressed to resist the pressures for development that would build up. As a former county councilman in Delaware I am aware of how difficult it can be to deny efforts toward commercial and industrial expansion in the face of economically favorable conditions. This bill deals positively with my concern by giving an adjacent State a veto provided it takes affirmative action to prevent environmentally unsound development along its coastal area. Thus, only States that care enough about their own land to provide effective controls would

exercise a veto over offshore development. Among the standards required for coastal areas would be:

First, development will not violate Federal environmental laws or standards;

Second, industrial, commercial, or residential development will not occur where adequate public facilities will not be available;

Third, there must not be further development of wetlands and flood plain areas; and

Fourth, water supplies shall not be endangered.

It is my hope that we can move promptly on this bill so that there will be adequate protection for our coastal States against premature or unwise offshore development.

Mr. President, I ask unanimous consent that the text of this bill and a statement entitled "Atlantic Coast Deep Water Port Facilities Study," be printed at this point in the RECORD.

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

S. 1316

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

SECTION 1. Section 311(a) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new definitions.

"(15) 'deepwater development' means any man-made structure either fixed or floating, or dredging activities related to such structure, which is located in or may affect the navigable waters of the United Sttaes or the water of the contiguous zone and intended for such uses as a port or terminal for the loading or unloading of cargoes, a site for a power plant, an airport, or a solid waste disposal site."

"(16) 'adjacent State' means any State which is directly shoreward of any deepwater development and any other State within a radius of 50 miles computed from a point at the center or proposed center of any deep water development to the nearest point of land subject to jurisdiction of a State."

SEC. 2. Section 311 of the Federal Water Pollution Control Act is amended by redesignating sections (n), (o), and (p) as sections (o), (p), and (q) respectively and by adding a new subsection (n) to read as follows:

"(n)(1) No Federal agency shall permit the construction or operation of a deep water development until the Administrator shall have certified that such development will not cause or contribute to environmental degradation or otherwise result in failure to comply with or cause a violation of effluent limitations or other standards or requirements imposed by this Act, the Clean Air Act or any other Act which the Administrator is assigned responsibility to administer. Certification shall relate to site selection, method and type of construction, and operation of such deep water port facility.

"(2)(A) Any person desiring to construct or operate a deep water development shall at the time of application for any permit, license or other approval from any Federal agency submit, in accordance with regulations promulgated by the Administrator, detailed plans of such development; and such submission to the Administrator shall be at least two years prior to the expected date of the beginning of construction: *Provided,* That as to those deep water developments which are not in the construction phase on the effective date of this subsection but nonetheless will reach the construction phase at any time within two years of the effective date, plans shall be submitted to the Administrator as soon as possible after the effective date of this subsection.

(B) Copies of materials submitted to the Administrator in accordance with the provisions of this subsection shall also be submitted to the Governor of each adjacent State, and a copy of such materials shall be available for public inspection at a place to be designated by the Administrator.

"(3) The Administrator may certify a deep water development only after he has (A) received the concurrence of the Governor of the adjacent State or States, (B) held a public hearing in accordance with the Administrative Procedure Act, title 5, United States Code, relating to adjudicatory proceedings, which hearing shall be combined with any other required hearing with the Administrator coordinating with the appropriate agencies, and (C) determined that the location, construction and operation of the proposed deep water port facility will not cause or contribute to environmental degradation or otherwise result in failure to comply with or cause violation of effluent limitations or other standards or requirements imposed by this Act, the Clean Air Act, or any other Act which he is assigned responsibility to administer.

"(4) The Administrator shall establish a reasonable fee for each application for certification which shall be sufficient to cover the administrative costs incurred in evaluating an application for certification.

"(5) Whoever begins to construct, constructs, or operates a deep water development after the effective date of this subsection without a prior certification by the Administrator shall be fined not less than $50,000 for each day after that date on which notice of violation is given and construction or other operations continue without a certification obtained in accordance with this subsection.

"(6) The requirement for concurrence of the Governor of an adjacent state shall be waived two years after the date of enactment of this Act, unless such State shall have adopted and the Administrator shall have approved an environmental protection permit program applicable to areas potentially impacted by deep water development which assures compliance with the following environmental protection criteria:

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

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

"(C) industrial or commercial development shall occur only where there exist adequate housing opportunities, on a nondiscriminatory basis and within a reasonable distance of any such development, for all persons who are or may be employed in the operation of such development;

"(D) development shall be prohibited on water-saturated lands such as marshlands, swamps, bogs, estuaries, salt marshes, and other wetlands;

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

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

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

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

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

"(7) Nothing in this subsection shall be construed to require any state or local government to allow construction or operation of facilities associated with any deep water development, or portion thereof, including but not limited to, port facilities, refineries, pipelines, and tank farms, on any area within the territory or jurisdiction of that State or local government where that State or local government determines that it does not wish to allow such construction or operation.

SEC. 3. Section 509(b)(1) of the Federal Water Pollution Control Act is amended by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G) respectively and by inserting a new subparagraph (D) to read as follows:

"(D) in making any determination pursuant to section 311(n),"

ATLANTIC COAST DEEP WATER PORT FACILITIES STUDY

(Statement of Senator JOSEPH R. BIDEN, Jr.)

I wish to discuss my attitude toward some proposals on a deep water port that the Corps of Engineers have labelled "tentative recommendations." I am glad that they are labelled tentative because I do not find in the materials yet submitted any evidence that would justify a deep sea port in Delaware Bay or in the ocean off the coast of Delaware.

There does not even appear to be any certainty as to the size of ships that might use such a facility. If it is to be used by ships of 500,000 deadweight tons, then the Corps indicates that a Delaware-related site is not the most efficient or economical. The Corps' report says that one forecast of ship size of 500,000 tons was developed jointly by the Corps and the Maritime Administration. However, there are other varying estimates. There does not appear to be certainty at this point as to the size ship that might use such as facility, a factor affecting location Without this kind of information it would appear to be too early to be suggesting specific locations for a facility.

The Corps' report says that it is in the national interests to develop a port, "*provided that environmental values can be adequately protected.*" The "Summary of Environmental Considerations" prepared by the Corps indicates quite clearly to me that, on the basis of knowledge now available, environmental values *cannot* be protected.

One paragraph in the report seems to sum up the present state of the art of this field. It reads:

There is a lack of adequate knowledge of ways to design and operate a system without spillage, or techniques capable of handling major spills, and of the total impact of oil spills on the ecosystem. Similarly, there is a lack of adequate knowledge on the changes which will occur from alteration of the physical configuration of water body through dredging, dumping of spoil, and inshore island construction; on the impact of such changes on biological organisms; and on the physical and biological characteristics of most geographical areas where petroleum import operations might take place.

With regard to vulnerability to environmental damage, the report says that at in-

shore sites oil pollution damage is unavoidable. It says that there is less danger at offshore sites, but even then the report concedes the possibility of damage. In fact the report indicates that possibility low level spills at on off-shore location could be as serious at an in-shore location.

In yet another section the report says that "no consensus was reached . . . as to relative vulnerability . . ." of the various sites.

Thus in summary the report appears to say that all proposed sites are potentially dangerous to the environment, but that much more information would be necessary to determine the extent of the danger.

With regard to the potential effect on development of adjacent land the report does not deal adequately with Delaware. The report also says that the potential landside impacts from a deep water port are difficult to predict. However, the report assumes that in the absence of controls, such a port will be likely to induce "industrial concentration, particularly of refineries and petrochemical complexes" with all the resultant related commercial and economic activity. In other words we could look forward to industrialization all up and down our coast. While it is true that Delaware has controls over such development of its coast, if we once allow a port to be built off our coast I have little faith that our present controls are adequate to withstand the pressures for other industrialization.

It is very clear that the information available at this time indicates that there should not be a port built near Delaware, whether in the Bay or in the ocean. It is further clear that before any site anywhere is decided on there is need for much more information. Among the areas requiring clarification are:

Size of ships to be handled;

Control and permit procedures;

More knowledge of dealing with oil spills and their impact on the environment;

More study of the effect of construction of the port on the environment;

Possible resulting industrialization.

As a member of the Senate Public Works Committee to which the final report of the Corps of Engineers will be submitted I will seek answers to these and to other questions, while continuing to oppose any effort to designate a location for an off-shore port in Delaware Bay or off the coast of Delaware.

By Mr. FULBRIGHT (by request):

S. 1317. A bill to authorize appropriations for the United States Information Agency. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for the U.S. Information Agency.

The bill has been requested by the Director of USIA 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 reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Director of USIA to the Vice President dated March 5, 1973, and the section-by-section analysis of the bill.

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

S. 1317

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 "United States Information Agency Appropriations Authorization Act of 1973."

SEC. 2. There are authorized to be appropriated for the United States Information Agency for fiscal year 1974, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Number 8 of 1953, and other purposes authorized by law, the following amounts:

(a) $203,279,000 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)," except that so much of such amount as may be appropriated for "Salaries and expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(b) $4,125,000 for "Special international exhibitions" and "Special international exhibitions (special foreign currency program)," which amount may be appropriated without fiscal year limitation; and

(c) $17,000,000 for "Acquisition and construction of radio facilities," which amount may be appropriated without fiscal year limitation.

SEC. 3. In addition to such amounts as are authorized by section 2, there are authorized to be appropriated for the United States Information Agency for fiscal year 1974 such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, for other nondiscretionary costs, and for expenses of programs or other activities, including exhibits exchanges with other governments, which arise subsequent to the date of enactment of this Act.

SEC. 4. There are authorized to be appropriated for the United States Information Agency for fiscal year 1975, such sums as may be necessary to carry out any of the foregoing purposes; *Provided,* That appropriations for "Salaries and expenses (special foreign currency program)," "Special international exhibitions," "Special international exhibitions (special foreign currency program)," and "Acquisition and construction of radio facilities," shall remain available until expended.

U.S. INFORMATION AGENCY,
Washington, D.C., March 5, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,

DEAR MR. VICE PRESIDENT: I have the honor to transmit to the Senate for its consideration a draft of a proposed bill "to authorize appropriations for the United States Information Agency," and an explanation therefor.

The proposed bill would authorize appropriations to be made to this Agency for fiscal years 1974 and 1975. Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) requires that such appropriations be previously authorized by legislation.

The Office of Management and Budget advises that enactment of the proposed legislation would be in accord with the President's program.

Sincerely,

JAMES KEOGH, *Director.*

SECTION-BY-SECTION ANALYSIS

Section 1: Provides that the Act may be cited as the "United States Information Agency Appropriations Authorization Act of 1973".

Section 2: *Subsection 2(a).* Authorizes appropriations to be made for salaries and expenses necessary to carry out international informational activities and programs under the United States Information and Educational Exchange Act, the Mutual Educational and Cultural Exchange Act, and Reorganization Plan No. 8 of 1953, for the fiscal year ending June 30, 1974. The portion appropriated pursuant to the special foreign currency program would be available until expended. The total amount, $203,279,000 requested for fiscal year 1974 is the amount now included in the President's budget for fiscal year 1974.

Subsection 2(b): Authorizes appropriations to be made for expenses necessary to carry out functions under Section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, to remain available until expended, for the fiscal year ending June 30, 1974. The $4,125,000 requested for fiscal year 1974 is the amount now included in the President's budget for fiscal year 1974.

Subsection 2(c): Authorizes appropriations to be made for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and the purchase and installation of necessary equipment for radio transmission and reception; and acquisition of land and interests in land by purchase, lease, rental or otherwise, to remain available until expended. The $17,000,000 is the amount now included in the President's budget for the initial phase of the relocation and augmentation of the radio facility now on Okinawa; maintenance and repair of existing facilities; and continued technical research.

Section 3: Federal pay raises and other laws or Executive Orders will increase Agency costs.

Section 3 authorizes increases in appropriations to provide funds for such pay and similar increases. In addition, this section authorizes appropriations made necessary because of nondiscretionary operating cost increases and for new or expanded programs and activities, including exhibits exchanges with other governments, which arise subsequent to the date of enactment of this Act. A new series of exhibits exchanges is scheduled to be negotiated with the USSR during fiscal year 1974.

Section 4: Authorizes appropriations to be made for the fiscal year ending June 30, 1975.

By Mr. BEALL (for himself and Mr. DOMINICK):

S. 1318. A bill to amend the Elementary and Secondary Education Act of 1965, to authorize reading emphasis programs to improve reading in the primary grades, and for other purposes. Referred to the Committee on Labor and Public Welfare.

THE ELEMENTARY SCHOOL READING EMPHASIS ACT OF 1973

Mr. BEALL. Mr. President, I send to the desk for introduction the "Elementary School Reading Emphasis Act of 1973." I am pleased that Senator DOMINICK, the ranking minority member of the Education Subcommittee, is cosponsoring this legislation with me. This legislation is aimed at the most important problem facing American education today—the reading problem.

I am firmly of the opinion that reading is the single most important skill, the most important key to learning. The mastering of reading determines, in large part, not only success in school, but also success in adulthood. The Elementary School Reading Emphasis Act gives to reading an emphasis commensurate with its overriding importance to our children and our country. Basically, the bill utilizes specialists to intensify and

improve reading instruction in the early elementary grades with the aim of preventing reading problems from developing, and remedying them when they do.

Specifically, the bill authorizes Federal assistance to local educational agencies for the carrying out by such agencies in school or schools, which have large numbers or high concentrations of children who are not reading at the appropriate grade level, or reading emphasis projects.

Schools participating in the reading emphasis program must:

First, provide for the teaching of reading for at least 40 minutes daily by reading specialists for all elementary children in grades one through two;

Second, provide for the teaching of reading for at least 40 minutes daily by reading specialists for children in grades three and above who are reading below grade level or experiencing reading difficulties; and

Third, provide for a summer intensive reading program for children at the first sign they are falling behind grade level or experiencing reading problems.

The reading emphasis projects would also be required to analyze the reasons why children in the participating schools are not reading at the appropriate grade level; to screen for conditions that would impede or prevent children from learning to read; to administer appropriate tests to identify children who are not reading at the appropriate grade level; to develop a plan setting forth specific objectives which must include the objective of having all children reading at grade level by the end of grade three; to evaluate at least annually the extent to which the objectives are being made; to provide for parent participation; and to publish aggregate testing scores of the children participating in the project.

Also, the project must be approved by the State educational agency.

The legislation also authorizes one district-wide reading emphasis project in an urban area, and one district-wide project in a rural area.

In addition, the legislation would:

Fourth, establish a reading corps program to attract and increase the number of reading specialists to schools having large numbers or high concentration of students reading below grade level during the regular or summer session or both, and authorize Federal assistance to local educational agencies and institutions of higher education to increase the professional competency of teachers of reading and to encourage additional emphasis in reading courses for elementary teachers with the goal of having all such teachers in reading emphasis projects meeting the minimum requirements of a reading teacher;

Fifth, authorize the development of a reading course and study course guide for elementary teachers and reading specialists by the leading reading experts in the Nation and for the showing of such program over public television;

Sixth, designate or create a new educational center for research and development in the reading area to be known as the "Center for Reading Improvement"; and

Seventh, create a Presidential award for reading achievement to motivate elementary students to read better and to foster competition for excellence in reading by elementary schools.

Approximately $176 million would be authorized over a 3-year period with the bulk of the sum going to the reading emphasis projects.

READING DEFICIENCIES—A MASSIVE PROBLEM

The following alarming statistics illustrate the magnitude of the reading problem in the United States. It is estimated:

That some 18½ million adults are functional illiterates;

That some 7 million elementary and secondary children are in severe need of special reading assistance;

That in large urban areas, 40 to 50 percent of its children are reading below grade level;

That 90 percent of the 700,000 students who drop out of school annually are classified as poor readers; and

The massive reading difficulties revealed in those statistics have been confirmed by surveys of teachers and principals alike.

The Office of Education in 1969 surveyed 3,300 title I elementary schools in over 9,200 school districts across the country. Two hundred and sixteen thousand teachers were asked to supply data on approximately 6 million pupils in grades two, four, and six. These teachers judged reading the greatest area of need and they estimated that approximately 2.5 million pupils, or 48 percent of the enrollment in these grades, showed evidence of a critical need for compensatory programs in reading. This data indicated that 22 percent of the urban schools had 70 to 100 percent of their pupils reading 1 year below grade level.

Similarly, a survey of principals representing elementary school populations of approximately 20 million and a secondary school population of 17.8 million was taken seeking their estimate of the reading problem. These responses were analyzed by Carol Ann Dwyer of the Education Testing Services, Berkeley, Calif., and she found that the principals identified some 4.7 million pupils with reading problems in the elementary grades and 2.7 million in the secondary grades.

Alarmingly, 37 percent of the elementary pupils and 46 percent of the secondary pupils with reading problems were reported to be receiving no special assistance in the instruction of reading.

The Department of Education in my State recently released the results of its survey of 11,000 citizens on the most important goal for Maryland schools. The survey found that "the people of Maryland believe that the mastering of reading skills is the most important education goal for the schools of the State."

Over and over again, parents, the general public, and the press across the Nation have expressed concern with poor student performance in the fundamental reading area.

This concern is evidenced by stories from large cities across the country, such as the Baltimore headline "City Pupils Score Low."

This concern is evidenced by the UPI's story out of California indicating that a teenager was suing the San Francisco School District and the State of California for $1 million for graduating him from high school without learning to read.

This concern is evidenced by the suggestion by Dr. Kenneth Clark that all subjects be suspended in the ghetto schools for a year and that such time be spent on bringing the children's reading up to grade level.

Mr. President, I am convinced that the disenchantment in our schools, to a large degree, has to do with the inadequate performance in the reading area. This is not to say that schools do not do a good job with the large majority of our young people. They do, but a technological society like ours where only 5 percent of the jobs are unskilled cannot tolerate massive reading problems such as I have just described. Welfare rolls, to mention one social cost, will increase unless we do a better job of teaching such youngsters to read.

The President has recognized the importance of reading by establishing the "right-to-read" program, which is charged with the responsibility of eliminating functional illiteracy by 1980. Under the able direction of Dr. Ruth Holloway, the right-to-read program is doing some extremely interesting and constructive work.

I will now proceed to discuss this proposal in more detail.

READING PROBLEMS—A PREVENTIVE APPROACH

The primary approach of this bill is preventive. It is essential, in my judgment, that we not only focus on the reading problem, but also that we zero-in on the elementary years. I believe that prevention is more effective both in terms of educational results and cost effectiveness than subsequent remedial efforts.

The proposal thus calls for the teaching of reading for all elementary children in grades one through two by reading specialists. This is the real preventive aspect of the program and it is aimed at preventing reading problems from developing. It is designed to get all children off to a good start in reading.

In title I schools we know that reading retardation becomes greater with each successive year. I have talked with many teachers about the reading problem and, almost without exception, they advise me that it becomes increasingly more difficult, some say almost impossible, to remedy reading difficulties the longer we wait.

For grades three and above, the reading specialist would only be utilized for those children who are not reading at grade level or who are experiencing reading problems.

Also, an important responsibility of a reading specialist would be to administer or supervise the administering of the necessary diagnostic and screening tests to identify pupils who, for whatever reason, are having problems in reading.

SUMMER READING OPTION

At the first sign that a child is falling behind in reading, there would be made available the option of attending a summer intensified reading program, again employing reading specialists.

Mr. President, the Nation through the

Elementary and Secondary Education Act and other programs, has attempted to improve the education of disadvantaged youngsters.

Certainly this act has helped to identify and spotlight the massive education deficiencies of some of our schools. Unfortunately, we have not achieved the results to date that we have hoped for, although we have learned a great deal from our experiences under this act. For example, we have found that we cannot spread the money among all of our schools and expect results; instead we have found that better results are achieved when we concentrate such resources.

Also, districts that have emphasized academic programs have in general had better results. As a recent title I evaluation noted:

Apparently there has been an over-allocation of supporting services and an under-allocation of academic services in Title I since the program's inception.

Headstart is another program which I strongly support. Interestingly enough, both in title I and the Headstart program "gains" that were produced often disappear. A study by Mr. Donald Hayes of Cornell University and Judith Grether of the Urban Institute, indicate that the reading deficiency of disadvantaged children may be traced in part to the adverse impact of the summer vacation period.

These researchers found:

Much of the difference between white and nonwhite can be traced to differential progress in reading and word knowledge during nonschool periods . . . Put another way, the four summers between second and sixth grades produce a reading differential almost equal to the effects of five academic years. Month for month in 1965–66 the ghetto students were progressing at a rate 16 times as great during school as out of school. The upper-middle class student progressed at 3.5–4 times the rate *in* school as *out*. Students in all sets appear to learn while in school—it is when they are out of school that the important differentials appear. While *in* school the relatively rich white school children do barely better than the ghetto school children, (1.3 times as much progress per month in 1965–66) but during the summer the relatively rich whites progress 6 times the rate of nonwhites.

This study, while certainly not conclusive, does add support to the summer school component of my proposal. Perhaps the study may help to explain the "loss" during summer vacation periods of "gains" realized in some of our compensatory education programs.

In the last Congress during hearings on equal educational opportunities, in a response to a question about my reading proposal, Mr. James F. O'Neil of the State Board of Education for the State of Michigan responded:

I particularly believe that the proposal to provide summer reading programs would be important, for this reason. Again, this latest study indicates that in the opinion of the report, that many children in the low socio-economic areas, lose more than others during the summer months, because of the social and economic advantages and the motivation in the homes. Therefore, it would seem that having funds for the summer program would be particularly important to overcome such a slippage as that and to determine, if this is occurring, whether such programs would prevent it. That particular aspect is something I would wholeheartedly support.

For elementary grades three and above, reading would be taught by a specialist only for those children who are not performing at grade level. Also, these children would continue to have available the summer school program.

The Elementary School Reading Emphasis Act then seeks to prevent reading problems from developing, to identify them immediately when they do, and to provide for prompt remediation once such problems are identified.

At this point, I want to strongly emphasize that this proposal is not meant to, nor will it, minimize or downgrade the role of the regular elementary classroom teachers in reading. The reading specialists employed in this program will serve to introduce specialization and intensification of reading instruction to all children in project schools, but the classroom teacher will continue to carry out his or her reading responsibilities, although obviously there would be coordination between the classroom teacher and the reading specialist.

SPECIALIZATION IN READING

Admittedly, specialization in reading for all children at the elementary grade level is new, but specialization itself at the elementary level is not new. At the elementary level, specialists are often employed to teach music, art, and physical education. Unlike in some of these other areas utilizing specialists, the reading specialist will not supplant the classroom teachers' reading role.

All reading instruction would not be the responsibility of the specialist. The regular classroom teacher will continue his or her important responsibilities, but the reading specialist will supplement and intensify that effort.

Indeed, this proposal envisions substantial upgrading of elementary teachers in reading, particularly in grades 1 through 3. That is why I have included the training program to make this possible.

Mr. President, schools in a number of States, such as California, Michigan, Wisconsin, and Missouri have been utilizing reading specialists with considerable success. Dr. Kiesling of the Urban Institution, writing in the November 1972 issue of "Education and Urban Society," examines various hypothesis for effective programs for disadvantaged children. He found that:

Minutes of instruction, especially those by the trained reading specialists, were constructively related to reading gains

Continuing he argues that in situations where the present system is failing, such as in many of our core cities:

It might be efficient to substitute specialists instruction for relatively large amounts of self-contained classroom instruction.

In his concluding comments, Dr. Kiesling says, "It is widely believed, mostly on the basis of the reports of large national surveys, that compensatory education has failed. The findings of this study, which demonstrated modest average success and the possibility of very respectable gains in reading if diagnostic reading specialists are used for instruction, stand in partial contradition to this."

Dr. Kiesling also cited what he called increasing evidence from research in compensatory education tending to support his findings. In discussing this literature Dr. Kiesling states:

Guszak (1970) discusses research which he feels gives rise to a reasonable hunch that instruction by diagnostic reading teachers is effective for disadvantaged pupils. Bissell (1970) has shown convincingly, in a careful analysis of the findings of many well-designed compensatory education research projects, that better learning rates are associated with the degree of external organization and sequencing of the child's learning experiences, hierarchical organization of objectives, directive teacher role, and the nature and amount of program supervision and personnel training. These attributes are precisely those that are present with instruction by trained specialists especially so when the program is planned such that the regular classroom teacher and paraprofessionals are well coordinated to the specialists' activity.

From the discussion it is clear that the reading specialist's ability and leadership is critical to the success of this program. The reading specialist's role will be both challenging and difficult.

The reading specialist will be introducing specialization in the reading area for all elementary students as he or she provides instruction to all children in grades 1 and 2, and to all children who are reading below the appropriate grade level in grades 3 through 6.

In addition, reading specialists will be teaching those children who participate in the summer intensive reading program.

But, the reading specialist's responsibilities extend beyond the teaching function, as important as this is. The reading specialist, as envisioned in this proposal, is expected to provide strong leadership for and coordination of the reading program at his or her school. The reading specialist will also administer or supervise the administering of diagnostic testing and screening.

Further, the reading specialist will be a resource person, helping the elementary classroom teachers grow and improve their instruction of reading in the regular class and will help develop additional reading specialists. For those schools who will participate in the public television reading courses for teachers, authorized by this legislation, the reading specialist is expected to lead follow-up discussions after the media presentation of the course within the school. Finally, the reading specialist is expected to, in effect, be a salesman for reading, helping to instill on the faculty and students the overriding importance of this subject and a burning desire on the part of the teacher and student alike to improve the reading performance of that school.

I have included a definition of "reading specialist" and "reading teacher" in the bill. Experts with whom I consulted cautioned me that the intent of the program could be frustrated if qualified individuals were not attracted, particularly in view of the importance of the specialist in this program. On the other hand, if I made the requirements too strict, there may not be adequate numbers of reading specialists.

I considered giving the Commissioner

authority to issue regulations defining these terms, but I decided against that approach, and instead, elected to define these terms in section 808 of this bill. A "reading specialist" is defined as an individual who has a master's degree, with a major or speciality in reading, from an accredited institution of higher education and has successfully completed 3 years of teaching experience which includes reading instruction.

This is essentially the definition of the International Reading Association, a professional organization active in the upgrading of reading instruction.

The term "reading teacher" means an individual with a bachelor's degree, who has successfully completed a minimum of 12 credit hours, or its equivalent, in courses of the teaching of reading at an accredited institution of higher education and has successfully completed 2 years of teaching experience, which includes reading instruction. Realizing that there may not be adequate reading specialists, I have provided flexibility to cover this problem. Thus, if the local educational agency is unable to secure individuals who meet the requirements of the reading specialist, and if such reading teacher is enrolled or will enroll in the program to become a reading specialist the reading teachers, as defined above, could be substituted for the reading specialist. I would emphasize, however, that these definitions are only for the purposes of this act.

It is clear that this proposal will necessitate a major upgrading of professional qualifications in the reading area in project schools. The bill also will encourage institutions of higher education to give greater emphasis to reading in the preparation of elementary teachers and reading specialists. The goal is to have all elementary teachers in project schools become reading teachers. To accomplish such a goal, it is obvious that a massive retraining effort will be necessary. Some school systems are recognizing this need and an effort is already underway.

For example, the Baltimore City school system is attempting to give all 8,000 teachers some additional training in the reading area.

As unbelievable as it sounds, it was possible until very recently for teachers to teach reading without a single college course in reading or reading methods. For example, in my State of Maryland prior to 1972, the only requirement was one single course in language arts. This in general seems to have been the case in most States in the country, for as a study, "The Information Base for Reading," by the Educational Testing Service of Berkeley, Calif., observed:

> In 1960, as in 1970, the most frequent requirement for certification as a regular elementary teacher or secondary teacher was one course in reading and/or language arts.

The Library of Congress at my request is presently in the process of completing a survey of the 50 States to determine their requirements for the regular elementary teacher and the reading specialist. Thirty-eight States have answered the survey and I urge the remaining States to provide this information as soon as possible.

I ask unanimous consent that the chart tabulating the 38 States be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BEALL. Mr. President, two sections of this bill are designed to make this considerable retraining task feasible.

TELEVISION TEACHER TRAINING

Section 803 authorizes the Commissioner of Education to make arrangements for the preparation and production for viewing on public television of reading courses for elementary teachers and reading specialists. In addition, a study course guide would be prepared for use in conjunction with the television instruction.

The great potential of television for educational purposes has been demonstrated by such shows as Sesame Street and Electric Company. Also, college courses have been successfully offered over television. My State of Maryland is doing some imaginative and innovative work in this area.

One frequent difficulty with many of the television courses is the times at which such courses are offered. Sunrise is obviously not the best hour for our citizens. I have tried to draft this bill, not only to tap the best available talent to produce the courses, but equally important to encourage the offering of such courses at hours that are convenient to the teachers.

This provision envisions the outstanding reading experts in the country combining their talents with experts in the utilization of the communication media for educational purposes to produce first-rate courses that may be used by any interested school system.

While I want to see the courses available to all reading emphasis projects and schools and school systems everywhere, the legislation requires that the Commissioner give priority in selecting the urban district wide project to applicants which can show—

First, that the State and local educational agencies will give credit for the television courses and encourage participation by the district's teachers;

Second, that the local television station will offer such courses at hours convenient to the teachers. It is hoped that the time of the viewing will enable all the elementary teachers to view the program as a group so as to enable follow up discussion led by the reading specialists; and

Third, that the local colleges and universities give academic credit for the completion of such courses.

TRAINING GRANTS

The second training provision appears in section 804. This section authorizes grants for the training of personnel for reading emphasis projects. The section's purpose is to provide for an adequate number of reading specialists and to encourage elementary teachers, particularly grades one through three, to become reading teachers.

Under this section, the Commissioner is authorized to enter contracts or to make grants to local educational agencies, State educational agencies, or institutions of higher education for—

First, training efforts, including short term and regular session institutions and other preservice and in-service training programs to improve the professional competency in reading of elementary teachers and principals of reading emphasis project schools. I have made the principal eligible for this training program, for the principal's interest and leadership is needed if the urgency and importance of reading is to permeate the entire elementary school, as I intend;

Second, the establishment of a Reading Corps, along the lines of the present Teacher Corps program. The purpose here is twofold; namely, to attract reading specialists both during the regular or summer session, or both, to schools having large numbers or higher concentration of children reading below grade level, and second, to increase the number of reading teachers and reading specialists. Under the program, regular elementary teachers will spend a year in a work-study combination to become a reading specialist. Those training to become treachers could also be assigned to work under reading specialists so that they will be acquainted with reading problems; and

Third, training to encourage all elementary teachers and particularly those in grades one through three, to become reading teachers. Also, it is hoped that the arrangements will be made with institutions of higher education to encourage them to increase the course requirements in reading for future elementary teachers of the early primary grades so that such graduates would meet the minimum requirements of a reading teacher.

The grants and contracts will cover the costs of the courses of study and for necessary fellowships and traineeships.

CENTER FOR READING IMPROVEMENT

Despite the importance of reading, this importance has not been adequately reflected in educational research and development. Accordingly, this part of my proposal would require the Director of the new National Institute of Education to establish a center for reading improvement. Ten million dollars would be authorized for the purposes of this section and these sums would remain available until expended.

The educational centers and labs previously funded under the Cooperative Research Act have been transferred to the National Institute of Education.

The Institute has been evaluating the present educational laboratories and center programs. I have examined some of the programs of the centers and labs and I must say that none of their work, in my judgment, compares with the importance of reading for our society. I believe that reading certainly should at least have one center or lab that is devoting full time to this problem.

Thus, under section 805 of my proposal, the Director of the National Institute of Education, through the Institute and the Center for Reading Improvement, would conduct or support research and demonstration in the field of reading, including, but not limited to the following areas:

First. Basic research in the reading process. The case for accelerated research

and development efforts in the reading area is made by the massive reading problems facing the country. We certainly need to learn more about the reading process and how children learn to read. This is an exceedingly complex and difficult area, but its difficulty is exceeded only by its importance. So, I hope that basic research in the reading process will be pursued.

Second. The most effective method or methods for the teaching of reading. The debate on how to teach reading in the country has been going on for over a century with the proponents of the phonetic and look-see approach enjoying popularity at different times. Until educational research resolves this question, it would seem prudent that we make certain that our teachers know the main alternatives and techniques and when and how to employ special techniques of instruction.

Third. Improved methods for the testing of reading ability and achievement. There is a need to improve our techniques for testing reading ability and achievement. There is already some interesting work going on as evidenced by the Education Commission on the States' national assessment of educational processes, and also the work in my State on criterion-reference tests.

Fourth. Development of model college courses in reading for personnel preparing to engage in elementary teaching or for elementary teachers who are or intend to become reading teachers or reading specialists.

Fifth. The development of techniques for the diagnosis and correction of reading disabilities. Throughout the last decade surveys both among those training to become teachers and those in teaching, have indicated that both groups believe that inadequate preparation was given in diagnosing and correcting reading problems of pupils.

The educational literature during this same period also emphasized the need for this approach. But as the Education Testing Service observed—

> In spite of such widespread exhortations, the requirement for teachers' education and certification have shown no subsequent change according to the surveys in 1960 and 1970.

Sixth. The development of model reading programs for elementary schoolchildren generally, and special model reading programs for elementary schoolchildren who are educationally disadvantaged, or handicapped.

During the 1950's there was considerable concern with respect to teaching of science in high schools. As a result, a study was undertaken by the National Science Foundation and a model textbook for physics was developed. It is my understanding that this was very well accepted and has been credited with substantial upgrading of the instruction of physics in the United States. I believe we should attempt a similar effort with respect to the development of a reading curriculum for pupils in the early elementary grades.

Seventh. The use and evaluation of education technology in reading, and

Eighth. The evaluation of educational materials in reading. P. Kenneth Komoski, president of the Education Product Information Exchange Institute, indicated a conservative estimate of the education material being marketed to the schools is over 200,000 items and that this production has increased 20-fold in the last two decades. There are also numerous materials specifically on the teaching of reading, providing teachers with many options and alternatives in the selection of teaching materials. Mr. Komoski points out that less than 10 percent of the education materials have been field tested and only approximately 1 percent have been subjected to learner-verification techniques.

PRESIDENTIAL READING AWARDS

Finally, my proposal would establish presidential awards for reading achievement. There will be two types of awards, one for elementary students and one for elementary schools.

The student award would consist of an emblem to be presented to elementary students for achievement in reading, as defined by the Commissioner of Education.

The school award would be a pennant, or other appropriate recognition, for schools achieving reading excellence, as defined by the Commissioner. The student and school awards will be of such design and material as the President prescribes.

I would hope that the President, before deciding on the design and material for the award, would consult with the education community and provide both the education community and the public with an opportunity to make suggestions for the award. Perhaps, it would be worth considering a national competition for the design of such awards, but I have not specified this in the statute itself.

Mr. President, in 1955 President Eisenhower was presented with evidence regarding the physical fitness of American youth. The President was told that 58 percent of the American children failed on one or more of six basic tests for muscular strength and flexibility as compared to only 9 percent of the Western European children.

As a result, President Eisenhower established what is now the President's Council on Youth Fitness and Sports. School fitness programs were developed for our youth, including a screening test for young children to identify those most in need of help. A seven part test was devised and standards were set for each item for each age group. The program was adapted by schools all over the country.

The President's Council on Physical Fitness has said that physical fitness of our youth has improved substantially. Since 1961, there has been a 32 percent gain in the proportion of children passing the physical fitness test from 60 to 80 percent.

In general, after 5 years of using the test, the performance of our youth has improved in all fitness areas.

Similarly, competition among schools in athletics fosters competition and excellence in sports. In addition, it tends to elevate the importance of athletics in the minds of students. I believe that the Presidential student awards envisioned will encourage interest and motivate elementary students in reading. Also, the school competition would underscore the importance of academic excellence in this the most important subject area at the elementary level.

This program will follow the successful physical fitness program and the only costs involved is some administrative expenses. I ask unanimous consent that a summary explaining the physical fitness program be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

CONCLUSION

Mr. BEALL. Mr. President, the bill I advance today is the product of considerable study. It addresses what I regard as the Achilles' heel of education, the massive reading problem of schools having large numbers or high concentrations of children reading below grade level.

It places a priority on the early elementary years through the use of reading specialists to intensify and supplement the regular classroom reading instruction. In effect, it gives the students a double dose of reading to prevent the educational-limiting and career-crippling handicap of the inability to read.

Mr. William Raspberry, in his column in the February 19 Washington Post, commented on the suggestion that subjects be suspended in ghetto schools for a year to concentrate on raising reading performance, as follows:

> Since you can only play at teaching history to children who can't read, why not stop playing and teach them to read?

Mr. President, I can assure you that this bill aims at preventing such playing and contemplates a serious and concentrated attack on the reading problem. Its goal is "to teach them to read." In fact, it adopts the ambitious goal of having all children in reading emphasis project school reading at grade level by the end of the third grade.

While this proposal will not be a panacea for all of the reading problems, I believe there is considerable evidence that this approach can and will make a substantial difference. The reading problem is so big and its solution is so important that I hope my colleagues will join me in enacting the Elementary School Reading Emphasis Act of 1973. Its enactment will be a giant step toward preventing or reducing reading problems. A society where technology and education are so important and where only approximately 5 percent of the jobs are unskilled cannot allow the dangerous conditions to continue where massive numbers of children lack the ability to read which affects both their capacity to learn and to earn.

I am a member of the President's Commission on the Financing of Postsecondary Education. This Commission is studying ways and means to provide the opportunity for the financing of higher and technical education for all students. But, it will do us little good to guarantee that financial barriers will not prevent students from postsecondary education

and training if the students are not capable because of educational deficiencies, the most important of which is reading, to take advantage of these opportunities.

For, Mr. President, equal opportunities begin early. That is why I propose the bill to the Congress today. The bill's significance may be more important than the report of the Postsecondary Education Commission, which is scheduled to be released in December. This comment is not meant to detract from that report which I believe will be most important in determining future higher education policies in the country; but this proposal, after all, seeks to make the opportunity for higher education or technical education possible by not only reaffirming that children have the right to read, but also helping to assure that they will, in fact, be able to read.

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

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

(See exhibit 3.)

EXHIBIT 1

CERTIFICATION REQUIREMENTS IN THE METHODS OF READING INSTRUCTION FOR PUBLIC SCHOOL TEACHERS IN SELECTED STATES

State	Regular elementary school teachers				Reading specialists at the elementary school level			
	Number of course hours (credit)	Type(s) of course(s)	Percent meeting present requirements	Changes in requirements in the past 5 years	Number of course hours[1] (credit)	Type(s) of course(s)	Percent meeting present requirements	Changes in requirements in the past 5 years
Alabama	0	Not applicable[1]	(2)	None		Not applicable	(2)	None.
Arizona	[3] 3	Methods	100	do	15 semester hours	Methods, remedial, practicum[1] or internship.	100	1971—Course sequence mandated.
Arkansas	[3] 3	Not specified[4]	(4)	1972—None before	M.A	Methods, remedial, laboratory practice.	(4)	None.
Colorado	0	Not applicable	(2)	None	Not specified[4]	Not applicable	(2)	Do.
Connecticut	[3] 6	Methods (3) children's literature (3).	(3)	1972—None before	M.A	Methods, remedial, practicum, children's literature.	(3)	Do.
Delaware	[3] 3	Methods	100	None	15 semester hours (graduate).	Methods, remedial, practicum.	100	Do.
Florida	[3] 2	do	(3)	do	21 to 33 semester hours.	Foundations, methods, remedial, children's literature.	(4)	Do.
Georgia	[6] 5	do	90	do	25 quarter hours	Methods, remedial	100	Do.
Hawaii	0	Not applicable	(2)	do		Not applicable	(2)	Do.
Idaho	0	do	(2)	do		do	(2)	Do.
Illinois	[3] 2	Methods	90	do	32 semester hours	Not specified[4]	100	Do.
Kansas	0	Not applicable	(2)	do	12 semester hours (graduate).	Foundations, remedial, practicum.	80	1971—Requirements specified.
Kentucky	[3] 6	Not specified[4]	(4)	1972—None before	do	do	(3)	Do.
Louisiana	[3] 3	do	25	1971—None before		Not applicable	(2)	None.
Maryland	[3] 3	Methods	80–85	1972—None before	12 semester hours	Foundations, remedial, practicum.	85	Do.
Massachusetts	0	Not applicable	(2)	None	18 semester hours	Not specified[4]	Most	Do.
Minnesota	0	do	(2)	do	6 courses	Developmental reading, remedial, practicum.	(3)	Do.
Mississippi	[3] 6	Methods	99	do	15 semester hours	Developmental reading, remedial.	99	Do.
Nebraska	0	Not applicable	(2)	do		Not applicable	(2)	Do.
Nevada	[3] 2	Methods	100	do	M.A	Not specified[4]	100	Do.
New Hampshire	0	Not applicable	(2)	1970—From specific requirements to approved program basis.	M.A	do	95	1970—From specific requirements to approved program basis.
New Mexico	[3] 3	Methods, remedial	85	None	10 semester hours (for elementary reading teachers).	Foundations, remedial, practicum.	70	None.
New York	[3] 6	Not specified[4]	70	1972—None before		Not applicable	(2)	Do.
North Carolina	0	Not applicable	(2)	None	18–30 semester hours.	Methods, remedial, practicum.	(3)	Do.
North Dakota	0	do	(3)	do	8 courses (graduate)	Foundations, remedial, practicum.	100	Do.
Ohio	[6] 3	Methods	100	do	18 quarter hours	Foundations, developmental, remedial, practicum.	100	1972—None before.
Oklahoma	[3] 3	Methods and materials.	100	do	12 semester hours	Foundations, remedial, practicum.	100	None.
Oregon	[6] 6	Methods	75	1972—Minimum specified.	15 quarter hours	Methods, remedial, practicum.	90	1972—Minimum specified.
Pennsylvania	(4)	Not applicable	(2)	1969—3 semester hours required previously.	Not specified[4]	Not specified[4]	(5)	1969—General guidelines outlined.
Rhode Island	[3] 3	Methods	(4)	None		Not applicable	(2)	None.
South Carolina	[3] 3	do	(4)	do	12 semester hours	Methods, remedial, practicum.	(4)	Do.
South Dakota	0	Not applicable	(2)	do		Not applicable	(2)	Do.
Tennessee	[3] 3	Methods	(4)	do		do	(2)	Do.
Utah	0	Not applicable	(2)	do		do	(2)	Do.
Virginia	[3] 3	Methods	(4)	do	M.A	Foundations, remedial, practicum.	(4)	1972—None before.
West Virginia	[3] 2–3	do	33	do	27 semester hours	Foundations, remedial, clinical experience.	100	None.
Wisconsin	(7)	do	60	1973—Requirement made mandatory	M.A. or 30 semester hours	Advanced methods, measurement, remedial, supervision, internship.	100	1972—None before.
Wyoming	[3] [8] 8	do	95	None	6 semester hours (additional to standard requirement)	Remedial	95	None.

[1] Where this space is left blank no separate certification for specialized reading teachers at the elementary school level exists.
[2] Not applicable.
[3] Semester (credit) hours.
[4] Data not available.
[5] A requirement exists but the number of hours is not specific.
[6] Quarter (credit) hours.
[7] 1 course.
[8] Semester hours of courses in the methods of teaching elementary skills, including reading.

Source: Congressional Research Service questionnaire, distributed to the States on Jan. 15, 1973.

EXHIBIT 2

55.007 PRESIDENTIAL PHYSICAL FITNESS AWARD

Federal Agency: President's Council on Physical Fitness and Sports.

Authorization: Executive Order 11562, September 25, 1970.

Objectives: To motivate and encourage boys and girls 10 through 17 years of age to become more physically fit.

Types of assistance: Provision of Specialized Services.

Uses and use restrictions: Program encourages the testing of children 10–17 years of age to determine their ability to pass a set of seven tests. Children who score at least an 85 percentile for their sex and age can be recommended to receive: (a) a physical fitness emblem and (b) a certificate signed by the President of the U.S. If they are also considered by the school to be student-citizens in good standing, the school must arrange the purchase of the emblem and certificate without cost to the student. Certificate and emblem are awarded to the student by the school upon receipt. The program is self-sustained by virtue of being administered by elementary and secondary schools at no cost to the student or to the Federal Government. The tests may be conducted by a non-school agency, but the school must certify the results and indicate that the student is in good standing with the school.

Eligibility requirements:

Applicant Eligibility: Elementary and secondary schools.

Beneficiary Eligibility: Student must pass 85th percentile for age and sex and the student must be in good standing with his school.

Credentials/Documentation: School must be prepared to document its winning students.

Application and award process:

Preapplication Coordination: None.

Application Procedure: School applies to the National Education Association using form provided by the President's Council on Physical Fitness and Sports.

Award Procedure: Upon the school's certification that the required test results had been attained and that the student was in good standing with the school, the award is made.

Deadlines: Non-specific; except application should be submitted in time to make an award to student before close of school year.

Range of Approval/Disapproval Time: Not applicable.

Appeals: Not applicable.

Renewals: Not applicable.

Assistance considerations:

Formula and Matching Requirements: Not applicable.

Length and Time Phasing of Assistance: Not applicable.

Post assistance requirements:

Reports: None.

Audits: None.

Records: None.

Financial information:

Account Identification: 09–90–0120–0–1–703.

Obligations: (Salaries and expenses) FY 70 $1,000; FY 71 est $1,000; and FY 72 est $1,000.

Range and Average of Financial Assistance: Not applicable.

Program accomplishments: Since the inception of the program in 1965, 551,311 awards have been presented.

Regulations, guidelines, and literature: Brochure describing the Presidential Physical Fitness Award Program is available from the President's Council on Physical Fitness and Sports, it also includes an official application form used to request award items.

Information contacts:

Regional or Local Office: None.

Headquarters Office: The President's Council on Physical Fitness and Sports, Washington, D.C. 20202. Telephone: (202) 962–6526.

Related programs: 55.002, National Summer Youth Sports Program; 55.003, Physical Fitness and Sports Information; 55.004, Physical Fitness Clinics; 55.005, Physical Fitness Demonstration Center Schools.

EXHIBIT 3

S. 1318

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 "Elementary School Reading Emphasis Act of 1973".

SEC. 2. The Elementary and Secondary Education Act of 1965 is amended by redesignating title VIII and references thereto as Title X, by renumbering sections 801, 803, 805, 807, 808, 809, 810, and 811 and references thereto as sections 1001 through 1008, respectively, and by inserting after title VII thereof the following new title:

"TITLE VIII—READING EMPHASIS PROGRAMS "FINDINGS AND PURPOSE

"SEC. 801. (a) The Congress finds—

"(1) that reading is the single most important key to learning and that the mastering of reading skills determines in large part success in school and subsequent adult life;

"(2) that the President of the United States has recognized the critical importance of reading by establishing the Right to Read program which is charged with the responsibility of eliminating functional illiteracy by 1980;

"(3) that approximately 7 million elementary and secondary school students have severe reading problems;

"(4) that the reading deficiency in schools having large numbers of children from lower-income families is massive, with as many as forty to fifty percent of such students reading below grade level and that many students from advantaged backgrounds are also handicapped by the lack of reading skills;

"(5) that ninety percent of the 700,000 students who drop out of school each year are classified as poor readers;

"(6) that studies have indicated that the reading deficiencies of disadvantaged children may be traced in part to the adverse affect of the summer vacations;

"(7) that measures to improve the achievement of children become increasingly more difficult and less effective the longer they are delayed; and

"(8) that there is a need to emphasize reading and to improve and itensify the instruction of reading in the primary grades to prevent the development of reading problems.

"(b) It is the purpose of this title to provide financial assistance to assist local educational agencies to undertake demonstration projects emphasizing reading in elementary schools, to improve the instruction of reading in elementary schools, to provide reading training for teachers, to establish a research center for reading improvement, and to provide a reading achievement award.

"READING EMPHASIS DEMONSTRATION PROJECTS

"SEC. 802. (a) The Commissioner is authorized to arrange by grant, contract or otherwise with local educational agencies for the carrying out by such agencies in elementary schools, which have large numbers or high concentrations of children who are not reading at the appropriate level, of reading emphasis demonstration projects in accordance with this section.

"(b) Each such project shall provide for—

"(1) the teaching of reading by a reading specialist for all children in the first and second grades of an elementary school for a period each day not less than 40 minutes in duration;

"(2) the teaching of reading by a reading specialist for elementary school children in grades three through six who have reading problems for a period each day not less than 40 minutes in duration; and

"(3) an intensive summer reading program conducted by a reading specialist for public school children who are found to be reading below the appropriate grade level or experiencing problems in learning to read.

"(c) No arrangement may be entered into under this section unless upon an application made to the Commissioner at such time, in such a manner, and including or accompanied by such information as he may reasonably require. Each such application shall provide assurances that—

"(1) the project will be carried out in conformance with subsection (b) of this section in one or more elementary schools of the local educational agency;

"(2) appropriate measures have been taken by the agency to analyze the reasons why elementary school children are not reading at the appropriate grade level;

"(3) the agency will screen for conditions that would impede or prevent children from learning to read;

"(4) the agency will administer diagnostic testing designed to identify elementary school children who are not reading at the appropriate grade level;

"(5) the agency will develop a plan setting forth specific objectives, which shall include the goal of having all children in project schools reading at the appropriate grade level by the end of grade three;

"(6) the agency plan will include those criteria and procedures, including objective measures of reading achievement that will be used to calculate, at least annually, the extent to which the objectives of the plan have been achieved;

"(7) the agency will provide for parent participation and that consideration will be given, when teacher aides are employed, to the hiring of parents of the students, on a rotating basis, in order to involve directly the maximum number of such parents;

"(8) subject to the limitations contained in subsection (d), the agency will publish aggregate testing scores of the elementary school children participating in the project, and furnish such aggregate testing scores, upon request, to the Commissioner; and

"(9) the project has been approved by the State educational agency.

"(d) Nothing in this section shall permit the disclosure of individual reading test scores obtained under this section to any individual other than the parent or guardian or any child being so tested.

"(e) The Commissioner, in selecting projects under this title, shall, to the extent feasible, attempt to secure an equitable distribution among urban and rural areas.

"(f) The Commissioner is authorized to enter into at least one arrangement with a local educational agency in an urban area and a local educational agency in rural area for a district-wide project conducted in all schools of such agencies. In selecting the district-wide project in the urban area, the Commissioner shall give priority to a local educational agency which agrees to utilize the television course or courses developed for teachers of reading, pursuant to section 803, as evidence by the Commissioner's findings that—

"(1) the State educational agency or the local educational agency, as appropriate, will give credit for any course to be developed under section 803 and will encourage participation by the teachers of such agency in the training;

"(2) the local public educational television station will present any course to be developed under this section at an hour convenient for the viewing by elementary school teachers and, if possible, at a time conven-

ient for such teachers to take the course, as a group, at the elementary school where they teach; and

"(3) that institution or institutions of higher education will agree to give academic credit for the completion of such courses.

"(g) There is authorized to be appropriated to carry out the projects under this section $50,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $60,000,000 for the fiscal year ending June 30, 1976.

"READING TRAINING ON PUBLIC TELEVISION

"SEC. 803. (a) The Commissioner of Education is authorized, through grants or contracts, to enter arrangements with institutions of higher education, public or private agencies or organizations, and individuals for—

"(1) the preparation, production, and distribution for use on public educational television stations of courses for elementary school teachers who are or intend to become reading teachers or reading specialists; and

"(2) the preparation and distribution of study course material to be used in conjunction with any such course.

"(b) In carrying out the provisions of this section the Commissioner shall consult with and involve recognized authorities in the field of reading and specialists in the utilization of the communications media for educational purposes, and with the local and state educational agency of the urban district-wide reading emphasis project and other reading emphasis projects, to the extent feasible.

"(c) For the purpose of carrying out this section, there is authorized to be appropriated $1 million for the fiscal year ending June 30, 1974. Funds appropriated pursuant to this section shall remain available for obligations and expenditures through June 30, 1975.

"GRANTS FOR TRAINING PERSONNEL FOR READING EMPHASIS PROJECTS

SEC. 804. (a) The Commissoner is authorized to enter arrangements, through grants or contracts, with institutions of higher education or state or local educational agencies to assist them—

"(1) in providing training, including short term and regular session institutions and other pre-service and in-service training programs, to improve the professional competency of teachers of reading and principals of project schools;

"(2) in establishing a Reading Corps Program, patterned after the Teacher Corps, to attract reading specialists for service during the regular or summer sessions, or both, to project schools and to increase the number of reading specialists and reading teachers; and

"(3) in improving and broadening the training for the teaching of reading of personnel who are, or are training to become elementary teachers, particularly teachers of grades one through three, in project schools with a goal of having all such teachers meeting the minimum requirements of a reading teacher.

"(b) Grants under this section may be used by such institutions or agencies to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships and traineeships with such stipends and allowances as may be determined by the Commissioner.

"(c) There are authorized to be appropriated such sums as necessary to carry out the purpose of this section.

"ESTABLISHMENT OF THE CENTER FOR READING IMPROVEMENT

"SEC. 805. (a) The Director of the National Institute of Education is authorized and directed to designate an existing facility or establish a new facility to be known as the "Center for Reading Improvement" (hereinafter referred to in this section as the 'Center').

"(b) The Director of the National Institute of Education, through the Institute and the Center, shall conduct or support research and demonstrations in the field of reading, including, but not limited to, the following—

"(1) basic research in the reading process;

"(2) the most effective method, or methods, for the teaching of reading;

"(3) methods for the measuring of reading ability and achievement;

"(4) the development of model college courses in reading for personnel preparing to engage in elementary teaching or for elementary teachers who are or intend to become reading teachers or reading specialists;

"(5) the development of techniques for the diagnosis and correction of reading disabilities;

"(6) the development of model reading programs for elementary school children generally and special model reading programs for elementary school chidren who are educationally disadvantaged or handicapped;

"(7) the use and evaluation of educational technology in reading; and

"(8) the evaluation of educational materials prepared for the teaching of reading.

"(c) There are authorized to be appropriated, without fiscal year limitations, $10,000,000, to carry out the purposes of this section. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this section, remain available for the purposes of this section until expended.

"SPECIAL CONSIDERATION IN TEACHER TRAINING PROGRAMS

"SEC. 806. The Commissioner is authorized in administering the Educational Professions Development Act to give special consideration to projects involving the improvement of the skills of the elementary school teachers who are or intend to become reading teachers or reading specialists.

"ESTABLISHMENT OF THE PRESIDENTIAL AWARD FOR READING ACHIEVEMENT

"SEC. 807. (a) In order to motivate and encourage elementary school children to improve their reading skills and to foster competence for excellence in reading among elementary schools, there is hereby established the Presidential Reading Achievement Award. Each such award shall consist of—

"(1) an emblem to be presented to elementary school children for achievement in reading as determined pursuant to regulations established by the Commissioner, and

"(2) a pennant, flag, or other appropriate recognition for elementary schools achieving reading excellence as determined pursuant to regulations established by the Commissioner.

"(b) The reading awards authorized by this section shall be of such design and material and bear such description as the President may prescribe.

"(c) There is authorized to be appropriated not to exceed $10,000 in any fiscal year for the administrative expenses of carrying out the provisions of this section.

"DEFINITIONS

"SEC. 808. (a) For the purpose of this title—

"(1) The term "Reading Specialist" means an individual who has a Masters Degree, with a major or speciality in reading, from an accredited institution of higher education and has successfully completed three years of teaching experience, which includes reading instruction.

"(2) The term "Reading Teacher" means an individual, with a Bachelors Degree, who has successfully completed a minimum of twelve credit hours, or its equivalent, in courses of the teaching of reading at an accredited institution of higher education, and has successfully completed two years of teaching experience, which includes reading instruction.

"(b) A "Reading Teacher" as defined above, may be used in lieu of a reading specialist, if the Commissioner finds that the local educational agency participating in a Reading Emphasis Project is unable to secure individuals who meet the requirements of the reading specialist and if such reading teacher is enrolled or will enroll in a program to become a reading specialist.

Mr. DOMINICK. Mr. President, I am grateful for the opportunity to join with the distinguished Senator from Maryland (Mr. BEALL) in sponsoring legislation which targets on reading skills, as he has so aptly described. This is not a new area of interest for me, because 3 or 4 years ago I sponsored—and it is now part of the law—the Learning Disability Act which is in the Elementary and Secondary Education Act now. It was not funded the first year, because of budgetary problems. However, I did get it budgeted for the last 2 years on a minor scale. It is my belief that the bill introduced by the Senator from Maryland will be of substantial assistance in dealing with the particular learning disability in reading.

As members of the Subcommittee on Education we are hopeful that this proposal will receive the benefit of hearings and ultimately favorable congressional action.

Reading is the one skill which must be mastered before other skills and abilities can be developed. Without an ability to read, schooling for many youngsters is an exercise in frustration and failure.

This proposal focuses on children in the earliest stages of their educational experiences, grades 1 through 6, with the heaviest emphasis on the first three grades. The trite description of these first years in school as the foundation upon which the intellectual house is built has never been more applicable. If children, after the sixth grade, cannot read effectively, they are on the downhill side of their education.

This bill authorizes a 3-year investment of $165 million to improve a student's ability to acquire and a teacher's ability to impart reading skills through local educational agency projects.

While designed to prevent reading deficiencies from developing, the bill structures remedies for dealing quickly with the problem when it occurs. For example, intensive summer reading programs are authorized for children who are reading below appropriate grade levels. On the prevention side, to aid teachers in sharpening their ability to teach reading, there is a provision for the preparation, production, and distribution of reading teaching courses on public educational television.

Mr. President, with more than 18 million functional illiterates in America today and with 7 million elementary and secondary children in severe need of special reading assistance, I am hopeful that Congress will turn a sympathetic ear to this proposal.

By Mr. DOMINICK:

S. 1319. A bill to strengthen education by consolidating certain elementary and secondary education grant programs through the provision of a share of the revenues of the United States to the States and to local educational agencies for the purpose of assisting them in carrying out education programs reflecting areas of national concern. Referred to the Committee on Labor and Public Welfare.

THE BETTER SCHOOLS ACT OF 1973

Mr. DOMINICK. Mr. President, as the ranking minority member of the Education Subcommittee, I introduce for appropriate reference the administration's education special revenue-sharing proposal, entitled "The Better Schools Act of 1973." Because of my position on the Education Subcommittee, I am doing this as a matter of courtesy; a courtesy which I might add was not extended to any of the minority members of the subcommittee in the form of a request for suggestions, advice or guidance with regard to any part of this legislation in its formulation stages by administration officials. If such a request had been made, at least to the ranking minority member, it might have been possible to smooth some of the bumps in the legislative road this bill will have to travel. My concerns, and I am sure other committee members are similarly situated, have not been closely guarded, but rather available for the asking. No such request occurred.

Having not been consulted in advance of submitting this proposal, I am confident that the same cavalier attitude will insulate these Federal officials in general, and OMB in particular, from any shock at my comments.

I seize this opportunity to indicate my disinclination to being the passive and grateful recipient of OMB's set of priorities devoid of any congressional input.

Mr. President, had I, or other Education Subcommittee members, been asked, we could have indicated the debilitating effect of allocation formulas which decrease the amount of money going to a State, such as Colorado, under education special revenue sharing as compared with the categorical programs. While this may accurately reflect OMB's priorities, it does not hint at mine.

Had I been asked, I would have indicated more than a little suspicion of the wisdom of legislation which, according to HEW figures, will reduce the amount of money to Colorado between fiscal year 1973 and fiscal year 1974 by more than a million dollars.

Similarly, Mr. President, a request for senatorial input in advance of drafting would have revealed that a significant number of school districts may not be able to survive the fiscal shock of an overnight "cold turkey" withdrawal of impact aid to students whose parents work on, but live off, Federal property—"B" students. It is my intention to deal with this problem in separate legislation which would amend the impact aid formula to provide for a gradual decrease in eligibility for "B" student impact aid, while preserving the program at the Federal level.

Mr. President, the thought of returning the decisionmaking power to the States and buttressing that authority with sufficient revenues has always been appealing to me, and I have been urging it upon my colleagues and other Members of Congress for quite some time. A very well written article on education revenue sharing by the Acting Deputy Assistant Secretary, Education Division at HEW, Charles Saunders, was published in the February-March 1973 issue of Compact—Education Commission of the States, and I ask unanimous consent to have that article printed at the end of my remarks.

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

(See exhibit 1.)

Mr. DOMINICK. Mr. President, in light of the concerns expressed here, I would hope that this proposal would be the beneficiary of Education Subcommittee hearings, so that Congress can return to agency officials a set of priorities in education structured by elected representatives, instead of those faceless ghosts in the White House.

EXHIBIT 1

WHAT IS SPECIAL EDUCATION REVENUE SHARING?

(By Charles B. Saunders, Jr.)

Strangulation by red tape is a slow process. Local school systems have welcomed the benefits of federal categorical aid for the last 15 years, but have only recently begun to assess its mounting costs.

Narrow purpose categorical programs intended to deal with special aspects of the educational system have proliferated in the last decade. The U.S. Office of Education (USOE) now administers over 100 programs affecting elementary and secondary education, vocational education and post-secondary education or a combination of the three, and at least 26 other federal agencies also administer significant categorical programs affecting the schools and colleges.

Each program, of course, has its regulations and guidelines, reporting and auditing requirements and other paperwork imposed by a federal bureaucracy which by statute is assigned to tell the states and local agencies how to deal with their own educational problems.

The costs of such federal benefits are not always apparent—particularly when school administrators are desperate for additional sources of revenue. Not measured are the distortions which occur when local needs go unmet because of federal requirements for addressing "national priorities" or the time and talent diverted from more promising local efforts to time spent developing project proposals USOE is understood to prefer. How often is the spirit of innovation dimmed by the rigidities of federal regulations, or the staff and consultant help necessary to keep track (inadequately) of the variety and complexity of federal assistance available—if and when funds are appropriated?

Nevertheless, the problems which accompany federal categorical aid are beginning to be recognized. For the last two years the major national associations representing parents, teachers, school boards and administrators have jointly urged the simplification of federal education programs and the provision of assistance in broader, more general categories of need.

This is the basic purpose of education revenue sharing, one of several special revenue sharing measures proposed by President Nixon to accompany the general revenue sharing law enacted last year. Education revenue sharing is designed to restructure the existing framework of federal aid to elementary and secondary education, replacing about 30 state formula grant programs with a single, more flexible authority which addresses national needs without overriding the responsibility of the states and localities to decide how their educational needs should be met.

Congress did not act on any form of education revenue sharing at the last session, when major legislation in the postsecondary field consumed the attention of the authorizing committees. This session, however, the proposal should receive close attention, since the entire structure of federal aid to elementary and secondary education will be up for review. The kind of program consolidation and simplification proposed in education revenue sharing will inevitably be considered in the process of extending and amending the Elementary and Secondary Education Act (ESEA) which expires June 30 together with a number of related authorities.

Also likely to be involved in these congressional deliberations will be the issue of school finance, posing questions as to whether, and at what level, the federal government should provide continuing support for the educational system. As important as this issue is for the long-range future of American education, it should be kept separate from the issue of education revenue sharing which does not speak to the problem of school finance: the bill itself carries no price tag, authorizing only such sums as Congress may appropriate. Education revenue sharing simply offers a means of simplifying and consolidating the present system for distributing federal formula grants to the states. The *amount* of grants to be distributed would, of course, be determined separately in the annual appropriations process.

This distinction should not be clouded by disagreement over the spending levels proposed in the President's budget for existing programs which would be folded into this new revenue sharing. Differences of opinion over these spending levels should be resolved in the appropriations process and should not be allowed to jeopardize the reforms which would be accomplished in terms of simplifying the structure of federal aid. As to the broader issue of school finance, it may be argued that simplification of the existing structure is an essential precondition for any future extension of the federal role.

Thus, in its testimony at Congressional hearings on extension of ESEA, the Administration will place high priority on structural reform of the Federal role through ERS. While extension of some of ESEA's discretionary programs such as Bilingual Education will be sought by the Administration, its principal recommendation will be to consolidate all state *formula grants* under education revenue sharing.

While the Administration may be expected to make some changes, the concept will be identical with that embodied in its recommendations to the last Congress. About 30 state formula grants would be absorbed into a single, vastly simplified package providing assistance automatically by formula, one year in advance. Instead of having to submit detailed plans for extensive federal review and approval, a state would develop and publish its own plan for meeting its highest priority needs in a few broad areas of national concern. The process of developing its plan would involve wide public participation and discussion to encourage all concerned citizens and interest groups to build a concensus on priorities for allocation of federal resources for these national purpose areas:

Education of the Disadvantaged. Compen-

satory funds would be made available, under a more equitable formula, directly to local education agencies for concentrated assistance to the disadvantaged. States would have to certify that services provided from state and local funds are fully comparable in all schools of a given district, to assure that federal compensatory funds actually provide services beyond those available for all children within the district.

Education of the Handicapped. Funds would be allocated directly to the states, which would undertake to distribute them according to its plan for meeting the special needs of all handicapped children within its borders. This would speed and simplify the extension of services to the handicapped.

Vocational Education. These funds would also be distributed to the states removing the restrictive earmarking and limitations now imposed in a variety of vocational programs. No matching would be required; states would be free to conduct vocational or occupational programs according to their needs without regard to the age of the students; both in-school and out-of-school youth and adults would be eligible; funds could be used for postsecondary programs and technical training as well as comprehensive or vocational schools and technical centers.

Supporting Service Funds would be provided for supporting educational services, to be distributed under state plans spelling out priorities for the range of services now authorized in some 14 separate statutory provisions for such activities as the purchase of school textbooks, library resources and educational equipment; provision of supplementary educational centers and services, school pupil personnel services, adult education and school meals; training or retraining of teachers, teacher aides and other school personnel; and the costs of state administration, planning and evaluation.

Impact Aid. Federal aid to help meet the cost of educating children whose parents live on federal property—which provides no taxes to support the local school district—would pass directly through to the districts enrolling such children.

Education revenue sharing would give states and local school districts far greater flexibility than they now have to decide how federal funds should be spent for the national purposes listed above. In the areas of the handicapped, vocational education and supporting services, states would have further flexibility to transfer a percentage of funds from one purpose to another or to the disadvantaged, according to the educational priorities determined within the state. However, no transfer of funds would be permitted out of the disadvantaged or impact aid allocations, because of the special federal responsibility to provide funds for these purposes directly to the local districts.

As with other special revenue sharing proposals, all existing safeguards against infringement of civil rights would be preserved, as well as requirements for fair labor standards, accounting and reporting on the use of federal funds and recovery of funds where a state fails substantially to comply with the provisions of the act.

Education revenue sharing would also recognize the important role of nonpublic schools in the educational system. Children enrolled in nonprofit private elementary and secondary schools would be counted in the allocation formula and would participate on an equitable basis with public school children in programs for the disadvantaged, the handicapped, vocational education and supporting services. Title to and control of funds and property received by nonpublic schools under the bill would remain with public agencies, and if a state law prevented the inclusion of nonpublic school children in local education agency activities, the secretary of Health, Education and Welfare would provide equitable services to those children directly and deduct the cost from the state's allocation.

While the concept of program simplification and consolidation is endorsed by all the major education associations, objections will be heard from groups with special interests in the programs which would be folded into education revenue sharing: the spokesmen for equipment manufacturers or textbook publishers, for example, or the library or personnel and guidance associations. They will note, correctly, the impetus federal aid has provided over the past decade for increased attention to audiovisual equipment, library programs and guidance services in the schools.

The statistics they cite, however, only confirm the validity of the revenue sharing concepts. Such programs were originally enacted because states and localities were found to need stimulation to do a better job in these areas. This stimulatory purpose has long since been accomplished: no longer is it necessary for Congress to sit as a national school board, making annual decisions about how much money the states and local districts should spend for libraries, equipment and guidance programs. No longer, in fact, can it be assumed that Congress has greater competence to make such decisions than the state and local agencies which are much closer to the problems and better able to judge how to meet their own needs, which vary uniquely from state to state, from school district to school district and from school to school.

Education revenue sharing rejects the assumption that a federal bureaucracy knows best how to deal with these needs. It would replace the present complex and inefficient mechanism for providing federal assistance through dozens of different, often overlapping and conflicting programs.

In their place, education revenue sharing would establish a more efficient system for allocating federal financial resources on an automatic formula basis, one year in advance, to help state and local districts meet their educational responsibilities. While the proposal preserves and strengthens the national commitment to equality and quality of educational opportunity, it also recognizes that the federal government cannot substitute its good intentions for local understanding of local problems, and local initiative in attacking these problems.

Education revenue sharing thus lays the foundation for a new and more productive federal-state relationship in education. At the same time, its importance and that of the other special revenue sharing proposals is greater than the sum of their parts. They comprise a new definition of the relationship between federal, state and local agencies: a relationship in which people can more readily meet their present needs and anticipate their needs for the future.

By Mr. HART:

S. 1321. A bill for the general reform and revision of the patent laws, title 35 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

PATENT REFORM ACT OF 1973

Mr. HART. Mr. President, if we were measuring the "potential boredom rate" of various topics for conversation on a scale of 1 to 100, patents would probably get a 99.

Except for a few thousand patent lawyers, employees of the Patent Office, and some scattered scholars, few topics are more likely to result in tuned-out listeners.

If you asked the average college student what a patent is, he would no doubt tell you it is a reward—compensation for the long, lonely, financially strapped hours some individual attic inventor worked on his creation.

That answer would be partially right. A patent is a "reward," but more in the sense of "incentive" than "compensation." It is, in effect, more like the $100,000 offered in a community for information that may lead to the solution of an especially heinous crime.

In other words, as spelled out in the Constitution, the underlying principle of the patent system is to offer bait so that the inventions will be developed—and implemented—for the public good.

Given its intended purpose, the U.S. patent operation cannot be described as a success.

For the evidence is strong that our system tends to frustrate invention and tie up technology so the public cannot benefit from it.

Basically, this is because we are limping along today on a system designed in 1836—when the few hundred inventions did come chiefly from the Thomas Edisons and other individuals.

In today's corporate-dominated, technology-oriented world, only 20 of 100 patents granted go to individuals; and the annual burden of applications has risen to 100,000.

Not surprisingly, there is 2½-year backlog in the Patent Office.

Worse, patents are being handled by this creaky system in such a way that 72 percent of those litigated in the Federal courts of appeals are held invalid, and fewer than 20 percent of the litigated patents are upheld as valid and infringed.

And the casebooks are teeming with examples of patents filed to "protect" or extend the life of other patents—which too often is a way of saying to close out innovation—and of patents which are simply frivolous and fanciful with little or no redeeming public good.

Not only do such patents add to the burden of the office, but they increase the financial burdens for those who would bring forth a worthwhile idea. For each adds a new blockage to the ongoing stream of technology and adds to the mass that must be researched to determine if an idea is indeed "new" and patentable.

Mr. President, the executive and Congress have not been derelict in their duty to attempt to do something about the situation. For 6 years, dating back to President Johnson's Commission on the Patent System, much thought and work has been given to this matter. In fact, the Senate Patents, Trademarks, and Copyrights Subcommittee, under the able leadership of the Senator from Arkansas (Mr. McCLELLAN) in 1971, reported a bill to reform the system.

The bill was a compromise—embracing 14 of the 35 recommendations of the Johnson commission—omitting the more controversial. But the bill moved no further than the subcommittee.

Last year, President Nixon recognized the importance of a viable patent system, saying that "a strong and reliable patent system" is an important predicate to

U.S. technological progress and industrial strength.

I could not agree more. And frankly, I am troubled as to how much the archaic patent system is contributing to the lessening of our traditional technological lead. The United States alone has not recognized the changed technological and economic factors of today's world since 1836.

Today, I propose an omnibus bill to reform this system and to make it fit to deal with the technological potential of this country—and a number of these proposals already are operating quite successfully in Europe.

The bill recognizes that patent monopoly grant is a carefully delineated privilege designed to serve the public interest in promoting the progress of science and useful arts and not an unlimited license to the recipient. Let me highlight some of the significant features of the bill.

First, the Patent Office would be made more independent, divorcing it from the interests of the Commerce Department.

Second, secret ex parte sessions wherein interested parties and a patent examiner decide the patentability of an idea would be replaced with public adversary hearings.

Third, a public counsel would be installed in the Patent Office—to argue for the public interest and to make the office itself simply judge instead of both judge and advocate.

Fourth, the Patent Office is given subpena, investigative, and research powers so it may independently, and with great assurance, determine the question of patentability before—rather than after—issuance of the patent.

Currently, the office relies on information supplied by the applicant. Under the present system, the average patent receives a total of about 15 hours of review.

The new procedures would allow a full airing of the facts and hopefully enable the Patent Office to deny patents that today are being found invalid in the courts in such great numbers.

Fifth, the bill adopts a method common in European countries to relieve the financial burden on applicants and lessen the office's workload.

Examination could be deferred for up to 5 years after filing. Therefore, protection for the invention is gained; but there is no need for the office to handle inventions that in fact are never going to be put to use.

Under this system in Holland, it is estimated that at the end of the deferred examination period, some 59 percent of the applicants chose to let their applications lapse.

Under the deferred examination system, fees would be small at the time of filing and not become substantial until the patent is actually put to work and the inventor can properly afford them.

This would open the door a little wider for individual applicants who are almost strangers to the Patent Office today.

The patent grant would be for 12 years from filing, plus whatever time elapsed while the examination was deferred.

Sixth, an oath would be required to assure that all material information which would adversely affect the issuance of the patent is brought to the attention of the office. As the "invalidity" track record in the courts has demonstrated, currently many applicants have been less than candid with the office as to the facts surrounding the issuance of the patent.

The oath puts more of an obligation for disclosure on the one seeking the patent monopoly, akin to standards before the Securities and Exchange Commission; and the other new procedures in the bill help the office develop information to assure that patents will be granted on facts, not fiction.

Mr. President, as I said, I know that discussion of patents can be tedious. However, I am sure that most Members of this body would agree with President Nixon that we must have a strong and reliable patent system in order to promote invention and the public interest.

It is a matter not only of life style and comfort for each of us, but of health, employment, and maintaining our technological superiority. In sum, I believe that reform of the patent system is a necessary prerequisite to restoring public confidence and allowing it to perform its constitutional objective.

In short, a dull but essential piece of business; and one I hope Congress will complete this year. I ask unanimous consent that the Patent Reform 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. 1321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with the authority granted by article 1, section 8, clause 8 of the United States Constitution, title 35 of the United States Code, entitled "Patents", is hereby amended in its entirety to read as follows:

"TITLE 35—PATENTS

"Part Sec.
"I. Patent Office ---------- 1
"II. Patentability of inventions and grant of patents---------- 100
"III. Patents and infringement of patents ---------- 261

"PART I—PATENT OFFICE

"Chapter
"1. Establishment, officers, functions--- 1
"2. Proceedings in the Patent Office---- 21
"3. Practice Before the Patent Office---- 31
"4. Patent Office fees---------- 41

"Chapter 1.—ESTABLISHMENT, OFFICERS, FUNCTIONS

"Sec.
"1. National Patent Policy.
"2. Establishment and seal.
"3. Commissioner and other officers.
"4. Restrictions on officers and employees as to interest in patents.
"5. Board of Appeals.
"6. Library, classification of patents, public search facilities.
"7. Certified copies of records.
"8. Publications.
"9. Annual report to Congress.
"10. Advisory Council on the Patent System.

"SEC. 1. NATIONAL PATENT POLICY

"It is hereby declared to be the national patent policy of the United States to promote the progress of science and useful arts, by granting inventors the privilege, for a limited time and subject to the provisions of this title and any other Act the Congress has or may hereafter enact, to exclude others from making, using, and selling new and useful inventions discovered by such inventors and fully disclosed to the public. This title shall be interpreted in light of this policy and of the constitutional purpose permitting Congress to enact a patent law, to assure that United States patents are of high quality and reliable.

"SEC. 2. ESTABLISHMENT AND SEAL.

"The Patent Office, at times referred to in this title as the 'Office,' shall be an independent agency, where records, books, drawings, specifications, and other papers and things pertaining to patents and to trademark registrations shall be kept and preserved, except as otherwise provided by law. The Patent Offices shall have a seal with which letters patent; certificates of trademark registration, and papers issued from the Office shall be authenticated.

"SEC. 3. COMMISSIONER AND OTHER OFFICERS.

"(a) There shall be a chief administrative officer of the Patent Office, the Commissioner of Patents, referred to in this title as the 'Commissioner.' The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate, and he shall be compensated at the rate now or hereafter provided for level IV of the Excutive Schedule Pay Rates (5 U.S.C. Sec. 5315). The Commissioner shall superintend or perform all duties required by law respecting the granting and issuing of patents and the registration of trademarks, and he shall have charge of property belonging to the Patent Office. The Commissioner is authorized to promulgate rules and regulations governing proceedings before the Patent Office; to define any and all terms used in this title in connection therewith; and otherwise to prescribe such further rules and regulations as may be necessary or proper for purposes of administration of the Patent Office.

"(b) There shall be a Deputy Commissioner of the Patent Office, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. Sec. 5316). The Deputy Commissioner shall perform such functions as the Commissioner may assign or delegate and he shall act as Commissioner during the absence or disability of the Commissioner or in the event of a vacancy in the office of Commissioner.

"(c) There shall be no more than three Assistant Commissioners of the Patent Office, who shall be appointed by the Commissioner and who shall be compensated at a per annum rate of basic compensation fixed by him not in excess of the maximum scheduled rate provided for positions in grade 18 of the General Schedule (5 U.S.C. Sec. 5104). Such Assistant Commissioners shall perform such functions as the Commissioner may from time to time assign or delegate. In the event of vacancies in the offices of Commissioner and Deputy Commissioner, or their absence or disability, the Assistant Commissioner senior in date of appointment shall fill the office of Commissioner until said vacancies, absences, or disabilities terminate.

"(d) There shall in addition be an Assistant Commissioner of the Patent Office for Appeals, Litigation, and Public Counsel, referred to in this title as the 'Public Counsel,' who shall be appointed by the President, by and with the advice and consent of the Senate. The position of Public Counsel shall be in the competitive service, and the per annum rate of basis compensation therefor shall not exceed the maximum scheduled rate provided for positions in grade 18 of the General Schedule (5 U.S.C. Sec. 5104). The Public Counsel shall assure as an advocate, and through the adversary process, that high quality patents which meet the statutory and constitutional criteria therefor issue from the Patent Office. To that end he shall consider and review

all proceedings in the Patent Office, and he or his delegates:

"(1) may intervene and participate at any time in any Patent Office proceeding, or appeal therefrom, when, in his discretion, it is necessary or appropriate to do so—

"(A) in the public interest to assure the integrity, strength, and reliability of a high quality patent system; or

"(B) in circumstances which indicate the public need to analyze or defend an important, new, or developing theory of law; or

"(C) in the case of important, new, or developing areas of technology; and

"(2) shall prosecute or defend appeals from any final action of the Patent Office; and

"(3) shall have all other rights and powers afforded parties under this title; and

"(4) shall take such action, participate in such other proceedings, and conduct such other investigations or inquiries, as may be necessary or appropriate to carry out the purposes of this title.

The Commissioner may also assign or delegate other duties to the Public Counsel, to the extent such assignment or delegation does not interfere with the responsibilities of the Public Counsel provided by this subsection. In all other respects, the Public Counsel shall be independent of the Commissioner in carrying out his responsibilities hereunder.

"(e) The Commissioner shall, subject to other requirements of law, appoint other officers and employees of the Patent Office, assign or delegate to them the functions of the Office, and fix the per annum rate of basic compensation therefor.

"SEC. 4. RESTRICTIONS ON OFFICERS AND EMPLOYEES AS TO INTEREST IN PATENTS

"Officers and employees of the Patent Office shall be incapable, during the period of their appointments and for three years thereafter, of applying for a patent or, during such period and for three years thereafter, being named as an inventor in an application for patent for an invention made during such period or for three years thereafter and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Office. Such applications for patent thereafter shall not be entitled to any priority date earlier than three years after the termination of the appointment of such officers and employees.

"SEC. 5. BOARD OF APPEALS

"(a) There shall be in the Office not to exceed twenty-four examiners-in-chief, who shall be appointed under the competitive service, in the manner prescribed for Administrative Law Judges (5 U.S.C. Secs. 3105, 5362, 7521). The per annum rate of basic compensation of each examiner-in-chief shall be fixed at not in excess of the maximum scheduled rate provide for positions in grade 17 of the General Schedule (5 U.S.C. 5104).

"(b) The examiners-in-chief shall constitute a Board of Appeals in the Patent Office. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, who will perform and exercise the judicial functions of the Office.

"(c) The Board of Appeals shall review all final orders (as that term is defined in 5 U.S.C. Sec. 551) of primary examiners and may review orders issued pursuant to section 23 of this title, except with respect to such matters relating to Office procedure which the Commissioner has by general rule or regulation assigned for determination by a single member of the Board of Appeals, who shall from time to time be designated by the examiner-in-chief senior in date of appointment. Except as otherwise provided in this title, the Board of Appeals shall exercise all judicial functions, including all agency review or appeals, under this title. The order of the Board of Appeals shall constitute final agency action (as that term is defined in 5 U.S.C. Sec. 551) in all matters considered by it, as shall the order of a single member in matters assigned for determination by him.

(d) Each appeal or other action shall be heard or considered by a panel of at least three members of the Board of Appeals, except as otherwise provided in subsection (c) of this section. Said panel shall be designated for each case by the examiner-in-chief senior in date of appointment, consistent with the provisions of 5 U.S.C. Sec. 3105. The Board of Appeals has sole power to grant rehearings.

"(e) Whenever the Commissioner considers it necessary to maintain the work of the Board of Appeals current, he may designate any patent examiner of the primary examiner grade or higher having the requisite ability, to serve as examiner-in-chief for periods not exceeding six months each. An examiner so designated shall be qualified to act as a member of the Board of Appeals. Not more than one acting examiner-in-chief shall be a member of the panel of the Board of Appeals hearing any appeal or considering any case. The Commissioner is authorized to fix the per annum rate of basic compensation of each designated examiner-in-chief in the Patent Office at not in excess of the maximum scheduled rate provided for positions in grade 16 of the General Schedule (5 U.S.C. Sec. 5104). The per annum rate of basic compensation of each designated examiner-in-chief shall be adjusted, at the close of the period for which he was designated to act as examiner-in-chief, to the per annum rate of basic compensation which he would have been receiving at the close of such period if such designation had not been made.

SEC. 6. LIBRARY, CLASSIFICATION OF PATENTS, PUBLIC SEARCH FACILITIES

"(a) The Commissioner shall maintain a complete and current library of patents and scientific and other works and periodicals, both foreign and domestic, in the Patent Office which shall be available to its employees in the discharge of their duties under this title and to assist the public in the study of science and the useful arts.

"(b) The Commissioner shall establish liaison with all government agencies in order to make available in the Patent Office library additional scientific, technological, and other works and periodicals. Such material or copies thereof shall be provided to the Office by such agencies without charge if the Commissioner so requests. Upon request, the Commissioner shall provide other government agencies, without charge, with copies of specified documents maintained in the custody of the Office.

"(c) The Commissioner shall maintain with appropriate revisions a current publicly available classification and index by subject matter of published specifications of United States patents and of such other patents and applications, whether abandoned or published, and other scientific and other works and periodicals, both foreign and domestic, as may be necessary for the purpose of determining with readiness and accuracy the patentability of subject matter for which applications for patent are filed.

"(d) The Commissioner shall maintain public facilities, in various parts of the United States for the searching of prior art and patent materials, both foreign and domestic. To the maximum extent feasible, such prior art and patent materials shall be complete and current, drawing upon all relevant scientific, technological, and other works and periodicals, both foreign and domestic, available to any government agency. The Commissioner shall have such prior art and patent materials classified and indexed according to the classification of patents.

"(e) To the maximum extent feasible, the Commissioner shall mechanize, or otherwise facilitate by electrical, mechanical, or other appropriate means, the search of such prior art and patent materials. The Commissioner shall conduct an ongoing program of research and development to keep the handling, classification, storage and retrieval of such prior art and patent material current and up to the state of the art.

"SEC. 7. CERTIFIED COPIES OF RECORDS.

"The Commissioner shall, upon payment of the prescribed fee, furnish certified copies of records of the Patent Office within thirty days to persons entitled thereto.

"SEC. 8. PUBLICATIONS.

"(a) The Commissioner shall cause to be published in a timely fashion in such format as he determines to be suitable, the following:

"(1) the specifications and drawings of patents, and patent applications, subject to the provisions of this title;

"(2) certificates of trademark registrations. including statements and drawings;

"(3) complete and current annual volumes of all current decisions of the Patent Office Board of Appeals and the Trademark Trial and Appeal Board in patent and trademark cases;

"(4) current classification manuals and indices of the classifications of patents.

"(b) The Commissioner may cause to be published, in such format as he determines to be suitable, the following:

"(1) Patent abstracts,

"(2) The Official Gazette of the United States Patent Office,

"(3) Annual indices of patents, published applications and of trademarks and information concerning the same,

"(4) Pamphlet copies of the patent laws and rules of practice, laws and rules relating to trademarks and circulars or other publications relating to the business of the Office.

"(c) The Commissioner may exchange any of the publications specified in subsections (a) and (b) of this section for publications desirable for the use of the Patent Office, and furnish copies of any of these publications to international intergovernmental organizations of which the United States is a member.

"(d) The Commissioner may supply copies of specifications and drawings of patents to public libraries in the United States which shall maintain such copies for the use of the public, at the rate for each years issue prescribed by the Commissioner in accordance with section 41(a) of this title.

"(e) The Patent Office may print the headings of the drawings for patents for the purpose of photolithography.

"(f) The Commissioner may establish a public information service for the dissemination to the public of information concerning patents and trademarks, and may from time to time disseminate or provide for dissemination of public technological and other public information, the publication of which in his judgment would promote the progress of science and the useful arts. Such dissemination may be made by periodical or other publications, the preparation and display of exhibits, and other appropriate means.

"SEC. 9. ANNUAL REPORT TO CONGRESS

"The Commissioner shall report to Congress annually the money received and expended, statistics concerning the work of the Office, an evaluation of the overall quality of the patents issued (including court decisions related to the validity and enforcement of patents), and other information relating to the Office as may be useful to the Congress or the public. Such statistics shall evaluate current patterns (as well as historical development over time) of patent and trademarks ownership, grouped by economic categories of ownership, significance and type

of technology involved, and geographic origin.

"SEC. 10. ADVISORY COUNCIL ON THE PATENT SYSTEM

"(a) There shall be an Advisory Council on the Patent System (referred to in this section as the 'Council') of not less than twelve no more than twenty-four members to be appointed by the President, by and with the advice and consent of the Senate, from the general public, without regard to the civil service laws, and to consist of persons representing each of the sectors affected by the patent system, including manufacturers, scientists, engineers, consumers, legal scholars, jurists or former jurists, and representatives of federal agencies involved in the promotion of science and useful arts, the administration of the patent system, and the enforcement of federal law. The President shall designate the Chairman of the Council and set the term of the members.

"(b) It shall be the duty of the Council, on a continuing basis, to evaluate the effectiveness of the patent system in serving the public interest; to analyze the contemporary conditions and needs of the patent system; to study and appraise the methods and operations of the United States Patent Office including the quality of United States patents; and to report to the Commissioner and the Congress its conclusions and recommendations.

"(c) The Commissioner shall furnish to the Council such profesisonal, secretarial, clerical, and other services and facilities as the Chairman of the Council deems necessary to the conduct of its business. The Chairman of the Council shall appoint an executive secretary, the basic rate of compensation for whom shall not exceed the maximum scheduled for positions in grade 15 of the General Schedule (5 U.S.C. Sec. 5104), and such compensation shall be charged to the appropriation of the Patent Office.

"Chapter 2.—PROCEEDINGS IN THE PATENT OFFICE

"Sec.
"21. Day for taking action falling on Saturday, Sunday, or holiday.
"22. Form of papers filed.
"23. Issue of subpenas and other orders by Patent Office; review and enforcement.
"24. Issue of subpenas and other orders by Public Counsel.
"25. Oath and declaration in lieu of oath.
"26. Effect of defective execution.

"SEC. 21. DAY FOR TAKING ACTION FALLING ON SATURDAY, SUNDAY, OR HOLIDAY.

"When the day, or the last day, for taking any action or paying any fee in the United States Patent Office, or as otherwise provided in this title, falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Patent Office is closed for the receipt of papers, the action may be taken, or the fee paid, on the next succeeding secular or business day.

"SEC. 22. FORM OF PAPERS FILED.

"The Commissioner may by regulation prescribe the form of papers filed in the Patent Office.

"SEC. 23. ISSUE OF SUBPENAS AND OTHER ORDERS BY PATENT OFFICE; REVIEW AND ENFORCEMENT.

"(a) Any party of record in any Patent Office proceeding may apply at any time to the primary examiner or other presiding official for subpenas or other orders to provide discovery, testimony, or evidence, and he shall issue the same *ex parte*. The primary examiner or any member of the Board of Appeals may also issue such subpenas or orders on his own motion, in any proceeding. Such subpenas and orders may issue against the applicant or any person within the jurisdiction of the United States, whether or not he is a party of record.

"(b)(1) The Commissioner shall establish rules for taking such discovery, testimony, and evidence. Such rules shall provide the parties of record all discovery permitted, and the sanctions for noncompliance therewith prescribed, in the Federal courts pursuant to the Federal Rules of Civil Procedure, as procedural necessities within the Office permit. Such rules shall provide, further, for the payment of witness fees and expenses as prescribed for proceedings in the district courts.

"(2) The Commissioner shall also establish rules governing *inter partes* proceedings by which subpoenas and orders issued pursuant to subsection (a) of this section may be sustained, quashed, or modified.

"(c)(1) Agency action pursuant to subsections (a) and (b) of this section shall not be deemed final decisions or orders for the purposes of chapter 13 of this title. Judicial review of such orders may be had upon review of the final decision or order in the entire proceedings, pursuant to chapter 13 of this title, or as may otherwise be required by 5 U.S.C. secs. 701–706. Judicial review of agency action pursuant to subsections (a) or (b) of this section may also be had in the course of a civil enforcement proceeding. Such proceeding may be by way of application by any party aggrieved by refusal or failure to comply with a subpoena or order issued pursuant to subsections (a) or (b) of this section, to the United States District Court for the District of Columbia, for an order to show cause why the person refusing or failing to comply with such subpoena or order should not be commanded by the court to comply therewith.

"(2) The process of such district court for such purpose shall run throughout the United States and otherwise as provided by the Federal Rules of Civil Procedure or any federal statute.

"(3) Disobedience to any court order entered pursuant to this subsection shall be punishable as a contempt.

SEC. 24. ISSUE OF SUBPOENAS AND OTHER ORDERS BY PUBLIC COUNSEL

"(a) The Public Counsel may issue a subpoena or order to any applicant, patentee, or any person within the jurisdiction of the United States, requiring him—

"(1) to appear before a designated representative of the Office, in a nonadjudicative proceeding, to testify, produce documentary evidence, or produce other information or material; or

"(2) to file reports or answers in writing to specific questions—relating to any matter under investigation or inquiry by the Public Counsel, or likely to lead to the production of information relating thereto, whether or not the subject matter of the investigation or inquiry may also be involved in any proceeding before a primary examiner or the Board of Appeals, or any other proceeding before any court or other tribunal.

"(b) Agency review of subpoenas or orders issued pursuant to this section shall be before the Public Counsel, in accordance with such rules as the Patent Office may prescribe.

"(c) In the case of disobedience to or failure to comply with such subpenas or orders, the Public Counsel may, in his discretion, seek enforcement thereof by the procedure specified in section 23(c) of this chapter, and the procedures specified therein shall be applicable to subpenas and orders entered pursuant to this section. The Public Counsel or his delegate shall be authorized to appear before the court and institute any such proceeding pursuant to this subsection, notwithstanding any other provision of law.

"SEC. 25. OATH AND DECLARATION IN LIEU OF OATH.

"(a) An oath to be filed in the Patent Office may be made before any person within the United States authorized to administer oaths, or before any officer authorized to administer oaths in the foreign country in which the affiant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States, and such oath shall be valid if it complies with the laws of the state or country where made.

"(b) The Commissioner may by regulation prescribe that any document to be filed in the Patent Office and which is required by any law or regulation to be under oath may be subscribed to by a written declaration in such form as the Commissioner may prescribe, such declaration to be in lieu of the oath otherwise required.

"(c) Whenever such written declaration is used, the document must warn the declarant that willful false statements and the like are subject to punishment including fine or imprisonment, or both (18 U.S.C. 1001).

"(d) Whenever the affiant or declarant does not use English as his primary language, the oath or declaration shall be made in his primary language and shall be filed with an English translation, the accuracy of which shall be attested pursuant to such rules as the Commissioner may prescribe.

"Sec. 26. Effect of Defective Execution

"Any document to be filed in the Patent Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Commissioner despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed by the Commissioner, not to exceed six months.

"Chapter 3.—PRACTICE BEFORE THE PATENT OFFICE

"Sec.
"31. Regulations for agents and attorneys.
"32. Suspension or exclusion from practice.
"33. Unauthorized representation as practitioner.

"Sec. 31. REGULATIONS FOR AGENTS AND ATTORNEYS.

"The Commissioner may prescribe regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other persons before the Patent Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.

"SEC. 32. SUSPENSION OR EXCLUSION FROM PRACTICE.

"The Patent Office may, pursuant to such rules and regulations as the Commissioner shall prescribe, suspend or exclude, either generally or in any particular case, from further practice before the Office, any person, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who does not comply with the regulations established under section 31 of this chapter, or section 115 of this title, or who shall, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the Office. The decision of the agency shall be determined on the record after notice and opportunity for an agency hearing, and shall be subject to the provisions of 5 U.S.C. Secs. 551–559. The United States District Court for the District of Columbia, under such conditions and upon such proceedings as it by its rules determines, may review the final action of the agency upon the petition of the person so suspended or

excluded, and such suspension or exclusion shall be set aside if unsupported by substantial evidence or otherwise not in accordance with law.

"SEC. 33. UNAUTHORIZED REPRESENTATION AS PRACTITIONER.

"(a) Whoever, not being recognized to practice before the Patent Office, holds himself out or permits himself to be held out as so recognized, or as being qualified to prepare or prosecute an application for patent, shall be fined not more than $1,000 for each offense.

"(b) Where an agent, attorney, or firm recognized to practice before the Patent Office, assumes responsibility for the service of preparing or prosecuting a patent application at the time such service is rendered, the service shall be considered as performed by such agent, attorney, or firm within the meaning of this section.

"Chapter 4.—PATENT OFFICE FEES

"Sec.
"41. Patent Office fees.
"42. Payment of fees; return of excess amounts; review of budget.

"SEC. 41. PATENT OFFICE FEES.

"(a) The Commissioner shall prescribe by regulations the fees to be paid in connection with the filing and examination of patent and trademark applications, the issuance of patents, the maintenance of patents in force, the supply of copies of records, the furnishing of publications or other services furnished by the Patent Office, and any other matters set forth in this title or in the Trademark Act of 1946 (60 Stat. 427; 15 U.S.C. Sec. 1051), as amended, requiring a fee; and the time within which such fees shall be paid.

"(b) (1) Fees shall be designed to affect an overall recovery in the range of 65 to 75 per centum of the costs of operation of the Patent Office: *Provided, however,* for a patent with one claim in independent form, and with no more than nine additional dependent claims, the application fee, issue fee, and annual maintenance fee (for the first three years thereof) shall each not exceed $100.

"(2) The Commissioner shall by regulation prescribe fee exemptions on a progressively graduated basis, not to exceed 50 percent of filing and examination fees and 80 percent of maintenance fees, to benefit and encourage individual inventors and small businessmen.

"(c) (1) Beginning the fourth year after a patent issues, the maintenance fee thereon shall be no less than $1,000, and shall increase annually by at least 25 per centum each year, except as may be provided pursuant to subsection (b) (2) of this section.

"(2) The Commissioner by regulation may in whole or in part defer payment of accrued maintenance fees for up to four years from the date of issuance, and he may waive such fees if such patent is disclaimed or canceled before the commencement of the fifth year. Additionally, a member of the Board of Appeals, pursuant to section 5(c) of this title, may extend such four-year period up to ten years, in individual cases, if the patentee establishes, by a preponderance of proof that he:

"(A) has made a good faith effort commercially to work the subject matter patented and that such efforts were without success due solely to circumstances beyond his control; or

"(B) is otherwise unable to pay any fee charged for maintaining an issued patent in force.

"(d) If payment of the fees in connection with the examination, publication or issuance of a patent application, or the maintenance of a patent, are not timely made, the application shall be regarded as abandoned, or the patent canceled (and notice of such cancellation shall be endorsed on copies of the specification of the patent thereafter distributed by the Patent Office). An applicant shall be given at least thirty days, and no more than six months, following notice of a fee due in which to pay the fee, except as otherwise provided in this title.

"(e) Except as otherwise provided in this title, the fees established under the authority of this section shall apply to any other Government department or agency, or officer thereof, except that the Commissioner may waive the payment of any fee for services or materials in cases of occasional or incidental requests by a Government department or agency, or officer thereof.

"(f) The Commissioner may prescribe by regulations that copies of Patent Office records and publications may be provided without charge, or at reduced or nominal fees, to libraries or other similar bodies, or in exchange for records or publications of foreign countries.

"SEC. 42. PAYMENT OF FEES; RETURN OF EXCESS AMOUNTS; REVIEW OF BUDGET.

"(a) All fees shall be paid to the Commissioner who shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury directs.

"(b) The Commissioner may refund any sum paid by mistake or in excess of the fee required.

"(c) The Office of Management and Budget shall not inspect, examine, audit, or review the subpoenas, orders, records, work, congressional recommendations, or testimony of the Patent Office or the Public Counsel or comment on any budget request made by the Office, any other provision of law to the contrary notwithstanding. The Comptroller General shall conduct such reviews, audits, and evaluations of the Office as he deems necessary. All accounts, budgets, and records of the Office shall be submitted to the General Accounting Office from time to time as the Comptroller General may require, and the Office shall maintain, preserve, and make available for inspection by the General Accounting Office such records as the Comptroller General may require.

"PART II—PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

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"SEC. 100. DEFINITIONS.

"When used in this title, unless the context otherwise indicates—

"(a) The term 'invention' means invention or discovery.

"(b) The term 'process' means process, art or method and includes a new use of a known process, machine, manufacture, composition of matter, or material.

"(c) The terms 'United States' and 'this country' mean the United States of America, its territories, and possessions, and the Commonwealth of Puerto Rico.

"(d) The term 'applicant' means any person who owns an application for a patent, as provided in this title.

"(e) The term 'patentee' includes not only the person to whom the patent was issued but also the successors in title to such person.

"(f) The term 'actual filing date in the United States' includes the filing date to which an application or patent, or the subject matter of any claim thereof, may be entitled under the provisions of section 120 of this title (and excludes any date under section 119 of this title). An application or the resulting patent may contain separate claims for subject matter having different actual filing dates in the United States by virtue of the provisions of section 120 of this title or may contain claims entitled to the benefit of a prior date under the provisions of section 119 of this title, in addition to claims not so entitled.

"(g) The terms 'manufacture,' 'composition of matter,' and 'new and useful improvement thereof' do not include any known manufacture of composition of matter, any obvious variation of or on such known composition of matter or the structure thereof, or any conventional formulation or preparation of any of the foregoing or of any material, whether or not the same is adapted for practicing a new use thereof.

"(h) The term 'party' includes any agency (as that term is defined in 5 U.S.C. Sec. 551 (a)), the United States, the Public Counsel, the government of the District of Columbia, any State or political subdivision thereof, or any agency or instrumentality thereof, and any person who is or may be adversely affected by any action (as that term is defined in 5 U.S.C. Sec. 551(g)), of the Patent Office.

"SEC. 101. SUBJECT MATTER PATENTABLE.

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, or his successor in title, may obtain a patent therefor, subject to the conditions and requirements of this title.

"SEC. 102. CONDITIONS FOR PATENTABILITY; NOVELTY AND BARS TO PATENT.

A person shall not be entitled to a patent if the subject matter sought to be patented:

"(a) was known or used by others in this or a foreign country, or was patented or described in printed or other tangible form in this or a foreign country, before the invention thereof by the investor named in the application, or

"(b) was patented or described in printed or other tangible form in this or a foreign country, or was in public use or on sale in this or a foreign country, more than one year prior to the actual filing date of the application for the patent in the United States, or

"(c) was forfeited, suppressed or concealed by him, or

"(d) was first patented or caused to be patented by, or was the subject of an inventor's certificate issued to, the applicant or his legal representatives, assigns, or predecessors in title in a foreign country prior to the actual filing date of the application for patent in the United States, on an application for patent or inventor's certificate filed more than twelve months before the actual filing date of the application in the United States, or

"(e) was described in a published or publicly available United States patent application or United States patent, which has an actual filing date in the United Sttes (or a prior filing date arising under section 119 of this title) before the invention thereof by the inventor named in the application, or

"(f) was not invented by the person named as inventor in the application, or

"(g) was invented by another person before the alleged invention thereof by the inventor named in the application, unless such

other person himself suppressed or concealed it or has terminated activity with respect to the subject matter in circumstances establishing his intent not to resume such activity.

SEC. 103. CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.

"A patent may not be obtained though the subject matter sought to be patented is not disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

"SEC. 104. DATE OF INVENTION; PRIORITY.

"(a) No date of invention shall be accorded any applicant, with respect to the subject matter of this part of this title, which is more than one year earlier than the date on which his application was filed or, in the case of a continuing application, more than one year earlier than the date on which is immediately preceding patent application was filed.

"(b) The Office shall determine priority of invention between or among applicants for claims on substantially the same subject matter on the basis of rules and regulations which the Commissioner shall prescribe, in accordance with the procedures specified pursuant to section 136 of this title. Such rules and regulations shall make dispositive the respective dates of filing, first, and reduction to practice, second, insofar as the same is consistent with subsection (a) of this section.

"(c) An applicant who seeks to establish patentability based on a showing of any novel or unexpected property or result or the substantial superiority of any known or obvious property or result shall be entitled to claim priority for, or otherwise rely on, an application (whether filed in the United States or in a foreign country), only if it discloses each and every such property or result so relied upon.

"(d) To constitute disclosure or description for the purposes of sections 102 and 103 of this chapter, any description of any manufacture or composition of matter need not describe or disclose how to make or use such manufacture or composition of matter.

"(e) Patentability shall not be found in the perception of a problem the solution of which is obvious.

"Chapter 11.—APPLICATION FOR PATENT

"Sec.
"111. An application for patent.
"112. Specification.
"113. Drawings.
"114. Models, specimens.
"115. Oath of invention.
"116. Joint inventors.
"117. Death or incapacity of inventor.
"119. Benefit of earlier filing date in foreign country; right of priority.
"120. Benefit of earlier filing date in the States.
"122. Public availability, publication and confidential status of application.

"SEC. 111. APPLICATION FOR PATENT.

"(a) An application for patent may be filed by any person claiming to have invented the subject matter sought to be patented, or his assignee or other successor in title. The application shall be made in writing to the Commissioner, shall be signed by the applicant and include the name of each person believed to have made an inventive contribution, and shall be accompanied by the prescribed fee. An application filed by a person not the inventor shall include, at the time of filing, a statement of the facts supporting the allegation of assignment and ownership of the subject matter sought to be patented.

"(b) An application for patent shall include—

"(1) a specification as prescribed by section 112 of this chapter;

"(2) a drawing as prescribed by section 113 of this chapter; and

"(3) an oath as prescribed by section 115 of this chapter.

"(c) When the application is signed by or on behalf of the assignee, or other successor in title, he shall, within thirty days after filing an application for patent, serve a copy of the application on the inventor along with a statement calling the inventor's attention to the provisions of subsection (d) of this section. Service may be effected by mailing a copy of the application and statement, by first-class mail, to the last known address of the inventor. Failure to serve a copy of the application and statement on the inventor within thirty days shall result in abandonment of the application. The Commissioner may by regulation require proof of such service, and may extend the thirty-day period or waive the requirement for service upon a showing of sufficient cause.

"(d) An inventor, within a time prescribed by the Commissioner, may furnish a verified written notice to the Commissioner alleging that the applicant is not the assignee of the subject matter of the application as required by subsection (a) of this section. The Commissioner, in accordance with such regulations as he establishes and on the applicant's compliance with the requirements of this title, shall issue a patent to the inventor filing such written notice, without prejudice to later judicial proceedings, unless the notice is withdrawn by the inventor or the applicant records in the Patent Office an assignment by the inventor, or in lieu thereof, files a written statement by the inventor consenting to the filing of the application by and the issuance of the patent to the applicant.

"(c) Notice to the Commissioner, in a manner prescribed by regulations, of a final decision in a judicial proceeding in a court having jurisdiction thereof, from which no appeal has or can be taken, that an applicant is the assignee or owner of the subject matter of the application shall constitute an assignment to such applicant of his application therefor.

"SEC. 112. SPECIFICATION.

"(a) The specification shall contain a written description of the subject matter sought to be patented; of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same; and of all its novel or unexpected properties or results, and all its substantially superior known or obvious properties or results, on which patentability is to be based or upheld. The specification shall include each date or dates of invention, for each claim thereof, on which the applicant intends to rely, including any date of reduction to practice. The specification shall further include as a separate portion thereof, designated as such, a description of the best modes known or contemplated by the inventor and applicant of making, using, and commercially working the subject matter sought to be patented, together with all know-how known to the inventor and applicant necessary or commercially requisite to make, use, and work the same. The primary examiner may require the applicant to support any factual assertion with empirical data and by an affidavit from an affiant with personal knowledge of the facts thereof.

"(b) The specification shall specifically note what is known to the inventor and applicant to be conventinoal or old, or which is obvious therefrom and it shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor regards as his invention. Any new use of a known machine, manufacture, composition of matter, or material must be claimed as a process (as defined in section 100(b) of this title), and may not be claimed as a machine, manufacture, or other product. The claim or claims must include only matter set forth in the remainder of the specification. The range of equivalents to which any element of any claim shall be accorded shall be that expressly set forth in the specification as relating thereto. A claim may be written in independent or, if the nature of the case admits, in dependent form. If the claim is in dependent form, it shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim.

"(c) An element in a claim for a combination may be expressed as a means or step for perfoming a specified function without the recital in the claim of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification.

"(d) Where the nature of the case admits, any independent claim shall contain, in the following order:

"(1) a preamble including a description of all the elements or steps of the claimed subject matter which are conventional or old,

"(2) a phrase such as "wherein the improvement comprises," and

"(3) those elements, steps, and/or relationships among them and/or between them and the elements or steps set forth in the preamble, which constitute that portion of the subject matter of the claim embodying the inventive contribution.

"No claim shall consist of a mere aggregation of a number of old parts or elements, or steps, some or all of which, in the aggregation, perform or, produce, or act together to perform or produce, no new or different function or operation than that theretofore performed or produced by such old parts or elements, or steps. Where an improvement is in one part or element of an old combination, or step of an old process, the improvement shall be claimed as such and shall not be claimed as a combination with other old parts or elements, or steps, which perform no new function in the combination.

"(e) When the subject matter sought to be patented relates to a process involving the action of a microorganism not already known and available to the public or to a product of such a process, the written description required by subsection (a) of this section shall be sufficient as to said microorganism, if—

"(1) not later than the date that the United States application is filed, an approved deposit of a culture of the microorganism is made by or on behalf of the applicant or his predecessor in title, and

"(2) the written description includes the name of the depository and its designation of the approved deposit and, taken as a whole, is in such descriptive terms as to enable any person skilled in the art to which such subject matter pertains to make and use the best mode known or contemplated by the inventor and applicant of making, using, and commercially working the same. "An approved deposit shall be a deposit which—

"(1) is made in any public depository in the United States which shall have been designated for such deposits by the Commissioner of Patents by publication, and

"(2) is available, except as otherwise prohibited by law, in accordance with such regulations as may be prescribed,

"(A) to the public upon issuance of a United State patent to the applicant or his predecessor or successor in title which refers to such deposit, or

"(B) prior to publication of said patent, as specified in section 122 of this title.

"(f) For the dissemination of information and other purposes, the Commissioner, in accordance with such regulations as he establishes, may require a brief statement of all or part of the application. The abstract shall not be used for interpreting the scope of any claims of a patent, nor shall it affect in any way the validity or infringement of the patent.

"SEC. 113. Drawings.

"When the nature of the case admits, the applicant shall furnish a drawing.

"SEC. 114. MODELS, SPECIMENS.

"(a) The primary examiner may require the applicant to furnish a model of convenient size to exhibit advantageously the several parts of the subject matter sought to be patented.

"(b) The primary examiner may also require the applicant to furnish specimens or ingredients for the purpose of inspection or experiment.

"(c) For the purpose of carrying into effect the provisions of this title with respect to any drug or subject matter for which therapeutic utility is asserted by the applicant, the Commissioner of the Food and Drug Administration shall, upon request of the Patent Office and notwithstanding any other provision of law:

"(1) furnish all information of, and available to, the Food and Drug Administration,

"(2) conduct through the appropriate bureau or division of the Food and Drug Administration research upon special problems (including evaluation of the utility, safety, or efficacy of such drugs), and

"(3) detail to the Patent Office officers and employees of the Food and Drug Administration as may be necessary to accomplish the purposes of this title.

"SEC. 115. OATH OF INVENTION.

"(a) The inventor, the applicant, if not the inventor, and each of the agents, or attorneys or other persons recognized under section 31 of this title who participated in the preparation or prosecution of the application, or in any other proceeding before the Patent Office, has an uncompromising duty to act with the highest degree of candor and good faith toward the Patent Office and to disclose to the Patent Office (i) all information known to him concerning possible fraud or inequitableness underlying the application in issue and (ii) all information known to him necessary to make the application as a whole not misleading. Additionally:

"(1) Each inventor, at the time the application is filed, shall make oath that he believes himself to be the original and first inventor, and that he is aware of no prior public use or other material information which would adversely affect the issuance of the patent to the applicant; and shall state of what country he is a citizen. The inventor, after the notice of allowance, shall reaffirm the original oath and further make oath that he is aware of no prior art or other information that he in good faith believes to be more pertinent than that considered by the Patent Office. In an application for patent for an invention naming two or more inventors, each inventor shall specifically identify to which claim or claims he had made an inventive contribution.

"(2) Each applicant, if he is not the inventor, shall himself, or, in the case of a corporation or other business entity not a natural person, by one or more directors, officers, employees, or agents thereof who has knowledge of the subject matter covered by the oath and with authority to make an oath on behalf of the applicant, shall, after notice of allowance, make oath that he has no reason to believe the inventor not to be the original and first inventor, that he is aware of no prior art that he in good faith believes to be more pertinent than that considered by the Patent Office, and that he is aware of no prior public use or other material information which would adversely affect the issuance of the patent to him; such oath shall verify the statement of facts supporting the allegation of ownership of, or the right otherwise to file an application for, the subject matter sought to be patented.

"(3) Each agent, attorney or other person recognized under section 31 of this title who participated in the preparation or prosecution of the application as shall be required by the Commissioner for purposes of carrying out this section shall, after notice of allowance, file a statement that he has no reason to believe the inventor not to be the original and first inventor, that he is aware of no prior art that he in good faith believes to be more pertinent than that considered by the Patent Office, and that he is aware of no prior public use or other material information which would adversely affect the issuance of the patent to the applicant.

"(b) The Commissioner shall prescribe such rules and regulations as may be necessary or proper for carrying out the purposes of this section, including the form and content of any oath and statement herein required.

"(c) Whenever an inventor, applicant, agent, attorney, or other person recognized under section 31 of this title refuses to execute any oath or statement required by subsection (a) of this section, or cannot be found or reached after diligent effort, the inventor or a person to whom the inventor has assigned or agreed in writing to assign the subject matter sought to be patented, or who otherwise shows sufficient proprietary interest in the matter justifying such action, shall file in lieu of said oath or statement an affidavit proving the pertinent facts and showing that such action is necessary to preserve his rights or to prevent irreparable damage.

"(d) The applicant of an application filed pursuant to section 117 of this title shall make the oath required by subsection (a) of this section, so varied in form that it can be made by him.

"(e) Every oath or statement required by subsection (a) of this section shall be submitted not later than the time of payment of the fee required under the provisions of section 151(a) of this title.

"SEC. 116. JOINT INVENTORS.

"(a) When two or more persons have made inventive contributions to subject matter claimed in an application, they shall apply for a patent jointly and each sign the application and make the required oath, or, if the application is filed by some other person having the right to do so, they shall be named as the inventors.

"(b) In an application for patent naming two or more inventors, it shall not be necessary for each person named as an inventor to be a joint inventor of the subject matter asserted in any claim.

"(c) If a joint inventor refuses to join another inventor in an application for patent, or cannot be found or reached after diligent effort, the application may, subject to the requirements of section 111 of this title, be made by the other inventor on behalf of himself and the omitted inventor. The Patent Office, in such proceedings as the Commissioner shall by regulation prescribe and after notice to the omitted inventor as he prescribes, may grant a patent to the inventor making the application, subject to the same rights which the omitted inventor would have had if he had been joined. The omitted inventor may subsequently join in the application.

"SEC. 117. DEATH OR INCAPACITY OF INVENTOR.

"Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor, and may proceed on behalf of the inventor under the provisions of section 111(d) of this title.

"SEC. 119. BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY; RIGHT OF PRIORITY.

"(a) If an applicant seeks to obtain a patent on subject matter disclosed in an application previously filed in a foreign country, he shall, subject to the provisions of this section, be entitled to such earlier foreign filing date, if:

"(1) such foreign application was filed by the applicant, or the predecessor or successor in title thereto; and

"(2) the subject matter common to the two applications, and on which the applicant seeks a United States patent, was expressly disclosed in such foreign application in the manner required by section 112(a) of this chapter; and

"(3) the subject matter of the two applications has the same inventor for the common claims thereof; and

"(4) the application filed in the United States was filed within twelve months after the earliest date on which such foreign application was filed; and

"(5) such foreign application was regularly filed in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States.

"(b) No application shall be entitled to a right of priority under this section unless a claim therefor is made in the specification at the time of filing the application, and a certified copy of the original foreign application, specification and drawings, upon which it is based is filed in accordance with regulations established by the Commissioner, not later than the time of payment of the fee specified in section 151 of this title. An applicant shall not be required to file such certified copy earlier than three months after the actual filing date of the application in the United States. Certification shall be made by the Patent Office of the foreign country in which filed and show the date of the application and of the filing of the specification and other papers. The Commissioner may require translation of the papers filed if not in the English language and such other information as he deems necessary.

"(c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of without having been laid open to public inspection and without leaving any rights outsanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.

"(d) When the application claiming priority under this section, discloses subject matter relating to a process involving the action of a microorganism not already known and available to the public or to a product of such a process and an approved deposit is made under section 112(e) of this title, the approved deposit shall be considered to have been made on the earliest date that an application in a foreign country, the priority of which is being claimed, contains a reference identifying a deposit of the same microorganism made in a public depository.

"(e) Applications for inventors' certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner and have the same effect for purpose of the right of priority under this section as applications for patent, subject to the same conditions and requirements of this section as apply to applications for patent, provided such applicants are entitled

to the benefits of the Stockholm Revision of the Paris Convention at the time of such filing.

"SEC. 120. BENEFIT OF EARLIER FILING DATE IN THE UNITED STATES.

"(a) If an applicant seeks to obtain a patent on subject matter disclosed in an application previously filed in the United States, he shall, subject to the provisions of section 104 of this title, be entitled to the benefit of such earlier filing date, if:

"(1) the subject matter common to the two applications, and on which he seeks a patent in the later application, was expressly disclosed, in the manner required by section 112 (a) of this chapter, in the previous application; and

"(2) the subject matter of the two applications has the same inventor for the common claims thereof; and

"(3) the applicant specifically claims in the specification the benefit of the date of filing the previous application for the subject matter claimed in the second application, at the time he files the second application; and

"(4) the second application is filed prior to the earlier of:

"(A) the patenting of the previous application, or

"(B) the abandonment thereof, or

"(C) the termination of proceedings therein, or

"(D) the filing by the applicant of an appeal under section 134 of this title therein, or

"(E) one year from the public availability of the subject matter disclosed in the previous application under section 122 of this chapter (or, in the case of deferred examination of the previous application, pursuant to Chapter 18 of this title, one year from the commencement of examination of the previous application).

"(b) Subject to the limitations of this section, if the previous application referred to in subsection (a) of this section is entitled to the benefit of the date of an application in a foreign country under section 119 of this chapter, with respect to the subject matter sought to be patented in the later application, then the later application referred to in subsection (a) of this section shall be entitled to the benefit of such date.

"(c) When any applicant who seeks to obtain the benefit of an earlier filing date has made any changes in the specification of the later application, with respect to the allegedly common subject matter, the burden shall be on such applicant to persuade the Office that the subject matter of such changes was expressly disclosed in the previous application. Wherever the applicant includes new matter in an application, for which he seeks the benefit provided by subsection (a) of this section, the applicant shall particularly point out whatever new matter he adds, designated as such, in a separate portion of the specification; and such matter shall not enjoy the benefit provided by said subsection.

"SEC. 122. PUBLIC AVAILABILITY, PUBLICATION AND CONFIDENTIAL STATUS OF APPLICATION.

"(a) The Commissioner shall, prior to the date of first examination, in accordance with such regulations as he may prescribe, promptly index and make available for public inspection and copying all pending applications for patent, and any papers filed during the prosecution thereof, except as provided in subsection (b) of this section. Abandoned patent applications, and any papers filed during the prosecution thereof, shall be indexed and maintained available for public inspection and copying.

"(b) The Commissioner may keep such pending applications and papers (including new matter in continuing applications as designated by the applicant pursuant to section 120(c) of this chapter) secret until completion of review, if any, of the application, pursuant to section 181 of this title. No such period of secrecy shall exceed six months from the actual filing date of the application in the United States, or, in the case of new matter in a continuing application (designated as new matter by the applicant pursuant to section 120(c) of this chapter), six months from the date of filing said continuing application, unless the application has been ordered to be kept secret pursuant to section 181 of this title.

"(c) Under regulations prescribed by the Commissioner, a pending application for patent shall be published promptly after such application is made available for public inspection and copying pursuant to subsection (a) of this section. Where necessary to correct formal defects, action may be taken under sections 132 and 133 of this title to place the application in condition for publication.

"Chapter 12—EXAMINATION OF APPLICATION

"Sec. 131. Examination of application.
"Sec. 132. Examination proceedings.
"Sec. 133. Time for prosecuting application.
"Sec. 134. Appeal to the Board of Appeals.
"Sec. 135. Examination or reexamination on the basis of patents, publications, or information, cited or furnished by others.
"Sec. 136. Procedures in priority of invention contest.
"Sec. 137. Participation of parties.
"Sec. 138. Effect of proceedings before Patent Office.
"Sec. 139. Settlement agreements.
"Sec. 140. Burden of persuasion.

"SEC. 131. EXAMINATION OF APPLICATION.

"(a) The Commissioner shall cause an examination to be made of the application and the subject matter sought to be patented, in an examination proceeding, as specified in section 132 of this chapter. If on such examination it appears that the applicant is entitled to a patent under the law, the Commissioner shall issue a patent therefor.

"(b) The applicant shall, pursuant to such rules and within such time as the Commissioner shall prescribe, submit:

"(1) copies of or citations to those patents, publications, or other prior art or evidence of the state of the art which the applicant has considered in connection with such application for patent, the disclosure of which is necessary to make the application as a whole not misleading; and

"(2) an explanation as to why the claims in such application are patentable over such matter.

"The applicant shall, if he considered no specific prior art in connection with his application, submit a statement to that effect and an explanation as to why he believes that the claims in such application are patentable. In any proceeding in which alleged fraud or misuse is predicated upon failure to comply with this subsection, the burden of proof shall be upon the party asserting such fraud or misuse.

"SEC. 132. EXAMINATION PROCEEDINGS.

"(a) The Commissioner shall provide for the assignment of applications to primary examiners, in accordance with such general system of technical classification of patentable subject matter as the Commissioner shall establish and publish. The primary examiner shall be the presiding officer in the examination proceeding. He shall examine the specification and claims therein, or cause them to be examined in the first instance by another examiner, and shall determine whether the subject matter sought to be patented is patentable. The primary examiner may at any time request the Public Counsel to intervene and participate in any proceeding.

"(b) Whenever, in an examination proceeding, the primary examiner grants or rejects any claim of an application, makes any objection or requirement, or renders any other decision, he shall notify all parties of record. If, after service of such decision, any party of record requests reexamination, with or without amendment, the primary examiner shall reexamine the application and render a decision. The examiner may decline to reexamine the application after having once reexamined it at the instance of the party of record requesting such reexamination.

"(c) All decisions by a primary examiner shall be a written part of the record in the Office, and shall include:

"(1) findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented; and

"(2) an appropriate order; and

"(3) such information and references as the primary examiner may deem useful to the applicant in evaluating the desirability of continuing the prosecution of the application; and

"(4) a complete narrative report of all matters discussed in personal meetings, telephone discussions, or other communications between an examiner and an applicant, or his representatives, relating to the patent application under examination.

"Statements of reasons may be long or short as the nature of the case may require.

"(d) No amendment shall introduce new matter into the disclosure of the invention. Whenever any change is made in the disclosure, the burden shall be on the applicant to persuade the Office that the matter is not new.

"(e) The applicant may present amended or new claims for reexamination of his application, but no such claims shall materially enlarge the scope of the claims of the application. Nothing contained in this subsection shall preclude any applicant from utilizing the procedures permitted by section 120 of this title.

"(f) If the subject matter sought to be patented in an application appears to relate to two or more classes of patentable subject matter, as established pursuant to subsection (a) of this section, or if the needs of administration of the Office otherwise appear so to require, the Commissioner may require examination by two or more primary examiners, for which additional examination the Commissioner may prescribe additional examination fees in accordance with section 41(a) of this title.

"SEC. 133. TIME FOR PROSECUTING APPLICATION.

"Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than one month, as fixed by the primary examiner in such action, the application shall be regarded as abandoned, unless it be shown to the satisfaction of the primary examiner that such delay was unavoidable.

"SEC. 134. APPEAL TO THE BOARD OF APPEALS.

"(a) The appeal from any final decision of the primary examiner shall be to the Board of Appeals. The Public Counsel shall be responsible for briefing and arguing the case before the Board of Appeals in respect to any appeal taken by any applicant, except in respect to priority of invention contests pursuant to section 136 of this chapter, in which case participation of the Public Counsel shall be at his discretion.

"(b) If any appeal is taken to the Board of Appeals, the primary examiner may, within such time as the Commissioner may by regulation prescribe, prepare a legal opinion elaborating and explaining the decision and statement made by him pursuant to section 132 of this chapter. The primary examiner shall not, in any appeal, otherwise appear before the Board of Appeals.

"(c) In any proceeding before the Board

of Appeals, any party may introduce into the record any patents, publications, or other evidence of the state of the art not previously made part of the record; and may seek to reverse the decision of the primary examiner on the basis thereof. The Board may consider the patentability of any claim in the application, *de novo*, or remand any proceeding to the primary examiner for reconsideration in the light of such or other further information, including any adduced by the Board, *sua sponte*.

"(d) Proceedings before the Board of Appeals shall be open to the public and a transcript of any hearing shall be kept. The Board of Appeals shall render a written decision which shall be entered of record and govern further proceedings in the case. The decision of the Board shall constitute final administrative action by the Office.

"SEC. 135. EXAMINATION OR REEXAMINATION ON THE BASIS OF PATENTS, PUBLICATIONS, OR INFORMATION CITED OR FURNISHED BY OTHERS.

"(a) Any party or other person may, after an application for patent becomes publicly available under section 122 of this title and until notice of allowance of a patent thereon, notify the Commissioner of patents, publications, other documentary or tangible evidence of the state of the art, or any other information, which may have a bearing on the patentability of any claim of said patent application, together with any explanation thereof which such person deems appropriate.

"(b) The Commissioner shall cause the claims of the patent application to be examined or reexamined by the primary examiner in the light of matter submitted pursuant to subsection (a) of this section, in such proceedings as the Commissioner shall by regulation establish. In any such proceeding, the primary examiner shall determine the patentability of the subject matter, pursuant to section 132 of this chapter.

"(c) The Commissioner shall inform the applicant of the receipt of a notice under this section, not later than one month after the receipt thereof. The applicant may present amended or new claims for such examination or reexamination, but no such claims shall enlarge the scope of the claims of the application. Failure of the applicant to prosecute in accordance with section 133 of this title shall result in the abandonment of his application. No patent shall issue until completion of the examination or reexamination of any such application.

"(d) The party, or other person, making the notification under subsection (a) of this section may participate as a party in the examination or reexamination proceeding, unless he elects not to be identified. In such case, the Patent Office shall give no information concerning the identity of such person, without his authority, unless such information is necessary to carry out the provisions of an Act of Congress or by reason of such special circumstances, as may be determined by the Commissioner to effectuate the purposes of this title.

"SEC. 136. PROCEDURES IN PRIORITY OF INVENTION CONTEST.

"(a) Whenever there are two or more pending applications naming different inventors and claiming the same or substantially the same subject matter, the patent shall ordinarily be issued on the application having the earliest actual filing date in the United States, if such application is otherwise allowable, and any applications having later actual filing dates in the United States with respect to such subject matter shall be rejected on the basis of such patent.

"(b) The priority of invention between or among applications subject to subsection (a) of this section shall be determined by the primary examiner in a proceeding in accordance with such rules as the Commissioner shall establish, if:

"(1) the later filed application is otherwise allowable;

"(2) the applicant therefor makes a *prima facie* showing of invention, as the same is defined pursuant to section 104 of this title, with respect to the date of invention stated pursuant to section 112(a) of this title; and

"(3) such applicant offers to present evidence in support of such showing, within such time as the Commissioner shall prescribe by rules, after rejection of his claims.

"(c)(1) Subject to paragraph (2) of this subsection, whenever an otherwise allowable claim of an application is for the same or substantially the same subject matter as a claim of an issued patent having an actual filing date in the United States later than that of such application, or such application discloses subject matter over which a claim of such patent is unpatentable, the primary examiner shall, on his own or any party's motion, initiate a proceeding to determine priority of invention.

"(2) No claim for the same or substantially the same subject matter as a claim of an issued patent shall be allowed unless such claim is made within one year after the date on which the patent was granted. Nothing contained in this paragraph shall, however, preclude any person from asserting the unpatentability to the patentee of the subject matter of such a claim, by reason of the prior activity of the applicant.

"(d) If two or more otherwise allowable applications claim the same or substantially the same subject matter and have the same actual filing date in the United States, or one or more otherwise allowable applications and an issued patent claim the same or substantially the same subject matter and have the same actual filing date in the United States, the primary examiner shall initiate a proceeding to determine priority.

"(e) Failure of the applicant to proceed under subsections (b), (c), or (d) within the time specified shall preclude such applicant from asserting priority of invention with respect to the subject matter claimed in the patent for the purpose of obtaining a patent. Failure of the patentee to proceed under subsection (c) or (d) of this section within the time specified shall operate to cancel such claim from the patent, and notice thereof shall be endorsed on copies of the specification of the patent thereafter distributed by the Patent Office.

"(f) In any proceeding under this section, the primary examiner or any party, may raise the question of patentability of any claim which is involved in the proceeding, and such question shall be determined in the proceeding.

"SEC. 137. PARTICIPATION OF PARTIES.

"Any party may at any time participate or intervene in any proceeding arising pursuant to this title, or initiate, participate, or intervene in any appeal therefrom, and thereby shall become a party of record.

"SEC. 138. EFFECT OF PROCEEDINGS BEFORE PATENT OFFICE.

"(a) A final decision by the Patent Office adverse to a claim of an issued patent from which no appeal or other review has been or can be taken or had shall constitute cancellation of such claim from the patent, and notice thereof shall be endorsed on copies of the specification of the patent thereafter distributed by the Patent Office.

"(b) Except as otherwise provided in this title, no party or other person shall be foreclosed, estopped, or in any way prejudiced with respect to the assertion of any claim or any defense in any proceeding in any court by reason of his, or any other party's or other persons, having proceeded or failed to proceed in accordance with the provisions of this title. Nothing contained in this title shall be construed to supersede the jurisdiction of any federal court or agency, nor to make any proceeding before such court or agency subject to the primary jurisdiction of the Patent Office.

"SEC. 139. SETTLEMENT AGREEMENTS.

"(a) Any agreement or understanding between parties to a proceeding under this chapter, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the proceeding, shall be in writing. A copy thereof shall be filed in the Patent Office before the termination of the proceeding as between such parties. The copy shall be made part of the public record of the proceeding.

"(b) Failure to file such agreement or understanding shall render such agreement or understanding and any patent issued in connection with such proceeding permanently unenforceable.

"SEC. 140. BURDEN OF PERSUASION.

"In all proceedings in the Patent Office, the applicant shall have the burden of persuading the Office that a claim is patentable.

"Chapter 13.—REVIEW OF PATENT OFFICE DECISIONS

"Sec. 141. Appeal to Court of Customs and Appeals.
"Sec. 142. Notice of appeal.
"Sec. 143. Proceedings on appeal.
"Sec. 144. Decision on appeal.
"Sec. 145. Civil action.
"Sec. 147. Appeal to the United States Court of Appeals for the District of Columbia.

"SEC. 141. APPEAL TO COURT OF CUSTOMS AND PATENT APPEALS.

"An appeal from a final decision of the Board of Appeals may be had by any party to the United States Court of Customs and Patent Appeals. Any such appeal shall be dismissed without prejudice, however, if any other party, within 20 days after the notice of appeal is filed, files notice with the Commissioner that he elects to have all further proceedings conducted as provided in section 145 of this chapter.

"SEC. 142. NOTICE OF APPEAL.

"When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall file in the Patent Office and serve upon the Public Counsel and all parties of record a written notice of appeal, within such time after the date of the decision appealed from, not less than sixty days, as the Commissioner appoints.

"SEC. 143. PROCEEDINGS ON APPEAL.

"The Commissioner shall transmit to the United States Court of Customs and Patent Appeals certified copies of the decision of the Board of Appeals and of all other necessary original papers and evidence in the case specified by the appellant or any other party. The Public Counsel shall be responsible for briefing and arguing the case before the court in respect to any appeal taken by the applicant, except in respect to priority of invention contests pursuant to section 136 of this title, in which case participation of the Public Counsel shall be at his discretion. The court shall, before hearing such appeal, give notice of the time and place of the hearing to the Commissioner, the Public Counsel, and any parties of record.

"SEC. 144. DECISION ON APPEAL.

"The United States Court of Customs and Patent Appeals shall review the decision appealed from under section 141 of this title. The court may affirm or set aside the decision below, or remand the matter to the Office for further consideration in light of other factors or information that the court deems pertinent. Upon its determination the court shall return to the Commissioner a certificate of

its proceedings and decision, which shall be entered of record in the Patent Office and govern further proceedings in the case.

"Sec. 145. Civil Action.

"Any final decision of the Board of Appeals shall be subject to judicial review by civil action against the Commissioner by any party in the United States District Court for the District of Columbia. Such action shall be commenced within such time after such decision, not less than sixty days, as the Commissioner appoints. The Public Counsel shall be responsible for briefing and arguing the case before the court in respect to any appeal taken by the applicant, except in respect to priority of invention contests pursuant to section 136 of this title, in which case participation of the Public Counsel shall be at his discretion. In any such proceeding before said district court, any party may introduce into the record any publications, patents, or other evidence of the state of the art, or other information not previously made part of the record; and may seek to reverse the decision of the Board of Appeals. The court may consider patentability, *de novo*, or remand any proceeding to the Patent Office for reconsideration in light of such further information. The court may affirm the decision below, set aside the rejection of any claims which were rejected in the decision of the Board of Appeals, reject the allowance of any claims previously allowed, or remand the proceeding to the Patent Office for further consideration. Such adjudication shall be entered of record in the Patent Office and govern further proceedings in the case.

"Sec. 147. Appeal to the United States Court of Appeals for the District of Columbia.

"(a) Any party dissatisfied with the decision of the Court of Customs and Patent Appeals in a proceeding under section 141 of this title may seek a review thereof by the United States Court of Appeals for the District of Columbia Circuit by petition for the allowance of an appeal.

"(b) Said court of appeals may prescribe rules governing time for making such petition, the practice and procedure on such petition, the preparation of and the time for filing the transcript of the record in such cases, and generally to regulate all matters relating to appeals in such cases. If said court of appeals shall allow an appeal, the court shall review the record on appeal and shall affirm, reverse, or modify the decision in accordance with law.

"(c) No party shall file a petition for certiorari, pursuant to section 1256 of title 28, U.S. Code, unless he has first filed a petition pursuant to subsections (a) and (b) of this section, and it has been denied. If such a petition is granted, the provisions of sections 1252 and 1254, title 28, U.S. Code, shall govern any subsequent appellate review.

"Chapter 14.—ISSUE OF PATENT

"Sec.
"151. Issue of patent.
"152. How issued.
"153. Contents and term of patent.

"Sec. 151. Issue of Patent.

"(a) If it is determined that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

"(b) Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

"(c) Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof and, if not paid, the patent shall lapse at the termination of the three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

"(d) If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and sufficient cause is shown for the late payment, it may be accepted by the Commissioner as though no abandonment or lapse had ever occurred.

"Sec. 152. How Issued.

"Patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner or have his signature placed thereon, and shall be recorded in the Patent Office.

"Sec. 153. Contents and Term of Patent.

"(a) Every patent shall contain a grant to the applicant, his heirs or assigns, or, as provided in section 111(d) of this title, to the inventor, his heirs or assigns of the right, during the term of the patent, to exclude others, pursuant to part III of this title, from making, using, or selling the patented subject matter throughout the United States, referring to the specifications for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

"(b) The term of a patent shall expire twelve years from the actual filing date in the United States or, if a prior filing date under section 119 of this title has been claimed, twelve years from such date; *provided, however*, That there shall be added to any such twelve-year period the period of time during which the examination of the subject matter of the application was deferred pursuant to chapter 18 of this title. Notice of the term of any patent shall be indicated at the beginning thereof.

"(c) The term of a patent whose issuance has been delayed by reason of the application having been ordered kept secret under section 181 of this title shall be extended for a period equal to such delay in issuance of the patent after the notice of allowability referred to in section 183 of this title. The term of a patent shall also be extended for a period to equal to the delay incurred due to review under sections 151 or 152 of the Atomic Energy Act of 1954 (68 Stat. 943), or under section 305 of the National Aeronautics and Space Act (72 Stat. 435).

"Chapter 15.—PLANT PATENTS

"Sec.
"161. Patents for plants.
"162. Description, claim.
"163. Grant.
"164. Assistance of Department of Agriculture.

"Sec. 161. Patents for plants

"(a) Whoever invents or discovers and asexually reproduces any distinct and new variety of plant including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state, may obtain a patent therefor, subject to the conditions of this title.

"(b) The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.

"Sec. 162. Description, Claim.

"No plant patent shall be declared invalid for noncompliance with section 112 of this title if the description is as complete as is reasonably possible.

"The claim in the specification shall be in formal terms to the plant shown and described.

"Sec. 163. Grant.

"In the case of a plant patent the grant shall be of the right to exclude others, pursuant to part III of this title, from asexually reproducing the plant or selling or using the plant so reproduced.

"Sec. 164. Assistance of Department of Agriculture.

"The President may by Executive order direct the Secretary of Agriculture, in accordance with the request of the Commissioner, for the purpose of carrying into effect the provisions of this title with respect to plants (1) to furnish available information of the Department of Agriculture, (2) to conduct through the appropriate bureau or division of the Department research upon special problems, or (3) to detail to the Commissioner officers and employees of the Department.

"Chapter 17.—SECRECY AND FILING APPLICATIONS IN FOREIGN COUNTRIES

"Sec.
"181. Secrecy and withholding of patent.
"182. Abandonment of subject matter by reason of unauthorized disclosure.
"183. Right to compensation.
"184. Filing of application in foreign country.
"185. Patent barred for filing without license.
"186. Penalty.
"187. Nonapplicability to certain persons.
"188. Rules and regulations, delegation of power.

"Sec. 181. Secrecy and withholding of patent.

"(a) Whenever publication or disclosure of the subject matter of an application for patent in which the Government has a property interest might, in the opinion of the head of an interested Government agency, be deterimental to the national security, the Commissioner upon being so notified shall order that the subject matter be kept secret and shall withhold disclosure thereof and the grant of a patent therefor under the conditions set forth hereinafter.

"(b) Whenever the publication or disclosure of subject matter described in an application for patent in which the Government does not have a property interest, might, in the opinion of the Commissioner, be detrimental to the national security, the Commissioner shall within two months of the date on which the application was filed in the United States, make the application for patent in which subject matter is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

"(c) Each individual to whom the application is disclosed shall sign a dated acknowledgment thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of Defense, or the chief officer of another department or agency so designated, the publication or disclosure of such subject matter would be detrimental to the national security, the Atomic Energy Commission, the Secretary of Defense, or such other chief officer shall notify the Commissioner within five months of the date on which the application was filed in the United States. The Commissioner shall order that such subject matter be kept secret and shall withhold publication and the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency which caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The applicant whose application has been placed under a secrecy order shall have a right to appeal from the order to the United States District Court for the District of Columbia, under such conditions and upon such proceedings as the court by its rules determined.

"(d) Subject matter described in an application shall not be ordered kept secret and publication withheld for a period of more than one year. The Commissioner shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or agency which caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commissioner may rescind any order upon notification by the head of the department or agency which caused the order to be issued that the publication or disclosure of such subject matter is no longer deemed detrimental to the national security.

"SEC. 182. ABANDONMENT OF SUBJECT MATTER BY REASON OF UNAUTHORIZED DISCLOSURE.

"Subject matter disclosed in an application for patent subject to an order made pursuant to section 181 of this chapter shall be held abandoned upon a determination by a member of the Board of Appeals, pursuant to section 5(c) of this title, in such proceedings as the Commissioner shall by regulation establish, that in violation of said order such subject matter has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor, his successors, assigns, or legal representatives, or anyone in privity with him or them, without the consent of the Commissioner. The abandonment shall be held to have occurred as of the time of violation. The consent of the Commisisoner shall not be given without the concurrence of the heads of the departments and agencies which caused the order to be issued. A holding of abandonment shall abrogate all claims against the United States based upon such subject matter by the applicant, his successors, assigns, or legal representatives, or anyone in privity with him or them.

"SEC. 183. RIGHTS TO COMPENSAATION

"An applicant, or patentee, or his legal representatives, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, and ending six years after a patent is issued thereon, to apply to the head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of such subject matter by the Government resulting from his disclosure. The right to compensation for use by the Government shall begin on the date of the first use of such subject matter by the Government and shall terminate not later than twenty years from the actual filing date in the United States. The head of the department or agency is authorized, upon the presentation of the claim, to enter into an agreement with the applicant, or patentee, or his legal representatives, in full settlement for the damage and/or use. This settlement agreement shall be conclusive for all purposes notwithstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, or patentee, or his legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the Court of Claims or in the District Court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall constitute just compensation for the damage and/or use of such subject matter, by the Government. The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 181 of this chapter, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the Court of Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of such subject matter resulting from his disclosure. The right to compensation for use by the Government shall begin on the date of the first use of the invention by the Government and shall terminate not later than twenty years from the actual filing date in the United States of the patent. In a suit under the provisions of this section the United States may avail itself of all defenses it may plead in an action under section 1498 of title 28. This section shall not confer a right of action on anyone or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented, or developed the subject matter on which the claim is based. A patentee receiving a settlement of his claim for damages caused by reason of an order of secrecy from a head of a department or agency or who is awarded compensation for damages caused by reason of an order of secrecy by the Court of Claims shall be required to disclaim the terminal portion of the patent term equal in duration to any extension granted under the provisions of section 154(c) of this title.

"SEC. 184. FILING OF APPLICATION IN FOREIGN COUNTRY.

"(a) Except when authorized by a license obtained from the Commissioner, a person shall not file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design or model in respect of an invention made in this country prior to six months after filing an application for patent in the United States. A license shall not be granted with respect to subject matter subject to an order issued by the Commissioner pursuant to section 181 of this chapter without the concurrence of the heads of the departments and agencies which caused the order to be issued.

"(b) The term 'application' when used in this chapter includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

"(c) No license shall be required subsequent to the filing of a foreign application for any modifications, amendments, or supplements to that foreign application, or divisions thereof, which do not alter the nature of the subject matter originally disclosed, which are within the scope of the subject matter originally disclosed, and where the filing of the foreign application originally complied with the provisions of this section, unless the applicant has been notified by the Commissioner that a specific license is required for filing such papers in connection with any application.

"SEC. 185. PATENT BARRED FOR FILING WITHOUT LICENSE.

"Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for subject matter described in an application if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 184 of this chapter, have made, or consented to or assisted another's making, application in a foreign country for a patent or for the registration of a utility model, industrial design, or model in respect to such subject matter. A United States patent is issued for such invention to such person, his successors, assigns, or legal representatives shall be invalid.

"SEC. 186. PENALTY.

"Whoever, during the period or periods of time any subject matter has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181 of this chapter, shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed the subject matter or material information with respect thereto, or whoever, in violation of the provisions of section 184 of this chapter, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of an invention made in the United States, shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than two years, or both.

"SEC. 187. NONAPPLICABILITY TO CERTAIN PERSONS.

"The provisions and penalties of this chapter shall not apply to any officer or agent of the United States acting within the scope of his authority, nor to any person acting upon his written instructions or permission.

"SEC. 188. RULES AND REGULATIONS, DELEGATION OF POWER.

"The Atomic Energy Commission, the Secretary of Defense, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Patent Office, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this chapter, and may delegate any power conferred by this chapter.

"Chapter 18.—DEFERRED EXAMINATION

"SEC.
"191. DEFERMENT OF EXAMINATION.
"192. EXAMINATION.
"193. EXAMINATION OF RELATED APPLICATIONS.

"SEC. 191. DEFERMENT OF EXAMINATION.

"(a) Notwithstanding the provisions of chapter 12 of this title, the examination of an application for patent shall be deferred unless at the time of filing the applicant requests immediate examination and pays the prescribed fee.

"(b) An application, the examination of which is deferred under the provisions of this chapter, shall be examined as to formal matters and other such matters as the Commissioner may prescribe, and action shall be taken under sections 132 and 133 of this title to place the application in condition for prompt publication pursuant to section 122 of this title. Except for a nominal fee for the examination as provided in this subsection and for a publication fee, as prescribed by the Commissioner in accordance with section 41(a) of this title, no fees shall be charged during the period of time which the examination of such application is deferred under the provisions of this chapter.

"SEC. 192. EXAMINATION.

"(a) If a request for examination of an application, the examination of which has been deferred under the provisions of this chapter, accompanied by payment of the required fee is made at any time before the expiration of five years from the earliest effective filing date claimed, such application shall be examined as provided in chapter 12.

"(b) Any party, or any other person, may make the request under subsection (a) of this section. If the request is made by the applicant, he shall pay the full examination

fee. If the request is made by any other party or person, except the Public Counsel or the United States, that person shall pay the basic examination fee on the requester application; the applicant shall pay all other fees, including any fee for extra claims. No basic examination fee shall be charged if examination is requested by the Public Counsel or the United States, but the applicant shall pay all other fees. The identity of such other party or person (except the Public Counsel or the United States) requesting the examination shall be kept in confidence by the Patent Office and no information concerning the same given without authority of such other party or person unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

"(c) If no request for examination is received within the time specified in subsection (a) of this section, the application shall be regarded as abandoned.

"SEC. 193. EXAMINATION OF RELATED APPLICATIONS.

"When examination of a deferred application is requested under section 192 of this title, the Commissioner may call upon the applicant to request examination of any other of his applications which may have been deferred and which claim the date of the first mentioned application or any application the date of which is claimed by the first mentioned application and to pay the fee. Notice shall be given the applicant of the fee due and a time of not less than thirty days shall be set for payment. If the fee is paid within the specified time, examination shall proceed on all such applications concurrently. If the fee is not paid within such time, the applications on which the required fee has not been paid shall be regarded as abandoned.

"Chapter 19.—AMENDMENT, CORRECTION, AND REISSUE OF PATENTS

"Sec.
"201. Reissue of defective patents.
"202. Effect of reissue.
"203. Disclaimer.
"204. Certificate of correction of Patent Office mistake.
"205. Certificate of correction of applicant's mistake.
"206. Misjoinder of inventor.

"SEC. 201. REISSUE OF DEFECTIVE PATENTS.

"(a) Whenever any patent is, through inadvertence, accident, or mistake, and without any willful default or intent to defraud, mislead, or deceive the public, wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more than he had a right to claim in the patent, the Patent Office, pursuant to such rules and regulations as the Commissioner shall prescribe, and on the surrender of such patent and the payment of the fee required by law, shall reissue the patent for the subject matter disclosed in the original patent, and in accordance with a new and amended application, for the unexpired part of the term of the original patent. No new matter shall be introduced into the application for reissue.

"(b) The provisions of chapters 12, 13 and 14 of this title relating to applications for patent shall be applicable to applications for reissue of a patent.

"(c) No reissued patent shall be granted enlarging the scope of the claims of the original patent.

"(d) No reissue patent shall be granted during the pendency of any proceeding before any court or agency of the United States in which the validity of the patent, or the inequity of the patentee in procuring it, has been brought into question. The institution of any such proceeding shall stay the continuance of any proceeding under this section.

"SEC. 202. EFFECT OF REISSUE.

"(a) The surrender of the original patent shall take effect upon the issue of the reissued patent, and every reissued patent shall have the same effect and operation in law, on the trial of actions for causes thereafter arising, as if the same had been originally granted in such amended form, but insofar as the claims of the original and reissued patents are identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent, to the extent that its claims are identical or substantially identical with the original patent, shall contsitute a continuation thereof and have effect continuously from the date of the original patent.

"(b) No reissued patent shall abridge or affect the right of any person or his successors in business who made, purchased or used prior to the grant of a reissue anything patented by the reissued patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased or used, unless the making, using, or selling of such thing infringes a valid claim of the reissued patent and would also have infringed the original patent. The court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased or used as specified or for the manufacture, use, or sale of which substantial preparation was made before the grant of the reissue, and it may also provide for the continued practice of any process patented by the reissue, practiced or for the practice of which substantial preparation was made, prior to the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue.

"SEC. 203. DISCLAIMER.

"(a) Whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud, mislead, or deceive the public, a claim of a patent is invalid the remaining claims shall not thereby be rendered invalid, provided the patentee timely makes a disclaimer pursuant to this section, upon his learning of the defect in such claim. A patentee, whether of the whole or any interest therein, may, on payment of the fee required by law, make disclaimer of any claim, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing and recorded in the Patent Office; and it shall thereafter be considered as part of the original patent to the extent of the interest possessed by the disclaimant and by those claiming under him.

"(b) In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

"(c) The fact that two patents which have been or may be issued expire at the same time by means of a terminal disclaimer or dedication under this section or otherwise, shall have no effect in the determination of the patentability or validity of a claim in either.

"SEC. 204. CERTIFICATE OF CORRECTION OF PATENT OFFICE MISTAKE.

"Whenever a mistake in a patent, incurred through the fault of the Patent Office, is clearly disclosed by the records of the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Commissioner may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

SEC. 205. CERTIFICATE OF CORRECTION OF APPLICANT'S MISTAKE.

"Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Patent Office may, pursuant to such rules and regulations as the Commissioner shall prescribe and upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require reexamination. Such certificate shall be considered as part of the original patent, and a copy thereof may be attached to each copy of the patent. Every such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

"SEC. 206. MISJOINDER OF INVENTOR

"(a) Whenever a patent is issued naming two or more persons as joint inventors and it appears that one of such persons was not in fact a joint inventor, and that he was included as a joint inventor by inadvertence, accident, or mistake, and without any willful default or intent to defraud, mislead, or deceive the public, the Patent Office may, on timely petition by all the applicants and named inventors, and assignees thereof, in such proceedings as the Commissioner shall by regulation prescribe, and with verified proof of the facts and such other requirements as may be imposed, issue a certificate deleting the name of the erroneously joined person from the patent.

"(b) Whenever a patent is issued and it appears that a person was a joint inventor, but was omitted by inadvertence, accident, or mistake, and without any willful default or intent to defraud, mislead, or deceive the public, on his part, the Patent Office may, on timely petition by all the applicants and inventors, and assignees thereof, and in such proceedings as the Commissioner shall by regulation prescribe, and with verified proof of the facts and such other requirements as may be imposed, issue a certificate adding his name to the patent as a joint inventor.

"(c) The inadvertent, accidental, or mistaken misjoinder or nonjoinder of joint inventors, without any willful default or intent to defraud, mislead, or deceive the public, shall not invalidate a patent, if such error can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Patent Office shall issue a certificate accordingly.

"PART III—PATENTS AND INFRINGEMENT OF PATENTS

"Chapter	Sec.
"26. Ownership and Assignments	261
"27. Government Interests in Patents	267
"28. Infringement of Patents	271
"29. Remedies for Infringement of Patent, and Other Actions	281

"CHAPTER 26.—OWNERSHIP AND ASSIGNMENT

"Sec.
"261. Ownership; assignment.
"262. Joint owners.
"263. Rights of employee-inventors guaranteed.

"SEC. 261. OWNERSHIP; ASSIGNMENT.

"(a) Subject to the provisions of this title, patents shall have the attributes of personal property.

"(b) Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing.

"(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be *prima facie* evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

"(d) An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

"SEC. 262. JOINT OWNERS.

"In the absence of any agreement to the contrary, each of the joint owners of a patent may make, use or sell the patented subject matter without the consent of and without accounting to the other owners.

"SEC. 263. RIGHTS OF EMPLOYEE-INVENTORS GUARANTEED.

"Subject to other provisions of Federal law, no direct or indirect assignment by an inventor to his employer, or to a person designated thereby, of the subject matter of an application for patent or patent, developed in the course of his employment, shall be valid unless the employer agrees to pay the employee, in addition to his regular salary or compensation for services, a minimum of 2 per centum of the profit or savings to the employer, attributable to such subject matter. The Commissioner shall by regulation establish procedures and methods, including accounting procedures, for carrying out the provisions of this section. No assignment, or other disposition by the employee of such right to additional payment, shall be valid, unless there is equitable and adequate consideration therefor.

"Chapter 27.—GOVERNMENT INTERESTS IN PATENTS

"Sec.

"267. Time for taking action in Government application.

"SEC. 267. TIME FOR TAKING ACTION IN GOVERNMENT APPLICATIONS.

"Notwithstanding the provisions of sections 41, 133, and 151 of this title, the Commissioner may extend the time for taking any action to three years, when an application has become the property of the United States and the head of the appropriate department or agency of the Government has certified to the Commissioner that the subject matter disclosed therein is important to the armament or defense of the United States.

"Chapter 28.—INFRINGEMENT OF PATENTS

"Sec.

"271. Infringement of patent.
"272. Temporary presence in the United States.
"273. Unauthorized practice of subject matter prior to issuance of patent.

"SEC. 271. INFRINGEMENT OF PATENT.

"(a) Except as otherwise provided in this title, whoever without authority makes, uses, or sells any patented subject matter within the United States after the issuance of the patent therefor and during its term, infringes the patent.

"(b) Whoever actively induces infringement of a patent shall be liable as an infringer.

"(c) Whoever sells a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the patented subject matter, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as an infringer.

"(d) No patent owner otherwise entitled to relief for infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his having done in good faith one or more of the following: (1) derived revenue from acts which if performed by another without his consent would constitute infringement of the patent; (2) licensed or authorized another to perform acts which if performed without his consent would constitute infringement of the patent; (3) sought to enforce the patent against infringement.

"SEC. 272. TEMPORARY PRESENCE IN THE UNITED STATES.

"The use of any patented subject matter in any vessel, aircraft, or vehicle of any country which affords similar privileges to vessels, aircraft, or vehicles of the United States, entering the United States temporarily or accidentally, shall not constitute infringement of any patent, if such subject matter is used exclusively for the needs of the vessel, aircraft, or vehicle and is not sold in or used for the manufacture of anything to be sold in or exported from the United States.

"SEC. 273. UNAUTHORIZED PRACTICE OF SUBJECT MATTER PRIOR TO ISSUANCE OF PATENT.

"(a) After the issuance of a patent, a patentee may obtain damages for the unauthorized making, using or selling of the subject matter of a claim in the patent during an interim period prior to issuance of such patent, under the provisions of subsections (b) and (c) of this section and chapter 29 of this title.

"(b) Such interim period shall begin after the occurrence of all of the following events—

"(1) publication of the application containing such claim,

"(2) such claim is indicated as allowable by the Patent Office, and

"(3) actual notice to the alleged unauthorized practitioner that such claim has been indicated as allowable and how his acts are considered to constitute unauthorized practice of the subject matter of such claims, and shall end upon issuance of the patent.

"(c) Damages for unauthorized practice during the interim period shall be limited to royalties reasonable in the circumstances. No injunction or other relief may be had with respect to the subsequent use or sale of machines, manufactures or compositions of matter made prior to the grant of the patent as to which a notice under this section applies, but reasonable royalties may be obtained. The court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased or used as specified or for the manufacture, use, or sale of which substantial preparation was made before the grant of the patent, and it may also provide for the continued practice of any patented process, practiced or for the practice of which substantial preparation was made, prior to the grant of the patent, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the patent.

"Chapter 29.—REMEDIES FOR INFRINGEMENT OF PATENT, AND OTHER ACTIONS

"Sec.

"281. Remedy for infringement of patent.
"282. Presumption of validity; defenses.
"283. Injunction.
"284. Damages.
"285. Attorney fees.
"286. Time limitation on damages.
"287. Limitation on damages; marking and notice.
"288. Action for infringement of a patent containing an invalid claim.
"290. Notice of patent suits.
"291. Priority of invention between patentees.
"292. False marking.
"293. Nonresident patentee; service and notice.

"SEC. 281. REMEDY FOR INFRINGEMENT OF PATENT.

"A patentee shall have remedy by civil action for infringement of his patent.

"SEC. 282. PRESUMPTION OF VALIDITY; DEFENSES.

"(a) A patent shall be presumed valid. Each claim of a patent (whether in independent or dependent form) shall be presumed valid independently of the validity of other claims; dependent claims shall be presumed valid even though dependent upon an invalid claim. The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting such invalidity.

"(b) The following shall be defenses in any action involving the validity or infringement of a patent and shall be pleaded:

"(1) Noninfringement, absence of liability for infringement, or unenforceability,

"(2) invalidity of the patent or any claim in suit on any ground specified in part II of this title as a condition for patentability,

"(3) invalidity of the patent or any claim in suit for failure to comply with any requirement of sections 112, 115, or 201 of this title,

"(4) any other act or fact made a defense by this title.

"(c) In actions involving the validity or infringement of a patent, the patentee or party asserting infringement shall give notice in the pleadings or otherwise in writing to all parties as soon as practicable and at least ninety days before the trial, of the manner in which each of the claims charged to be infringed, element by element, applies to the allegedly infringing process or product, and the elements of the structure thereof. In like manner, the party asserting invalidity or noninfringement shall at some later time give notice to all parties of the country, number, date and name of the patentee of any patent, and the title, date, and page numbers of any publication to be relied upon as anticipation of the patent in suit, or, except in actions in the United States Court of Claims, as showing the state of the art; and the name and address of any person who may be relied upon as the prior inventor, or as having prior knowledge of, or as having previously used or offered for sale, the subject matter of the patent in suit. In addition, he shall at some still later time (at least thirty days before the trial), apply such prior art, element by element against the claims charged to be infringed, which he alleges to be invalid. In the absence of such notice and other information, as specified in this subsection, proof of such matters may not be made at the trial execpt on such terms as the court may require.

"(d) In any action or proceeding involving the patentability, validity, enforceability, or infringement of a patent, whether or not arising under this title, in connection with which a court of the United States orders any party of record or any person in privity with such party to furnish discovery, testimony, or evidence, and such party or person refuses, declines, or fails to comply with such order on the ground that a foreign statute or law prohibits compliance with such order, the court shall enter an order against such party dismissing all his claims, striking all his defenses, and otherwise terminating the proceeding adversely as to him; and if an issued patent owned by such party is involved in such action or proceeding, it

shall be cancelled (and notice of such cancellation shall be endorsed on copies of the specification of the patent thereafter distributed by the Patent Office).

"SEC. 283. INJUNCTION

"The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the infringement of any claim of a patent, on such terms as the court deems reasonable.

"SEC. 284. DAMAGES

"(a) Upon finding for the claimant the court shall award the claimant damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the patented subject matter by the infringer, together with interest and costs as fixed by the court.

"(b) When the damages are not found by a jury, the court shall assess them. In either event the court may increase the damages up to three times the amount found or assessed.

"(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

"SEC. 285. ATTORNEY FEES

"The court in exceptional cases may award reasonable attorney fees to the prevailing party.

"SEC. 286. TIME LIMITATION ON DAMAGES

"(a) Except as otherwise provided by law, no recovery shall be had for any infringement committed more than two years prior to the filing of the complaint or counterclaim for infringement in the action.

"(b) In the case of claims against the United States Government for use of patented subject matter, the period before bringing suit, up to four years, between the date of receipt of a written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

"SEC. 287. LIMITATION ON DAMAGES; MARKING AND NOTICE

"Patentees, and persons making or selling any patented article (or using any patented process) for or under them, may give notice to the public that the article or process is patented, either by fixing on the article the word 'patent' or the abbreviation 'pat.', together with the number of the patent, or when, from the character of the article, this cannot be done, by fixing to it, or to the package wherein one or more of them is contained, a label containing a like notice. In the event of failure so to mark, no damages shall be recovered by the patentee in any action for infringement, except on proof that the infringer was notified of the infringement and continued to infringe thereafter, in which event damages may be recovered only for infringement occurring after such notice. Filing of an action for infringement shall constitute such notice.

"SEC. 288. ACTION FOR INFRINGEMENT OF A PATENT CONTAINING AN INVALID CLAIM

"Whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud, mislead, or deceive the public, a claim of a patent is invalid, an action may be maintained for the infringement of a claim of the patent which may be valid provided the requirements of section 203(a) of this title have been met.

"SEC. 290. NOTICE OF PATENT SUITS

"The clerks of the courts of the United States, within one month after the filing of an action under this title shall give notice thereof in writing to the Commissioner, setting forth so far as known the names and addresses of the parties, name of the inventor, and the designating number of the patent upon which the action has been brought. If any other patent is subsequently included in the action he shall give like notice thereof. Within one month after the decision is rendered or a judgment issued the clerk of the court shall give notice thereof to the Commissioner. The Commissioner shall, on receipt of such notices, enter the same in the file of such patent.

"SEC. 291. PRIORITY OF INVENTION BETWEEN PATENTEES

"(a) Whenever there are two patents naming different inventors and claiming the same or substantially the same subject matter, the owner of either of the patents may have relief against the owner of the other by civil action, and the court may adjudge the validity of any of such patents, in whole or in part.

"(b) Such suit may be instituted against the party in interest as shown by the records of the Patent Office, but any party may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same state, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Commissioner shall not be made a party but he shall be notified of the filing of the suit by the clerk of the court in which it is filed and shall have the right to intervene.

"SEC. 292. FALSE MARKING

"(a) Whoever, without the consent of the patentee, marks upon, or affixes to, or uses in advertising in connection with anything made, used, or sold by him, the name or any imitation of the name of the patentee, the patent number, or the words 'patent', 'patentee', or the like, with the intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them to believe that the thing was made or sold by or with the consent of the patentee; or

"Whoever marks upon, or affixes to, or uses in advertising in connection with any unpatented article, the word 'patent' or any word or number importing that the same is patented, for the purpose or with the necessary effect of deceiving the public; or

"Whoever marks upon, or affixes to, or uses in advertising in connection with any article, the words 'patent applied for,' 'patent pending,' or any word importing that an application for patent has been made, when no application for patent has been made, or if made, is not pending, for the purpose or with the necessary effect of deceiving the public—

"Shall be liable for a civil penalty of not more than $500 for every such violation. Each article so marked shall furnish the basis for finding a separate violation.

"(b) Any person may sue for the penalty, in which event one-half shall go to the person suing and the other to the use of the United States.

"SEC. 293. NONRESIDENT PATENTEE; SERVICE AND NOTICE

"Every patentee not residing in the United States may file in the Patent Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the patent or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the patent or rights thereunder that it would have if the patentee were personally within the jurisdiction of the court."

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 2. Section 1542 of title 28, United States Code, Judicial Code and Judiciary, is amended to read as follows:

"SEC. 1542. Patent Office decisions

"The Court of Customs and Patent Appeals shall have jurisdiction of appeals from decisions of:

"(1) The Board of Appeals of the Patent Office as to patent applications and patents as provided in chapter 13 of title 35, Patents, United States Code.

"(2) The Commissioner of Patents or the Trademark Trial and Appeals Board as to trademark applications and proceedings as provided in section 1071 of title 15."

SEC. 3. If any provision of title 35, Patents, United States Code, as amended by this Act, or any other provision of this Act, is declared unconstitutional or is held invalid, the validity of the remaining provisions shall not be affected.

SEC. 4. (a) This Act shall take effect on the date six months after enactment. Except as otherwise provided hereafter in this section, it shall apply to all applications filed in the United States on or after such effective date, whether or not such applications are entitled to the benefit of an earlier filing date; to patents issued on such applications; to applications in respect to which, on or before such effective date, there has been no notice of allowance pursuant to section 151(a) of title 35, United States Code, as amended by this Act; and to patents issued on such applications.

(b) Except as otherwise provided hereafter in this section, the provisions of title 35, United States Code, in effect immediately prior to the effective date of this Act, shall govern all patents issued before such effective date; applications filed in the United States before and still pending on such effective date, in respect to which, on or before such effective date, there has been notice of allowance pursuant to section 151(a) of title 35, amended by this Act; and to patents issued on such applications.

(c) Section 263 of title 35, United States Code, as amended by this Act, shall apply to all applications filed on or after the effective date of this Act, and patents issued on such applications, and it shall apply only to such applications and patents.

(d) The following provisions of title 35 as amended by this Act, shall apply to all unexpired patents, whether issued or applied for before or after the effective date of this Act:

(1) chapter 19 of part II, and

(2) part III (subject to subsection (c) of this section).

(e) Section 147 of title 35, United States Code, as amended by this Act, shall apply to all appeals decided on or after the effective date of this Act.

(f) Notwithstanding any other provision of this Act, subsection (e) of section 112 of title 35 as amended by this Act shall not apply to patents issued, and applications filed, prior to the effective date of this Act. No such application shall be held incomplete, and no such patent shall be held invalid, because availability to the public of a deposit of a microorganism recited therein was conditioned upon issuance of a United States patent reciting a deposit of said microorganism.

(g) The amendment of title 35, United States Code, by this Act, shall not affect any rights or liabilities existing under title 35 in effect immediately prior to the effective date of this Act.

(h) Examiners-in-chief in office on the effective date of this Act shall continue in office under and in accordance with their then existing appointments.

(i) The Commissioner may exercise any rulemaking power conferred upon him by this Act, upon the date of enactment hereof; *Provided, however,* that no rule promulgated under any newly-conferred authority shall become effective prior to the effective date hereof. The Public Counsel may exercise all the powers this Act confers upon him, on and after the effective date hereof, in respect to any patents, applications, or conduct, whether issued, applied for, filed, or engaged in before or after the effective date hereof.

SEC. 5. Nothing in title 35 as amended by this Act shall affect any provision of the Atomic Energy Act of 1954 (Aug. 30, 1954, ch. 1073, 68 Stat. 919) as amended or of the National Aeronautics and Space Act (Pub. L. 85–568, July 29, 1958, 72 Stat. 426) except that the functions of a Board of Patent Interferences specified in said Acts may be performed by the Board of Appeals as specified in section 5 of ttile 35 as amended by this Act.

SEC. 6. (a) Section 119(e) of this title shall take effect on the date when articles 1–12 of the Paris Convention of March 20, 1883, for the Protection of Industrial Property, as revised at Stockholm, July 14, 1967, come into force with respect to the United States and shall apply only to applications thereafter filed in the United States.

(b) Section 102(d) of this title, insofar as it applies to inventors' certificates, shall take effect six months from the date when articles 1–12 of the Paris Convention of March 20, 1883, for the Protection of Industrial Property, as revised at Stockholm, July 14, 1967, come into force with respect to the United States and shall apply to applications thereafter filed in the United States.

SEC. 7. Section 31 of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1113) is revised to read:

"SEC. 31. Trademark fees

"Trademark fees shall be prescribed by the Commissioner under the authority of section 41 of title 35, United States Code. If a fee in connection with examination of a trademark application is not paid within such time as prescribed by the Commissioner, the application shall be regarded as abandoned."

SEC. 8. In the second sentence of section 7(c) of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1057c), "fee herein provided" is changed to "prescribed fee".

SEC. 9. In section 7(e) of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1062a), "fee herein provided" is changed to "prescribed fee".

SEC. 10. In section 12(a) of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1062a), "fee herein provided" is changed to "prescribed fee."

SEC. 11. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(95) Commissioner of Patents."

SEC. 12. Section 5316 of title 5, United States Code, is amended by deleting the following:

"(48) Commissioner of Patents, Department of Commerce."

SEC. 13. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(131) Deputy Commissioner of the Patent Office."

SEC. 14. This Act may be cited as "The Patent Reform Act of 1973".

By Mr. WILLIAMS (for himself, Mr. MAGNUSON, Mr. RANDOLPH, Mr. MOSS, Mr. SPARKMAN, and Mr. BENTSEN):

S. 1322. A bill to require the Secretary of Housing and Urban Development to disregard the increase in benefits under title II of the Social Security Act pursuant to Public Law 92–336 in determining eligibility or the amount of assistance under certain laws relating to low-income housing. Referred to the Committee on Banking, Housing and Urban Affairs.

FULL BENEFITS FOR ELDERLY TENANTS ACT

Mr. WILLIAMS. Mr. President, I introduce today a bill to help many elderly citizens realize the full benefit of their 20-percent social security increase. In simple terms, my bill will require the Secretary of Housing and Urban Development to disregard the 20-percent increase in determining eligibility for the following programs: Public housing, rent supplement, section 23 leasing, section 235, and section 236.

Last October, beneficiaries of social security received a 20-percent increase in their monthly paychecks. Since the benefits of many Federal programs are dependent on the income of the recipient, the social security increase threatened to be potentially harmful rather than helpful to many elderly. Several bills were introduced in Congress to prevent such unfairness. Some were successful. Medicaid recipients did not lose their eligibility, and old-age assistance recipients were guaranteed a $4 "pass-along."

Unfortunately, no bill was passed to protect those elderly applying for, or currently eligible for, several Federal housing programs. The purpose of my bill is twofold: To protect the eligibility of prospective applicants to these programs, and to protect the current recipients of the programs from higher rent—payments—as a result of the 20-percent social security increase.

Despite recent efforts to improve the income position of older Americans, many of these advances have been negated, to a large degree, because other benefits are lost when social security payments are raised. The end result is both tragic and inherently unfair. Social security recipients of moderate means receive the full amount of the increase, while those most in need of more income find their increase chopped apart by those programs that have been helping them survive. And in some cases, it has even meant that they are severed from the programs altogether.

Housing at a reasonable price is a treasured commodity to anyone, but it is especially dear to the elderly whose incomes are more rigid, whose mobility is greatly reduced, and whose emotional ties to a particular neighborhood are deeply felt.

If the mail I receive at my office is any indication, the need for decent housing at a reasonable price for elderly citizens is at an all-time high. Three concurrent developments have apparently created this most recent call for help: The 18-month freeze on housing subsidies, the end of rent control, and the continuing cost of inflation. In any area of the country where the demand for housing greatly exceeds the supply, where the vacancy rate is very low, these three developments have had a particularly negative impact. New Jersey, with its high proportion of urban communities, is one of the hardest hit States.

Many elderly persons write to tell me how happy they were when the 20-percent increase was announced, and how disillusioned they are today. They speak often of inflation, especially in food prices. Food costs increased 6.1 percent in the last 6 months of 1972.

With the end of rent control, tenants in my State and elsewhere have been hit with big jumps in rent. Where the younger person may rebel and leave in such a situation, the older tenant often faces very difficult physical and emotional barriers to moving. Many elderly will reluctantly pay a very high percentage of their income to stay in familiar surroundings, in a familiar neighborhood, near trusted friends.

If property taxes and rents continue to climb, many older Americans must look to public housing or other federally subsidized housing for help. My bill would also make sure that they will not be turned away, because their social security increase made them ineligible.

Adequate income is still the No. 1 concern for older Americans, and I strongly feel that social security recipients should receive the full benefit of their recent increase. They should not be subject to an immediate rent hike that effectively takes away 25 percent of their raise.

For many years I have worked to insure an income level for older Americans that will enable them to live out their remaining years in dignity. We have made progress toward that goal.

But we are creating serious disillusionment if we tell our older citizens: "We have just increased your income." But, in reality, they may soon find out that most, if not all of it, has been stripped away by the loss of other programs.

This bill I now introduce will help insure that the 20-percent increase is fully effective to those who benefit from social security.

By Mr. WILLIAMS:

S. 1323. A bill to amend title XVIII of the Social Security Act to provide for the automatic coverage, without premium, under the supplementary medical insurance program established by part B of such title of individuals who are covered—without payment of premium—under the hospital insurance program established by part A of such title;

S.1324. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain drugs under the insurance system established by part A of such title; and

S. 1325. A bill to amend title XVIII of the Social Security Act to cover, under the hospital insurance program established by part A thereof, inpatient hospital services provided outside the United States to individuals insured under such program. Referred to the Committee on Finance.

Mr. WILLIAMS. Mr. President, I am pleased that the last Congress enacted legislation which made vitally needed reform in our social security system. While we have accomplished much, we must continue to make it more responsive to the needs of older Americans. We must also continue to eliminate inequities in that system.

With this in mind, I am introducing three bills which would make additional

changes in the social security system. This legislation will provide some needed benefit improvements, and it will also eliminate one of its inequitable features.

These bills will eliminate the premium costs under part B of medicare; provide for medicare coverage of out-of-hospital prescription drugs; and, provide medicare coverage for Americans while they are abroad.

ELIMINATION OF THE PREMIUM CHARGE IN THE VOLUNTARY HEALTH INSURANCE PROGRAM UNDER MEDICARE

Under the medicare program, medical insurance for physicians' services is a voluntary system financed by monthly premiums paid by social security recipients and matched by dollar-for-dollar Government contributions. The cost of this coverage under part B of medicare has been rising at an alarming rate.

Currently, senior citizens enrolled in the voluntary health insurance program must pay a $5.80 monthly premium, and I have long advocated removing this burden from the elderly. That charge is likely to increase again in July.

The annual costs have reached $139.20 for an elderly couple. After the July increase to $6.30 a month, elderly couples must pay $149 for the same annual coverage. The prospective increase is even more of a reason for eliminating the burden of this premium charge. This reform will be equivalent to a 3½-percent increase in benefits.

Under my legislation, the Federal Government would pay the premium now paid by the social security beneficiary as well as the matching amount it now covers.

Several authorities and organizations have agreed that this charge should be eliminated. Among them are the 1971 Social Security Advisory Council, the National Council of Senior Citizens, and the American Association of Retired Persons.

I am hopeful action will be taken on this proposal before the next premium increase can go into effect.

MEDICARE COVERAGE OF OUT-OF-HOSPITAL PRESCRIPTION DRUGS

One major gap in benefit coverage is out-of-hospital prescription drugs. Too often older Americans are confronted with this dilemma: "Shall we buy food for the table or drugs to maintain our health?" and, too often, both needs cannot be adequately met.

It has been estimated that 20 percent of the health expenditures for those on medicare are for prescription drugs or other medically required supplies. These drug expenditures for persons 65 years of age and older average about $80 a year, nearly three times higher than the average drug cost for younger persons. For aged persons with severe chronic conditions, about 14 percent of all elderly individuals, prescription expenditures are six times as great as for younger individuals.

To provide relief for this expense, I am now introducing a bill to extend medicare coverage to include out-of-hospital prescription drugs. My bill will direct the Secretary of the Department of Health, Education, and Welfare to publish a list of drugs to be covered under this provision. This list will contain those prescription drugs lawfully available for dispensing to humans, and would even include nonprescription drugs if their denial would be seriously harmful to the individual.

I have been supporting the inclusion of this coverage under medicare for several years now, and I am hopeful that Congress will adopt the greatest coverage of prescription drugs that can be realistically included under medicare.

EXTENSION OF MEDICARE BENEFITS TO AMERICANS LIVING ABROAD

I have been very concerned about problems older Americans abroad have had in paying for their vital health needs. Under the present law, a medicare patient will be reimbursed for hospital services performed abroad only in the narrowest of circumstances: The patient must be hospitalized for emergency treatment; the emergency must have arisen in the United States; and the foreign hospital being used must be nearer to the patient than the nearest American hospital.

Several older Americans have contacted my office about incidents where they have needed hospitalization beyond our borders, but could receive no reimbursement under the medicare program. A most tragic incident occurred recently when one of my constituents was traveling in Montreal and had a heart attack. He could not be moved to the United States, but was excluded from medicare coverage while hospitalized in Canada.

In 1967, Congress requested the Department of Health, Education, and Welfare and the Department of State to explore the feasibility of entering into reciprocal agreements with neighboring nations to make medicare benefits available to U.S. citizens who receive necessary health care in such nations. I am introducing legislation that will provide the basis for medicare coverage for Americans abroad. There are 71,000 American citizens 65 or older who now receive social security benefits outside the United States. Those benefits should include similar health care assistance to that they would receive if they were hospitalized in the United States. Medicare benefits should not depend on a geographical lottery payable only if one is fortunate enough to become ill at the proper place.

CONCLUSION

This legislative package for reform of our social security system is designed to meet some of the serious problems our social security beneficiaries are experiencing. I believe a quick evaluation of these proposals is essential if we are to finally have a reasonably responsive social security system. I realize that some of the specific provisions of my proposals may be revised to meet additional needs that appear. However, these proposals should stimulate action to correct these hardships confronting social security beneficiaries.

I ask unanimous consent that these bills be printed in the RECORD.

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

S. 1324

A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain drugs under the insurance system established by part A of such title

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 1861 of the Social Security Act is amended by adding at the end the following new subsection:

"(aa) (1) The term 'covered drugs' means those drugs appearing on the list specified in paragraph (2) of this subsection.

"(2) (A) Subject to the provisions of subparagraph (C), the Secretary shall establish and publish a list of those legend and nonlegend drugs for which payment may be made subject to the conditions of section 1812(a)(4) under part A of this title. The Secretary shall distribute such list on a current basis to practitioners licensed by law to prescribe and administer drugs or to dispense drugs and shall make such other distribution as in his judgment will promote the purposes of this title. He shall from time to time (but at least once a year) review such list, and shall revise it or issue supplements thereto, as he may find necessary, so as to maintain insofar as practicable currency in the contents thereof and shall publish and distribute such revisions in accordance with the preceding sentence.

"(B) Each drug appearing on the list established under subparagraph (A) shall be designated by its established name and with respect to each such drug, the Secretary may include such other information as he finds necessary to promote the purposes of this subsection and section 1819.

"(C) A drug shall not appear on the list established under subparagraph (A) unless—

"(i) such drug is lawfully available for dispensing or administration to humans; and

"(ii) (in the case of nonlegend drug) it is a life-saving drug, or a drug the withdrawal of which would be seriously harmful to the health of the individual, or a drug which the Secretary determines (under such standards and criteria as he may prescribe) is a satisfactory substitute for a legend drug appearing on the list;

"(D) For purposes of this subsection—

"(i) the term 'drug' means a drug as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (including those specified in section 351 of the Public Health Service Act);

"(ii) the term 'legend drug' refers to a drug specified in section 503(b)(1) (A), (B), or (C) of the Federal Food, Drug, and Cosmetic Act; and

"(iii) the term 'established name' shall have the meaning assigned to such term by section 502(e)(2) of the Federal Food, Drug, and Cosmetic Act."

(2) Section 1861(t) of such Act is amended by inserting after "subsection (m)(5)" the following: "or subsection (aa)".

(b) Section 1812(a) of such Act is amended by—

(1) striking out "and" at the end of paragraph (2);

(2) striking out the period at the end and inserting in lieu thereof "; and"; and

(3) adding at the end the following new paragraph:

"(4) covered drugs furnished to such individual, but not when furnished to him while he is an inpatient in a hospital."

(c) Section 1813 of such Act is amended by adding at the end the following subsection:

"(c)(1) The amount payable for a covered drug furnished an individual shall be reduced by an amount equal to the copayment determined under paragraph (2) or, if less, the charges imposed with respect to such individual for such covered drug, except that, if the customary charges for such covered drug

are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed.

"(2) The copayment specified in paragraph (1) shall be $1 during the period ending December 31, 1978, and such amount as may be determined pursuant to paragraph (3) of this subsection during any period thereafter.

"(3) The Secretary shall, between July 1 and October 1 of 1978, and of each year thereafter, determine and promulgate the copayment for purposes of the preceding paragraphs of this subsection and such copayment shall be in effect for purposes of such paragraphs for the calendar year succeeding the year in which such copayment is promulgated. Such copayment shall be equal to $1 multiplied by the ratio of (A) the average per capita costs for covered drugs for the calendar year preceding the year in which the determination is made to (B) the average per capita costs for such drugs for the calendar year 1972. Any amount so determined, which is not a multiple of $0.10, shall be rounded to the nearest multiple of $0.10 (or, if it is midway between two multiples of $0.10 to the next higher multiple of $0.10)."

(d) Title XVIII of the Social Security Act is amended by adding after section 1818 of such Act the following new subsections:

"PAYMENT FOR COVERED DRUGS; CONDITIONS AND LIMITATIONS ON SUCH PAYMENT

"SEC. 1819. (a) (1) The amount paid to any provider of drugs with respect to covered drugs for which payment may be made under this part shall, subject to the provisions of this section and section 1813 (c), be the reasonable drug charge with respect to such drugs.

"(2) (A) The 'reasonable drug charge' for a covered drug shall be the acquisition allowance plus a dispensing allowance.

"(B) The Secretary shall be regulations establish the method or methods for determining the acquisition allowance of a covered drug, giving consideration to the cost to providers of drugs of acquiring the drug by its established name. If the source from which any covered drug is available charges different prices therefor to different classes or types of providers, or if a class of providers may reasonably obtain such drug from only certain types of sources, the Secretary may, in establishing the acquisition allowance, take into account these differences.

"(C) The Secretary shall by regulations establish the methods for determining a dispensing allowance for a covered drug, giving consideration to such factors as cost of overhead, professional services, and a fair profit. He may provide different dispensing allowances for different classes of providers.

"(b) Payment for covered drugs furnished to an individual may be made only to a dispenser of drugs eligible therefor under subsection (c) and only if—

"(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulation prescribe; and

"(2) (in the case of a legend drug) a written prescription, signed by a physician, was filed with such provider of drugs, or (in the case of a nonlegend drug) a physician has certified that the covered drug furnished the individual was medically required by such individual; except that (pursuant to such regulations as the Secretary may prescribe) no payment may be made for a covered drug—

"(3) if it is prescribed in an unusual quantity; or

"(4) if it fails to meet such requirements as to quality and standards of manufacture as the Secretary may prescribe; or

"(5) it fails to meet such specifications as to dosage form as the Secretary may require.

"(c) For purposes of subsection (a), provider of drugs shall be eligible for payment if—

"(1) he is licensed or authorized pursuant to State law to dispense drugs to humans;

"(2) he agrees to comply with such rules and regulations as the Secretary may issue with respect to—

"(A) submission of bills at such frequency and on such forms as may be prescribed in such rules and regulations;

"(B) availability for audit of his records relating to drugs and prescriptions;

"(C) the maintenance and retention of such records relating to the cost of drugs as may be specified in such rules and regulations;

"(3) he meets such other conditions relating to health and safety as the Secretary may find necessary;

"(4) he agrees not to charge any individual for a drug for which such individual is entitled to have payment made under this section and section 1861(aa) an amount in excess of the amount which, when added to the amount of payment made under this section and section 1813(c) for such drug, exceeds the customary charge at which such dispenser of drug sells or offers such drug to the public at the time such drug is furnished to such individual.

"USE OF ORGANIZATIONS IN ADMINISTRATION OF PROGRAM FOR FURNISHING COVERED DRUGS TO ELIGIBLE INDIVIDUALS

"SEC. 1820. (a) The Secretary is authorized to enter into contracts with organizations to perform such functions as he may find appropriate in administering a drug benefit if he finds that the utilization of one or more of such organizations will promote the effective and efficient administration of the program provided under this part for the furnishing of covered drugs to eligible individuals.

"(b) Contracts with organizations under subsection (a) may be entered into without regard to section 3709 of the revised statutes or any other provision of law requiring competitive bidding.

"(c) For purposs of this section, the term 'organization' means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, prescription drugs under group insurance policies or contracts, medical or hospital service agreements, membership, or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the organization, including a health benefits plan duly sponsored or underwritten by an employee organization.

"STUDY OF DRUG UTILIZATION

"SEC. 1821. The Secretary is authorized to conduct studies relating to the utilization of drugs for which payment may be made under this part in order to encourage the proper use of such drugs."

(e) Title XVIII of the Social Security Act is further amended adding after section 1867 of such Act the following new section:

"EXPERT COMMITTEE ON DRUG COVERAGE

"SEC. 1868. (a) There is hereby created an Expert Committee on Drug Coverage which shall consist of five persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Secretary shall from time to time appoint one of the members to serve as chairman. The members shall include persons who are outstanding in the fields of pharmacology, geriatrics, and other branches of medicine. Members of the Expert Committee, while attending meetings or conferences thereof or otherwise serving on business of the Expert Committee shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistences as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Expert Committee shall meet as frequently as the Secretary deems necessary.

"(b) It shall be the function of the Expert Committee to advise the Secretary on matters of general policy in the administration of the program provided under this part for furnishing covered drugs to eligible individuals. The Expert Committee shall also make recommendations to the Secretary as to what drugs should be included in the list established under section 1861(aa)(2) and what drugs should be deleted from such list. In making any such recommendations the Expert Committee shall submit in such detail as the Secretary may request the information and data the Expert Committee considered in making such recommendation. In carrying out its work, the Expert Committee shall consult with organizations representing the aged, pharmacists, the pharmaceutical industry, and with such other organizations or individuals as the Expert Committee finds appropriate. The Expert Committee shall make an annual report to the Secretary on the performance of its function, including any recommendations it may have with respect thereto, and such report shall be transmitted promptly by the Secretary to the Congress.

"(c) The Expert Committee is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Expert Committee such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the Expert Committee may require to carry out its functions.

(f) The heading of part A of title XVIII of such Act is amended by striking out "INSURANCE" and inserting in lieu thereof "INSURANCE AND DRUG".

(g) Section 1811 of such Act is amended by inserting after "services" the following: "and the cost of covered drugs".

(h) Section 1814(c) of such Act is amended by—

(1) adding at the end of the heading the following "or Federal Providers of Drugs";

(2) inserting "(1)" after "(c)"; and

(3) adding at the end the following new paragraph:

"(2) No payment may be made under this part to any Federal provider of drugs (as provided for in section 1819), except a provider of drugs which the Secretary determines is dispensing drugs to the public generally as a community institution or agency; and no such payment may be made to any provider of drugs for any drug which such provider is obligated by a law of, or a contract with, the United States to render at public expense."

(i) Section 1815 of such Act is amended by—

(1) adding at the end of the heading the following: "and Providers of Drugs";

(2) adding after "provider of services with respect to the services furnished by it": ", and each provider of drugs with respect to drugs,";

(3) inserting after "provider of services" the second time it appears "and the provider of drugs, as the case may be,".

(j) Section 1861(r) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of section 1819, such term includes a doctor of one of the arts, specified in the first sentence of this subsection, only with respect to drugs he is legally authorized to prescribe by the State in which he prescribes such drugs."

(k) Section 1869(c) of such Act is amend-

ed by inserting after "provider of services" the following: "or any person dissatisfied with any determination by the Secretary that he is not a provider of drugs eligible for payment under this title,".

(l) Section 1870(a) of such Act is amended by—

(A) inserting ", provider of drugs," after "provider of services"; and

(B) inserting "or drugs" after "items or services".

(2) Section 1870(b) of such Act is amended by—

(A) inserting ", or provider of drugs," after "provider of services" each time it appears;

(B) inserting "or drugs" after "items or services"; and

(C) adding at the end of paragraph (2) the following: "or any payment has been made under section 1818 to a provider of drugs for drugs furnished an individual,".

(3) Section 1870(d) of such Act is amended by inserting: ", or provider of drugs," after "provider of services".

(m)(1) The heading of section 226 of such Act is amended by striking out "INSURANCE" and inserting in lieu thereof "INSURANCE AND DRUG".

(2) Section 226 (a)(1) and (2) of such Act are each amended by striking out "hospital insurance benefits" and inserting in lieu thereof "hospital insurance and drug benefits."

(n) Section 226 (b)(1) of such Act is further amended by—

(1) striking out "(as such terms are defined." and inserting in lieu thereof the following: "and for covered drugs (as such terms are defined";

(2) by striking out "hospital insurance benefits" and inserting in lieu thereof "hospital insurance and drug"; and

(3) striking out "; and" and inserting in lieu thereof "and (C) no such payment may be made for covered drugs furnished before January 1, 1974; and".

(o) Section 21 (a) of the Railroad Retirement Act of 1937 is amended by—

(A) striking out "and" which follows "extended care services,"; and

(B) striking out "post-hospital home health services" and inserting in lieu thereof "post-hospital home health services, and covered drugs".

(p) Section 21 (c) of the Railroad Retirement Act of 1937 is amended by inserting after "services" the first time it appears "(other than covered drugs)".

SEC. 2. The amendments made by this Act shall become effective January 1, 1976.

S. 1323

A bill to amend title XVIII of the Social Security Act to provide for the automatic coverage, without premium, under the supplementary medical insurance program established by part B of such title of individuals who are covered (without payment of premium) under the hospital insurance program established by part A of such title

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1837 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this title, if, for any month after December 1973, any individual is entitled (without regard to the provisions of section 1818) to the insurance benefits provided under part A, such individual shall be deemed to be enrolled in the insurance program established by this part for such month and to be entitled to the benefits provided under such program."

(b) Section 1839 of such Act is amended by adding at the end thereof the following new subsection:

"(g) The preceding provisions of this subsection shall not be applicable to any individual deemed, under section 1837(i), to be enrolled in the insurance program established by this part."

(c) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"(i) For purposes of this part, any premium owed by an individual, who is deemed (under section 1837(a)) to be enrolled for any month in the insurance program established by this part, shall be deemed to have been timely paid."

(d)(1) Section 1844(a) of such Act is amended—

(A) by striking out the period at the end of paragraph (1) and inserting in lieu thereof "; plus"; and

(B) by adding, immediately after subparagraph (B) of paragraph (1), the following new subparagraph:

"(C) a Government contribution equal to the aggregate of the premiums deemed to be paid under section 1840(i).".

(2) Section 1844(a) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1) (A) or (B), the amount of premiums per enrollee shall be determined without regard to section 1839(g) and section 1840(i), and premiums deposited in the Trust Fund shall be deemed to include amounts which were not but would have been deposited therein except for the provisions of section 1839(g) and section 1840 (i)."

S. 1325

A bill to amend title XVIII of the Social Security Act to cover, under the hospital insurance program established by part A thereof, inpatient hospital services provided outside the United States to individuals insured such program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1814(f) of the Social Security Act is amended—

(1) by striking out paragraphs (1) and (2) thereof an inserting in lieu of such paragraphs the following new paragraph:

"(1) Payment shall be made for inpatient hospital services furnished to an individual entitled to hospital insurance benefits under section 226 by a hospital located outside the United States, or under arrangements (as defined in section 1861(w)) with it.";

(2) in paragraph (3) thereof, by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1)"; and

(3) in paragraph (4) thereof—

(A) by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1)", and

(B) by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2)"; and

(4) by redesignating paragraphs (3) and (4) thereof as paragraphs (2) and (3), respectively.

SEC. 2. The amendments made by the first section of this Act shall apply to services furnished with respect to admissions to hospitals occurring after December 31, 1973.

By Mr. WILLIAMS:

S. 1326. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia. Referred to the Committee on Labor and Public Welfare.

HEMOPHILIA ACT OF 1973

Mr. WILLIAMS. Mr. President, hemophilia is a genetically transmitted blood disorder which prevents normal blood coagulation and results in excessive and sometimes fatal bleeding, either internally or externally. The typical hemophiliac is usually a male who is born with the disease and, in the absence of treatment, suffers its effects throughout his lifetime.

Hemophiliacs fall into three major categories depending on the severity of the disease:

First. The severe hemophiliac is subject to spontaneous hemorrhaging into soft tissues, bones, joints, and muscles, and bleeds after any type of trauma or minor surgery. His system lacks virtually all ability to clot.

Second. The moderate hemophiliac rarely hemorrhages spontaneously but may experience significant bleeding after minor trauma. This individual may go undiagnosed for a long period of time.

Third. The mild hemophiliac is generally detected only after severe trauma or surgery during which bleeding cannot be easily controlled but in all other circumstances may be said to live a normal life.

Of the 100,000 hemophiliacs in the United States today, an estimated 25,000 were treated for severe and moderate hemophilia during 1970 and 1971, and almost 90 percent of these individuals are below the age of 25.

Mr. President, hemophiliacs are unique among chronic disease victims because they are not born crippled and they can be cured if financial conditions permit them to take advantage of newly developed forms of therapy. Without this ongoing treatment, severe and moderate hemophiliacs must suffer tragic consequences throughout their lifetime and become an unnecessary burden to themselves, their families, and to the whole society. Not only is there a severe physical crisis confronting the hemophiliac, but he is constantly threatened with great uncertainty since a bleeding episode may strike without warning. As a result, there is a tendency among family members and the hemophiliac himself to curb many otherwise routine day-to-day activities for the sake of the sufferer. This kind of psychological toll is impossible to measure, and in many cases it is devastating.

In the mid-1800's, it was found that bleeding in a hemophiliac could be controlled to some extent through the transfusion of whole blood into the patient. This was the beginning of what is known as replacement therapy. But, this was not a very satisfactory or efficient means of treatment. In the last two decades, medical research made great advances in discovering the missing factor which prevented blood coagulation and in 1964 it was demonstrated that this factor—primarily the element now known as factor VIII—could be removed from human plasma by a process called cryoprecipitation. At last there was new hope for effective treatment for hemophilia.

Unfortunately, replacement therapy for those afflicted with this disease has not been widely available principally because of money. The administration of the clotting factor by a physician or nurse is expensive. Costs are further increased because blood banks often fail to fractionate, cryoprecipitate, or do not have it on hand thus necessitating purchase of more expensive commercial

forms of factor VIII. And so, when clotting factors were first approved for therapy, it would easily cost $25,000 for such ongoing treatment. This made replacement therapy virtually out of reach for the typical patient.

Some progress has been made in recent years. New techniques have made it possible for most hemophiliacs to self-administer the appropriate clotting factor at home. Inpatient care is usually necessary for surgery or when a serious trauma is inflicted. Outpatient care by a physician or nurse may only be required for initial testing and training with only periodic followup treatment. And the clotting factor itself is beginning to be a bit more available than at the outset. And so, the costs associated with replacement therapy have been brought down to the point where it is estimated that the hemophiliac requiring ongoing treatment may obtain it for an average cost of $6,000 per year.

But, Mr. President, $6,000 is a lot of money, especially for the average American family. We are all aware that the median family income in the United States is $10,300 and it is clear to me, therefore, that most households with a hemophiliac simply cannot afford to take advantage of this lifesaving therapy. In my judgment, this Nation has a responsibility to provide the necessary assistance to assure that every individual afflicted with hemophilia will be able to afford replacement therapy for this dread disease. Because the resources are available to save these lives and to permit a normal future we must provide the funds necessary to achieve this goal. We can do no less even for this relatively small segment of our population.

It is for these reasons that I am today introducing the Hemophilia Act of 1973. This is a simple bill with a clear objective. It says that every hemophiliac shall be entitled to care of this disease consistent with available technology and with that person's ability to pay for such care. It establishes a claims program to be administered by the Secretary of Health, Education, and Welfare whereby any hemophiliac in need of replacement therapy shall be entitled to payment either directly or on his behalf in an amount equal to 100 percent of the actual cost of providing blood, blood products and services associated with such treatment.

The Secretary is authorized to make such payments minus the amounts payable for such treatment by third parties and minus amounts determined by him to be payable by such individual based on the income of the individual. Thus, with the enactment of this legislation, no hemophiliac need ever be concerned that he shall go untreated for lack of funds. This is an entitlement payment on behalf of such individuals and as such the necessary funds would be appropriated out of general revenues in order to meet the costs of these claims. My estimates are that this aspect of the bill would cost between $125 and $150 million annually.

In addition to this provision, the bill would address itself to several other important problems associated with hemophilia.

At the present time there are only a scattering of medical centers in the United States which provide any major emphasis on the treatment and diagnosis of this disease. Thus, there are only a few areas in the country where there are adequate treatment and diagnosis facilities or where there is decent social and vocational counseling for hemophilia patients.

Also, we face short supply of professional and paraprofessional personnel trained in hemophilia diagnosis, treatment, and research. Nor do we have adequate mechanisms whereby physicians in outlying areas have adequate contacts with those centers which have hemophilia diagnostic and treatment programs.

In order to meet these needs and to provide a better focal point for individuals participating in the hemophilia claims program, my bill authorizes funds for the establishment of no less than 15 hemophilia diagnostic and treatment centers. The Secretary is authorized to make grants to public and private nonprofit entities for such projects and it is contemplated that such centers will be established in areas where there is the greatest need for such services.

Another problem associated with hemophilia is the existing lack of blood fractionation centers which provide the clotting factor.

In large part this situation is due to the fact that this Nation has yet to develop a rational and efficient blood policy. It has been estimated that the demand for blood products for treatment of hemophilia could necessitate the use of 13 million units of blood annually. This represents more than the current annual supply of all whole blood units.

Thus, it is necessary that only those factors needed by hemophiliacs be fractionated out of whole blood for their use and the other components be fractionated for other uses. This is precisely why we need a more intelligent blood fractionation policy like that which has been developed in Australia and Scotland. That is why I have included a provision in my bill to authorize the Secretary to make grants and enter into contracts for the establishment of fractionation centers to extract necessary blood components and make them available for distribution to hemophilia and treatment centers.

While this will only make a dent in solving the blood supply problem, it will be an important first step in assuring that a larger supply of blood products are available for hemophiliacs and at the same time will assure that other blood products may be derived from the same blood units. I realize that this is a very difficult and complex problem, but it is time that we addressed ourselves to the whole issue in a well thought-out fashion. For without better management of our blood resources we will soon be faced with a major crisis in medical treatment which requires the use of blood and blood products.

Finally, the bill would establish a National Hemophilia Advisory Board which would establish guidelines for the diagnosis and treatment of hemophilia. The Board will be composed of 20 members including the Secretary, the Director of NIH, and 18 others from among the leading scientific and medical authorities in this and related fields. The guidelines which are developed would have to be followed by those treating hemophiliacs and who are reimbursed pursuant to the authority in the bill.

Mr. President, in the past 2 years, several States, including New Jersey, have enacted legislation to establish programs for the care and treatment of hemophiliacs. These assistance efforts were undertaken because of the enormous costs associated with the disease and the inability of the private sector to provide adequate funding for ongoing treatment. But these States which have taken action are unable to appropriate more than a small amount of money for this purpose. Nor is the National Hemophilia Foundation, with its 55 local chapters, in a position to raise enough funds from private resources to assure that hemophiliacs and their families will be able to bear the heavy financial burden of replacement therapy.

During the past several months, I have noted the beginning of a great national debate which poses the question: "What good is having the ability to control disease if we cannot get treatment to those who need it?" It does not seem possible that so rich a nation as the United States can say to an individual suffering from kidney disease, cancer, or hemophilia that we are not going to provide you with the resources to live a normal life; or that we have made enormous progress in finding new therapies but they are of no use to you since you cannot afford them. And yet, some people are indeed taking this view.

As one Senator, I cannot and will not adhere to such a philosophy. If it will cost $150 million to save the lives of 25,000 Americans who suffer from hemophilia, then I say let us act now to provide those funds. Man's humanity to his fellow man demands at least that much. And if we can at the same time find more effective and less expensive means of controlling hemophilia, let us vigorously pursue that course as well. But we must not delay any longer in either endeavor.

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

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

S. 1326

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 "Hemophilia Act of 1973".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) Congress finds and declares—

(1) that there are a significant number of individuals residing in the United States who suffer from hemophilia;

(2) that there exists today the technology and the skills to enable such individuals to lead productive lives;

(3) that the high cost of such technology and skills are in most cases denying the benefits of such advances to individuals suffering from hemophilia.

(b) It is therefore the purpose of this Act to guarantee individuals suffering from hemophilia their entitlement to care commensurate with the technology and skills that are available.

SEC. 3. Title XI of the Public Health Service Act, 42 U.S.C. 201) is amended by adding at the end thereof the following new part:

"PART C—HEMOPHILIA PROGRAM;

"DEFINITIONS

"SEC. 1121. As used in this part the term—

"(1) 'hemophilia diagnostic and treatment center' means an entity which provides the following:

"(A) access for all individuals suffering from hemophilia who reside within the geographic area served by the center;

"(B) programs for the training of professional and paraprofessional personnel in hemophilia research, diagnosis and treatment;

"(C) a program for the diagnosis and treatment of individuals suffering from hemophilia who are being treated on an outpatient basis;

"(D) a program for association with providers of health care who are treating individuals suffering from hemophilia in areas not conveniently served directly by such center but which is more convenient (as determined by the Secretary) than the next geographically closest center;

"(E) programs of social and vocational counseling for individuals suffering from hemophilia;

"(F) individualized written programs for each person treated by or in association with such center; and

"(G) complies with guidelines for treatment established by the National Hemophilia Advisory Board, under this part.

"ENTITLEMENT TO TREATMENT

"SEC. 1122. (a) Any individual suffering from hemophilia may file a claim for benefits under this part with the Secretary in such form and containing such information as he may reasonably require.

"(b) Benefits under this part shall be paid to, or on behalf of a claimant, in an amount equal to 100 per centum of the actual cost of providing blood, blood products, and services associated with the treatment of hemophilia, less—

"(1) amounts payable by third parties (including governmental agencies), and

"(2) amounts determined by the Secretary (in accordance with subsection (c)) to be payable by the individual suffering from hemophilia.

"(c) In determining the amount which may be payable under subsection (b) (2) the Secretary, after consultation with the Secretary of the Treasury, shall establish a schedule of cost sharing by such individual based upon the adjusted gross income of such individual.

"(d) Any claim submitted under this part shall contain a certification that treatment provided to the claimant is in accord with the guidelines promulgated by the National Hemophilia Advisory Board pursuant to the authority granted under this Act.

"(e) There are authorized to be appropriated for the Fiscal Years beginning July 1, 1973 and ending June 30, 1976 such sums as may be necessary to carry out the purposes of this section.

"ESTABLISHMENT OF HEMOPHILIA DIAGNOSTIC AND TREATMENT CENTERS

"SEC. 1123. (a) The Secretary shall provide for the establishment of no less than 15 new centers for the diagnosis and treatment of individuals suffering from hemophilia.

"(b) (1) In carrying out the purposes of subsection (2) the Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities for projects for the establishment of hemophilia diagnostic and treatment centers as defined in section 1121.

"(2) No grant or contract may be made under this part unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner and contain such information, as the Secretary shall by regulation prescribe.

"(3) An application for a grant or contract under this part shall contain assurances satisfactory to the Secretary that the applicant will serve the maximum number of individuals that is available and potential resources will enable it to effectively serve.

"(c) In establishing such centers the Secretary shall—

"(1) take into account the number of persons to be served by the program supported by such center and the extent to which rapid and effective use will be made of funds by such center; and

"(2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(e) There are authorized to be appropriated to carry out the purposes of this section $5,000,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1124. The Secretary shall establish a program within the Public Health Service to provide for diagnosis, treatment, and counseling of individuals suffering from hemophilia. Such program shall be made available through the facilities of the Public Health Service to any individual requesting diagnosis, treatment, or counseling for hemophilia.

"BLOOD FRACTIONATION CENTERS

"SEC. 1125. (a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals to establish blood fractionation centers, for the purpose of fractionating and making available for distribution blood and blood products, in accordance with regulations prescribed by the Secretary to hemophilia treatment and diagnostic centers.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976.

"ADVISORY BOARD FOR HEMOPHILIA TREATMENT STANDARDS"

"SEC. 1126. (a) There is hereby established in the National Institutes of Health a National Hemophilia Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of 20 members as follows:

"(1) the Secretary and the Director of the National Institutes of Health; and

"(2) 18 members appointed by the President.

The persons appointed to the Board shall be appointed from among persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of hemophilia or in fields related thereto.

"(b) (1) Appointed members shall be appointed for six-year terms, except that of the members first appointed, six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) A vacancy in the Board shall not affect its activities, and eleven members thereof shall constitute a quorum.

"(4) The President shall designate one of the appointed members to serve as Chairman for a term of two years. The Board shall meet at the call of the Chairman, but not less often than four times a year.

"(c) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities conducted under this part.

"(d) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Director of the National Institutes of Health shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"FUNCTIONS OF THE BOARD

"SEC. 1127. It shall be the function of the Board to (1) establish guidelines for the diagnosis and treatment of persons suffering from hemophilia; and (2) submit a report to the President for transmittal to the Congress not later than January 31 of each year on the scope of activities conducted under this part.

"RECORDS AND AUDIT

"SEC. 1128. (a) Each recipient of a grant or contract under this part shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

"(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this title which are pertinent to any such grant.".

By Mr. TUNNEY:

S. 1327. A bill to require the labeling of electrical appliances with respect to their comparative efficiency in the use of electricity and to provide for the establishment of minimum standards of efficiency for such appliances. Referred to the Committee on Commerce.

Mr. TUNNEY. Mr. President, when the average citizen lights his home, cooks his food, air conditions his office, and does the thousand-and-one odd jobs which rely on electricity, he and his family do not think of themselves as a drain on our national energy resources.

But when we multiply these countless tasks by the more than 200 million people in this country, the significance of these individual demands multiplies into a developing national crisis. Already, Americans are using around 9 quadrillion Btu's of electrical energy around

our homes and offices every year—that is the equivalent of the energy which would be generated by 1½ billion barrels of oil, 8½ trillion cubic feet of natural gas, or 350 million tons of coal.

Clearly, if we are going to have enough electricity in the future, every American is going to have to take steps to use our electrical resources in the most efficient way possible. Even the smallest reductions in individual usage will produce enormous savings on a national scale.

If we do not act immediately, the consequences will be dire. Home use of electricity grew by almost 5 percent per year between 1960 and 1970, and it is been estimated that, in this decade, it will increase by a yearly average of over 5 percent. This means that by 1990, we could triple our consumption of energy resources to provide electricity.

If we tolerate these heavy increases without trying to conserve our present resources, we will inevitably become much more dependent on foreign sources of energy supply, and we will also be forced to rely too soon on either environmentally hazardous or untried domestic energy processes.

I think that the average American would consume electricity much more efficiently—and I might add more economically—if he had reliable information on the energy consumption of his electrical appliances.

Therefore, I propose legislation that will require appliances to contain information in nontechnical language specifying the energy which they consume. The Office of Emergency Preparedness estimates that we can save trillions of Btu's of energy by 1975 if labeling and advertising of appliances contains energy information. The OEP states:

> Appliances should operate at good efficiency. Minimum acceptable efficiencies and standardized test procedures should be established by the Federal Government in consultation with trade associations. Legislation should be enacted requiring that the energy consumption of each appliance be stated on the nameplate, on the price tag and in every advertisement in which selling price is mentioned.

This bill provides that the Federal Trade Commission, which has traditionally regulated the marketing and advertising of consumer products, promulgate standards for labeling and advertising of electrical appliances with information containing their energy efficiency. In addition, it requires that the FTC come up with minimum standards of efficiency for appliances. In carrying out these requirements, the FTC will confer with other governmental groups, such as the National Bureau of Standards, which have technical expertise in these areas.

Civil and criminal penalties are included in the bill for any person who sells or advertises an appliance without conforming to the relevant standards. The bill allows the FTC or the Attorney General to get an injunction or an order for seizure from the U.S. district courts, where there has been a violation of these standards. Also we have provided that the average citizen can sue for violations of this act.

I believe that the provisions of this legislation are important for three reasons. First, they can be quickly and effectively implemented. Second, they focus on the individual consumer, where minor changes in the use of electricity can cause large, lasting changes in national patterns. Third, the manufacturers will be forced to comply with consumer demands for more efficient appliances. I feel that a thorough airing of the pros and cons of this proposal in hearings will firmly establish its importance.

The air conditioners, refrigerators, stoves, and other household appliances which we depend on so extensively can be aids in conserving electricity, rather than a drain on our electrical resources. Labeling and minimum efficiency standards will help us to avoid the blackouts, brownouts, and power shortages which have become commonplace in today's world, and will give the average American a role in preventing them. These requirements are fair to manufacturers and retailers, and they are in line with our general emphasis on making consumers aware of exactly what they are getting for their money. I will also be considering further legislation in the future to help us to conserve energy resources, both in the household and in our offices and factories, so that we will have sufficient energy to meet our future needs.

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. 1327

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 Electrical Appliance Standards Act of 1973."

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Commission" means the Federal Trade Commission;

(2) "electrical appliance" means any device operated by electricity which is used in any residence;

(3) "communications medium" means radio, television, cinema, or periodical publication or other printed medium of communication.

LABELLING ADVERTISING

SEC. 3. (a) No manufacturer, distributor, wholesaler or retailer of electrical appliances shall sell or offer for sale in, or in any manner affecting, interstate commerce any electrical appliance after the effective date of a standard promulgated by the Federal Trade Commission under section 5 of this Act applicable to that appliance unless the appliance is labeled in accordance with the requirements of that standard as to the comparative efficiency with which that appliance utilizes electrical power.

(b) No manufacturer, distributor, wholesaler or retailer of electrical appliances shall advertise or cause to be advertised any such appliance for sale through any communications medium unless that advertisement contains a statement of the comparative efficiency with which that appliance utilizes electrical power, in accordance with the requirements of such standard.

MINIMUM STANDARDS OF EFFICIENCY

SEC. 4. No manufacturer, distributor, wholesaler, or retailer shall sell or offer for sale in, or in any manner affecting, interstate commerce any electrical appliance manufactured after the effective date of an applicable minimum efficiency standard promulgated by the Commission under section 5 of this Act which fails to meet the requirements of that standard.

PROMULGATION OF STANDARDS

SEC. 5. (a) The Federal Trade Commission shall by rule on the record after opportunity for an agency hearing promulgate standards for labelling electrical appliances with respect to their efficiency in utilizing electrical power relative to the efficiency of other electrical appliances of the same type. In developing standards under this subsection, the Commission, in consultation, with the Bureau of Standards, and any other appropriate agency of the United States Government, including the Environmental Protection Agency and the Council on Environmental Quality, shall develop indices of efficiency for particular types of classes of electrical appliances based upon a standard of reasonable efficiency in the utilization of electrical power with respect to each such type or class of appliances. The labelling requirement for any type or class of electrical appliances shall require the label for each appliance of that type or class to express in nontechnical language such standards of reasonable efficiency for appliances of that type or class, and shall provide the prospective purchaser with a means of easily determining whether a particular appliance is more or less efficient and economical in its utilization of electrical power than an appliance of that type or class.

(b) The Commission, in consultation with the Bureau of Standards and any other appropriate agency of the United States Government, including the Environmental Protection Agency and the Council on Environmental Quality, shall also promulgate standards by rule on the record after opportunity for an agency hearing establishing minimum standards of efficiency in the use of electrical power for types or classes of electrical appliances. Standards promulgated under this subsection shall apply only with respect to appliances manufactured after the effective date of any such standard.

(c) Standards promulgated under this section may be promulgated with respect to types or classes of appliances determined by use, function, the means by which such appliances use electricity, or on any other basis determined by the Commission to be in accordance with the purposes of this Act.

(d) In promulgation of any standards required under this Act, the Commission shall first promulgate standards for those types or classes of appliances which utilize the largest amounts of electric power.

(e) The Commission shall promulgate any standards required under this Act as soon as practicable.

UNFAIR TRADE PRACTICE

SEC. 6. The act of selling or offering for sale (including causing an advertisement to be published or broadcast) any electrical appliance in violation of the provisions of section 3 or 4 of this Act constitutes an unfair or deceptive act or practice in commerce in violation of the provisions of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45 (a) (1)).

CIVIL PENALTIES

SEC. 7. (a) Any person who knowingly violates section 3 or 4 of this Act shall be subject to a civil penalty not to exceed two thousand dollars ($2,000) for each such violation. A violation of such section shall constitute a separate offense with respect to each electrical appliance involved, except that the maximum civil penalty shall not exceed one million dollars ($1,000,000) for any related series of violations.

(b) In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appro-

priateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered.

SEC. 8.(a) Any person who knowingly and willfully violated section 3 or 4 of this Act shall be fined not more than fifty thousand dollars ($50,000) or be imprisoned for not more than one year, or both.

(b) Any individual officer, director, or agent of a corporation who knowingly and willfully authorizes, orders or performs any act constituting a violation of section 3 or 4 of this Act shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (a) of this section.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 9. (a) The United States district courts shall have jurisdiction to restrain any violation of section 3 or 4, or to restrain any person from advertising or distributing in commerce an electrical appliance which does not comply with the requirements of any applicable standard promulgated by the Commission under section 5 of this Act. Such actions may be brought by the Commission (with the concurrence of the Attorney General) or by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Any electrical appliance which fails to conform to an applicable standard when introduced into or while in commerce or while held for sale after shipment into commerce shall be liable to be proceeded against on libel of information and condemned in any United States district court within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving substantially similar electrical appliances are pending in courts of two or more judicial districts, they shall be consolidated for trial by order of any court upon application reasonably made by any party in interest upon notice to all other parties in interest.

ENFORCEMENT POWERS

SEC. 10. In carrying out its duties under this Act, the Commission is authorized to utilize the provisions of sections 9 and 10 of the Federal Trade Commission Act, and such sections are hereby made applicable to the enforcement of the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

CITIZEN SUIT

SEC. 12. Any person may commence a civil action on his own behalf—

(1) against any manufacturer, distributor, wholesaler, or retailer of electrical appliances who is alleged to be in violation of the provisions of this Act, or

(2) against any Federal agency, where there is an alleged failure of the appropriate agency to perform any act or duty under this Act which is not discretionary. The district courts shall have jurisdiction without regard to the amount of the controversy or the citizenship of the parties to enforce the provisions of this Act with regard to any manufacturer, distributor, wholesaler, or retailer of electrical appliances or to order the appropriate Federal agency to perform such act or duty, as the case may be: *Provided, however,* That no action may be commenced under this subsection prior to sixty days after the plaintiff has given notice of the violation to the appropriate Federal agency or to the appropriate manufacturer, distributor, wholesaler, or retailer of electrical appliances. Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law.

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

S. 1328. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California. Referred to the Committee on Commerce.

Mr. TUNNEY. Mr. President, the State of California faces a transportation crisis. During the remainder of this century the explosive growth in intrastate travel will place a crushing burden on California's transit systems. Quick action is required before these vital systems are clocked, or in the case of air travel, become outrageously hazardous.

In the last decade traffic between the major urban areas in California increased from 25 to 50 million travelers. Conservative projections indicate that we can expect as many as 125 million travelers by 1990 and 200 million by the year 2000. This would mean the equivalent of the entire present population of the United States would be traveling between the major cities of California within 30 years.

We must act now to assure that California's transportation systems will not be overwhelmed by this massive increase in intrastate travel. If we delay, we will condemn California, our most populous State, to a future of jammed highways and dangerously overcrowded skies.

To make a start toward solving these problems, I am introducing legislation today which directs the Department of Transportation to study the feasibility of developing a high-speed ground mass transit system between the cities of Sacramento, San Francisco, Fresno, Los Angeles, and San Diego.

The development of such a system to the point where it is a safe, economical, and efficient alternative to the automobile and the airplane could alleviate many of the problems of environmental pollution and energy consumption which California faces. It would also serve as a model for the rest of the country to solve its transit, pollution, and energy problems. The Environmental Protection Agency's proposed gas rationing in southern California is the cutting edge of restrictions that could be imposed nationwide if we do not diversify and modernize our transportation systems.

High-speed ground transportation will not replace the automobile or the airplane, but it will shift a significant part of the future burden from them. By allowing these three critical transportation modes to develop simultaneously we will help to assure that no one system becomes overburdened, and that there will be a balanced transit system which will offer our citizens real choices in intercity travel.

In order to facilitate the development of high-speed ground transportation in California, the bill directs the Secretary of Transportation to consider all possible forms of ground transporation which could meet our needs, whether presently in existence or proposed. We must study the cost and environmental effects of such a system, and any proposed system must tie into local rapid transit systems in what should be a comprehensive statewide network. The system must provide a long-range answer to our transit problems, in terms of its speed, cost and convenience to its users, quality of its service, consumption of energy, and most important ability to expand in an orderly manner without imposing unreasonable costs on its users, the taxpayer, or its surroundings.

NEED

Of course, the automobile is going to be of continuing importance in intercity travel in California, regardless of what we do. Cars cannot be matched in convenience, and their cost to users is comparatively low. But if alternatives are not developed, it is estimated that auto trips between San Diego, Los Angeles, and San Francisco alone could rise to approximately 60 million trips per year by 1980 and 90 million by 1990. Sitting idly by and responding to such increases only by building more highways and more cars is not the way to clean up our air and conserve our energy resources.

Currently the principal alternative to auto travel in the "California corridor" is the airplane. The airplane will also have difficulty in expanding to meet our transportation needs. Air travel has increased dramatically in popularity during the last several decades because of its speed and quality of service. The increases have been especially dramatic in California. The air corridor between San Francisco and Los Angeles has become the most heavily traveled in the world. From 1957 to 1964, passenger traffic on this route increased by 233 percent compared to a 70-percent increase in traffic on all domestic trunklines. Air trips from San Francisco to Los Angeles are projected to rise to about 25 million per year by 1985, an increase of almost 400 percent over the 1971 figure—and this is only one part of the air travel picture in the California corridor.

Some have suggested that we should rely on air transit to absorb the projected explosive increases in intrastate travel demand. I doubt that the public will accept the sizable increases in air and noise pollution which will result from heavier reliance on air travel. Nor do I believe that the mushrooming demands for new airport space and expensive facilities will be easily accommodated.

Even if such problems can be solved, and the public will accept this kind of expansion, it is not clear that available airspace and energy resources will allow this massive increase. For example, airspace in the San Francisco area will be so crowded that there will be severe conflicts with military air operations, creation of severe overflight noise problems, and delays and curtailment of flights. In addition, expansion of air travel will put us on a collision course

with petroleum shortages which are already predicted.

In short, huge increases in air travel will cost a lot, create serious environmental problems, and may lead to such overloads in traffic that the speed and convenience of air travel will be severely diminished. We all know how many times right now airplanes cover long distances in short times, only to spend interminable periods circling the airport. If that situation worsens, we could be stuck with an airline system which is less attractive to the traveler and is no answer to the average person's need for fast, cheap, reliable, mass transit.

Furthermore, the short and vertical takeoff and landing systems which are the suggested alternatives to present airplanes cannot by themselves solve the problems of conventional air travel. Although terminals for such planes could be more convenient and less space-consuming than present airports. VTOL and STOL systems still possess many of the disadvantages of air and noise pollution and energy consumption which plague present airplanes.

I do not think that we as legislators can afford to stand by and let these problems occur. I believe that we have to emphasize transportation which is clean, quiet, energy-efficient and attractive to users. I have committed myself to support a comprehensive approach to these problems in all areas relating to transportation, and this is only one part of that approach.

We have to look at present ground transportation modes, even though they appear to have serious drawbacks. Bus transit diminishes problems of air pollution and energy consumption associated with cars, but is basically a form of auto travel which lacks the main attractive feature of a car—its convenience. Present rail transit has advantages with regard to air pollution, land use, and energy efficiency, but it is associated in the public mind with poor service and is presently too slow to compete for the travel dollar with the airlines. We might want to consider some sort of variation on the very successful Metroliner program for the west coast on an interim basis but the larger distances involved may make it less attractive than the New York-Washington line.

Therefore, I believe that any long-range solution to the transit problems in the California corridor will come from study and implementation of a "breakthrough system," a transportation mode which is presently only in the experimental stages. I have been told by the many experts with whom I have consulted that several systems could have the speed, convenience, cleanliness, cost, and energy efficiency to make them real competitors for the airplane and the auto, including the tracked levitation vehicle and a tubular system.

Breakthrough systems like these could operate at cruising speeds between 200 and 300 miles per hour. Access points could be conveniently located to make maximum use of local mass-transit systems. The system could offer a quality of service equal to that of the airlines which the northeast corridor study suggests is one of the most important factors influencing customer choices of transportation.

In addition, such systems cause considerably less air and noise pollution than airplanes or traffic-intensive freeways. Electrical engines mean that there is pollution only at the source of the electricity, which can be controlled more easily and less expensively than pollutants emitted by car or airplane engines. Mass transit systems would be a major part of a real solution to problems of energy demand. The Office of Emergency Preparedness estimates that implementation of improved intercity transit systems could save almost 1 quadrillion Btu's per year by 1980 and 2 quadrillion Btu's annually thereafter.

Finally, and most important, a new system of ground mass transit could be expanded coherently and efficiently to meet our needs for the 21st century. We can build a system with the built-in capacity to expand which would be a real step forward from the haphazard, unplanned growth of present transit systems.

I do not want to ignore the problems which a breakthrough system or any other transit system would inevitably create. A new system would require new land and might infringe on land which is presently undeveloped. It would undoubtedly be expensive to build and to operate until it had received wide public acceptance. Finally, we can never be completely sure that the public would react in the way that we expect. I do not minimize these problems, but I think that they assume their proper perspective when we consider what will happen if we do not investigate a new system.

If we are seriously going to explore the possibility of a new method of ground mass transit, we have got to start right now. Most experts think that a breakthrough system could not be fully operational before 1985. With that kind of leadtime required, every day we waste now will cost us dearly in the 1980's.

Mr. President, California is now our most populous State. The California corridor is one of the most important centers of trade and industry. We can see the future of many of our developing areas reflected in California. If we can develop a really adequate answer to the problems of this area, we will also show the rest of the country how to plan for its future transit needs.

Solving California's transportation problems deserves a massive commitment of State and Federal time and resources. We can meet those future transit needs without destroying our environment and wasting our precious energy resources, and we can do it in a way that will invigorate the California aerospace and defense industry and change its sole focus from making weapons and airplanes to developing new technologies to solve our transit problems.

We can profit from the example of the Japanese who have already started to build a new high-speed line to link Tokyo and Osaka. We can solve our problems, but we must start promptly. I urge the Senate to make a start by authorizing study of the feasibility of a high-speed ground mass transit system for the California corridor.

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. 1328

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 California Corridor Feasibility Study Act of 1973."

SEC. 2. The Secretary of Transportation is directed and authorized to make an investigation and study for the purpose of determining the social advisability, technical feasibility, and economic practicability of a high-speed ground transportation system between the cities of Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider—

(1) the various means of providing such transportation, including those under development, such as the tracked levitation vehicle;

(2) the cost of establishing and operating such a system, including any acquisition of necessary rights-of-way;

(3) the environmental impact of such a system including the future environmental impact from air and other transportation if such a system is not established;

(4) the factors which would determine the future adequacy and commercial success of any such system, including the speed at which it would operate, the quality of service which could be offered, its cost to potential users, its convenience to potential users, and its ability to expand to meet projected increases in demand;

(5) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(6) the ability of such a system to be integrated with other local and intra-state transportation systems, both existing and planned, in order to create a balanced and comprehensive transit system within the State of California; and

(7) such other matters as he deems appropriate.

SEC. 3. In carrying out the investigation and study pursuant to this Act, the Secretary of Transportation may enter into contracts and other agreements with public or private agencies, institutions, organizations, corporations, or individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

SEC. 4. The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President as soon as practicable.

SEC. 5. There is authorized to be appropriated funds sufficient to carry out the provisions of this Act.

By Mr. SPARKMAN (for himself and Mr. TOWER):

S. 1329. A bill to amend laws relating to the Federal National Mortgage Association. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. SPARKMAN. Mr. President, I am today cosponsoring with the distinguished ranking minority member of the Banking Committee (Mr. TOWER) legislation to amend the Federal National Mortgage Association Charter Act.

This bill is basically the same proposal as that which cleared our committee last year and which was included in the 1972 omnibus housing bill which passed the Senate 80 to 1.

The major thrust of the bill is the broadening of FNMA's authority to deal in conventional mortgages. The balance of the legislation is designed to bring the FNMA Charter Act up to date.

One provision would increase FNMA's conventional mortgage limits on single family housing to $45,000, the same as the congressionally approved ceiling for Federal savings and loan associations, and the same as the figure approved for FNMA last year in the 1972 omnibus housing bill.

Another provision would adjust the present statutory loan-to-value ratio from 75 to 80 percent to bring it more in line with actual conventional mortgage lending practices.

Neither of these conventional mortgage program recommendations will involve—directly or indirectly—the expenditure of Federal funds.

FNMA's President and Board Chairman, Oakley Hunter, has assured me that FNMA is well aware of and reaffirms its commitment to support the FHA and VA mortgage markets. However, as Mr. Hunter points out, the costs of single family housing have increased since the dollar ceiling in the FNMA conventional program was set in 1970. Also, to meet the demand long-term, low-downpayment conventional loans—coupled with private mortgage insurance—are now being made on terms which compare favorably with the FHA unsubsidized single family program. If these home buyers are to benefit from a viable secondary conventional market, Mr. Hunter says, the present FNMA dollar ceiling should be increased.

Mr. President, I ask unanimous consent that the bill, and an explanation thereof, be printed in the RECORD.

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

S. 1329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 302(a)(2) of the National Housing Act is amended by striking out "the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968" and inserting in lieu thereof "September 1, 1968", and by striking out "effective" in subparagraphs (A) and (B).

(b) The third sentence of section 302(a)(2)(B) of such Act is amended—

(1) by inserting "or the metropolitan area thereof" immediately after "District of Columbia";

(2) by inserting "jurisdiction and" immediately before "venue"; and

(3) by striking out "resident thereof" and inserting in lieu thereof "District of Columbia corporation".

(c) Section 302(b)(2) of such Act is amended by striking out "75 per centum" each place it appears and by inserting in lieu thereof, in each such place, "80 per centum".

(d) Clause (C) of the second sentence of section 302(b)(2) of such Act is amended by striking out "private".

(e) The last sentence of section 203(b)(2) of such Act is amended by striking out "which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act" and inserting in lieu thereof "of the first proviso to the first sentence of section 5(c) of the Home Owners' Loan Act of 1933, except that such limitation shall be increased 25 per centum with respect to mortgages of property located in Alaska, Guam, and Hawaii".

(f) Section 303(a) of such Act is amended—

(1) by striking out all of the first sentence which follows "directors" and inserting in lieu thereof a period; and

(2) by striking out everything after the second sentence.

(g) Section 303(c) of such Act is amended—

(1) by striking out the "the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968" and inserting in lieu thereof "September 1, 1968,"; and

(2) by striking out the proviso in the last sentence.

(h) Subsections (d) and (e) of section 303 of such Act are repealed.

(i) Section 304(a)(1) of such Act is amended by striking out "section 502 of the Emergency Home Finance Act of 1970" and inserting in lieu thereof "section 243 of the National Housing Act".

(j) Except with respect to any person receiving an annuity on the date of enactment hereof, section 309(d)(2) of such Act is amended—

(1) by striking out "the termination of the transitional period referred to in section 810(b) of the Housing and Urban Development Act of 1968" and inserting in lieu thereof "January 31, 1972,"; and

(2) by inserting "positions listed" immediately before "in section 5312".

(k) Subsections (b) and (c) of section 810 of the Housing and Urban Development Act of 1968 are repealed.

EXPLANATION

This bill is intended to broaden FNMA's authority to deal in conventional mortgages, and to bring Title III of the National Housing Act (the Federal National Mortgage Association Charter Act) up to date.

The bill would substitute actual dates for time references in the Act based on events which have occurred since such references were added to the Act, and it would repeal outdated and obsolete provisions thereof. The substantive changes are:

1. Subsection (b) would (1) increase the area within which FNMA must maintain its principal office to include the metropolitan area of the District of Columbia, and (2) provide that FNMA be considered a District of Columbia corporation for the purpose of jurisdiction as well as venue in civil cases.

2. Subsection (c) would increase from 75 percent to 80 percent the maximum loan-to-value ratio of conventional mortgages FNMA may purchase (where such maximum is applicable).

3. Subsection (d) would allow FNMA to purchase conventional mortgages which are insured by non-private insurers. There are at least five States which have authorized State agencies to insure mortgages, and there is no reason why State-insured mortgages should be ineligible for purchase while privately insured mortgages are eligible. Such mortgages are now eligible for purchase by the Federal Home Loan Mortgage Corporation, and the enactment of this change would tend to make the authorities of the two corporations more nearly equal.

4. Subsection (e) would change the dollar limitation on FNMA's single family conventional purchases from the limitation on FHA mortgages to the limitation applicable to single family mortgages purchased by Federal Savings and Loan Associations, which, like FNMA, are Federal instrumentalities serving national housing purposes. This limitation would be increased by 25 percent for mortgages in Alaska, Guam, and Hawaii, where housing costs are materially greater.

5. Subsection (j)(1) would give those FNMA employees who transferred directly from the Federal Government between May 21, 1970, and January 31, 1972, the option of retaining their coverage under the Civil Service Retirement law with the costs being divided between such employees and FNMA. Those Federal employees who transferred to FNMA on or before May 20, 1971, retain their coverage under the Civil Service Retirement program. No more than six or eight employees would be affected by the proposed amendment.

Mr. TOWER. Mr. President, I am pleased to join with the distinguished chairman of the Committee on Banking, Housing and Urban Affairs (Mr. SPARKMAN) in introducing legislation which amends the Federal National Mortgage Association Charter Act by giving that Company broader latitude in dealing in conventional mortgages.

As noted by the chairman, this identical proposal was approved last year by our committee and by the Senate.

FNMA has done an excellent job in supporting the FHA and VA housing markets. It is committed to low- and moderate-income housing programs to the tune of over $9 billion—over 30 percent of its total portfolio and commitments as of the end of calendar 1972. Enactment of this legislation will enable the Company to better balance its portfolio and more effectively support the housing market in the months and years ahead.

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

S. 1333. A bill to provide for the establishment of a veterinary biologics facility by the U.S. Department of Agriculture, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. CLARK. Mr. President, I introduce, for myself and for my distinguished senior colleague, Senator HUGHES, a bill which would provide for the establishment of a permanent veterinary biologics facility at Ames, Iowa. Identical legislation has been introduced in the House of Representatives by Congressman NEAL SMITH. Passage of this legislation would authorize the Secretary of Agriculture to acquire land on which the facility may be located and to perform any additional function necessary to its establishment. Last session, Congress appropriated approximately $580,000 in planning funds to be used for this facility; however, due to the absence of authorizing legislation the Department of Agriculture has not yet been able to spend that money. It is my sincere hope that the bill which Senator HUGHES and I offer here today will result in the expenditure of those funds prior to June 30 of this year.

The location of this facility at Ames is logical. The National Animal Disease Laboratory, already situated in Ames, and Iowa State University, which has one of the most outstanding agriculture schools in the Nation, would offer a unique opportunity for valuable interchange of ideas and resources. The establishment of this facility at Ames would be beneficial both to veterinary science and to the economic well-being

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

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

S. 1333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to acquire land, or any interest therein, by purchase, donation, exchange, or otherwise, and construct or lease buildings, improvements, and other facilities as may be necessary for the establishment and maintenance of a veterinary biologics facility at Ames, Iowa. The Secretary of Agriculture, on behalf of the United States, is further authorized to accept any gift or donation of money, personal property, buildings, improvements, and other facilities for the purpose of conducting the functions authorized under this Act.

SEC. 2. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Mr. HUGHES. I am pleased today to join my colleague from the State of Iowa (Mr. CLARK) in introducing a bill which would authorize the U.S. Department of Agriculture to take title to land and property at Ames, Iowa, for the purpose of establishing a veterinary biologics facility. The community of Ames offers an unusual meld of scientific expertise and practical farming experience; and I believe that this laboratory can provide important benefits to the Nation.

The bill is a companion measure to one introduced in the House of Representatives by Representatives NEAL SMITH and WILLIAM SCHERLE of Iowa.

I am hopeful that the bill will receive prompt consideration and approval.

By Mr. NELSON (for himself, Mr. PELL, Mr. MCINTYRE and Mr. HUGHES):

S. 1337. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices. Referred to the Committee on Labor and Public Welfare.

Mr. NELSON. Mr. President, several bills to regulate medical devices have been introduced in the Congress in the last two sessions, including a bill that I introduced in May 1969, in the 91st Congress, and reintroduced last session. The Federal Government needs statutory authority to regulate medical devices. Everyone, including the President, agrees on that fact.

On October 30, 1969, President Nixon called for device legislation in his consumer message to Congress:

Certain minimum standards should be established for devices; the government should be given additional authority to require premarket clearance in certain cases.

The FDA reiterated the need for device legislation in testimony before the Senate Health Subcommittee March 7.

Therefore, I am reintroducing the Medical Device Safety Act and hope that medical device legislation will be acted upon by this Congress.

The Food and Drug Administration estimates that total retail sales of medical devices in 1971 was more than $3 billion, a figure that could double in the next 10 years. Device sales are about half that of the pharmaceutical industry. There is tremendous growth in the device industry, as medical technology makes way for the use of artificial implants, electronic diagnostic, and therapeutic equipment.

An FDA inventory recently compiled shows that some 12,000 medical devices are on the market, produced by more than 1,100 manufacturers.

These products range from complex electronic equipment to more simple items, such as bone pins and surgical instruments.

None of them are required by law to be pretested for safety or reliability prior to marketing.

Deaths or injuries related to devices are rarely if ever reported. No one knows how serious these problems might be, but they do exist.

The Federal Government presently does not have the authority to regulate medical devices for safety, efficacy or quality. The Food and Drug Administration, under existing authority, has put together a list of many devices and device manufacturers, and has enlisted industry cooperation to classify devices. Device advisory panels have been designated to set guidelines for device products.

But the FDA emphasizes that recommendations made by the specialty panels regarding such products do not have the force of law and cannot be implemented until legislation is enacted. Furthermore, as the FDA stated in announcing its classification system.

It is recognized that the recommendations of (the) specialty panels represent the views of the members of those panels and are not always based on all available information.

There have been many tragedies with drugs that were not properly tested before marketing. We have also seen that it is extremely difficult to pass drug legislation unless there is a tragedy. We should not wait for a major tragedy to force medical device legislation.

At the same time, we do not want to stifle research and development of new devices and technology, but to encourage further advances in modern science to benefit the public health.

The FDA testified in appropriations hearings in April 1971:

The increasing application of electronics and new materials to medical care has resulted in thousands of lives being saved through such techniques and products as intensive-care monitoring, internal pacemakers, and artificial heart valves. Accompanying these major advances has been the potential for increased hazards. While complete and reliable data is not available, instances of injuries and death are all too common.

No one should be exposed to possible electrocution, unwarranted infection, or permanent disability by faultily manufactured or poorly designed devices.

The National Product Safety Commission has indicated that possibly 1,200 hospital patients may be electrocuted each year while receiving routine treatment.

In the last year, a number of devices have been the subject of recall or other action by the FDA because of failures or ineffectiveness.

However, the present law provides only for Federal action against devices for "misbranding," misleading "labeling," or "adulteration." Although the FDA has enforced these sections of the law and some general administrative regulations in an effort to control use of certain devices, the Federal Government still must prove in court that a device has been found unsafe. This can be a long and tedious process, and usually happens after serious injuries have occurred.

For example, in July 1966, the FDA filed suit in Federal court to prevent the sale and distribution of a $200-to-$400 electrical machine, which was supposed to reduce weight and improve the figure. FDA charged in court that the machine was unsafe to use as directed, that it was "misbranded" with misleading claims in the labeling. The courts agreed with the FDA—but not until 4 years and half a million of the taxpayers' money later. During the 10 years the product had been on the market, some 400,000 were sold, the American public was cheated out of millions of dollars and exposed to real health risks.

Other examples of problems with devices include:

A recall of 487 heart pacemakers, after at least 20 were expected of malfunctioning in a potentially life-threatening way, by abnormally increasing the heartbeat.

An Air Force study indicating that some pacemakers malfunction in the presence of microwave and radiation.

FDA seizure of small sterilizers because of possible shock danger. The FDA asked retailers to remove from the market four models of the sterilizers, involving some 20,000 such products, which are used by doctors, dentists, and diabetics at home.

FDA seizure of a machine marketed since the late 1950's for alleged treatment by heat of some 300 conditions from fractures to shingles. A Federal judge described the machines as "no less than sheer quackery". However, more than 4,000 had been sold for $2,400 to $4,000 apiece by the time the FDA moved to seize the product, and treatments cost consumers an average of $10 each.

Numerous defects in electronic equipment used in critical care units of 12 leading hospitals. A study, prepared by Dr. Henry L. Green, G. E. Hieb, and Dr. Irwin J. Schatz of Wayne State University College of Medicine, and reported to the American Heart Association in March, 1971, revealed that: of 51 defibrillators studies, malfunction was common; of 95 monitors examined, 56 had substandard frequency response and leakage; of 51 electrocardiographs and direct writers examined, over half showed unsafe leakage current and 75 percent had frequency responses that failed to meet 1967 criteria of the American Heart Association; of 57 pacemakers tested, 28 had grossly abnormal activity; aspirators and portable X-ray machines showed excessive leakage current.

The report pointed up another serious problem—the misuse of medical devices and lack of expertise in operating and maintaining complicated electronic equipment. The report concluded that many of the problems found in the hospitals resulted from lack of communication between manufacturers and users of cardiac care equipment. It stated:

Engineers have not always considered the manner in which the equipment will be employed or the skill of the personnel responsible for it. At times, more consideration seems to have been given to economy of production than to future servicing. Physicians in turn have not related problems of utilizing these devices to the manufacturer in order that he might improve his design. Both physicians and nurses should know more about how to use their equipment.

The investigators stressed the need for a program of preventive maintenance and for a highly developed medical electronic repair service.

A Special HEW Committee on Medical Devices, chaired by Theodore Cooper, M.D., director of the National Heart and Lung Institute, recommended in September 1970, that the authority of the FDA be extended legislatively to regulate medical devices prior to marketing. The Cooper Committee also expressed concern about the use of devices after marketing. The report stated:

Some consultants pointed out that many of the reported accidents associated with medical devices arose not from design and manufacture, but from improper installation, interconnection with other devices and frank misuse. Consequently, regulation of devices themselves would not resolve all problems.

It is clear that in dealing with the medical device issue legislatively, attention must be paid to the post-market, operational problem as well. It may be that additional legislation governing the use of certain devices will be necessary.

WHAT THE MEDICAL DEVICE BILL DOES

The bill authorizes the Secretary of Health, Education, and Welfare to establish standards for devices when such action will protect public health and safety. In developing standards, the Secretary is required to consult with other Federal agencies, standard-setting organizations, and representatives of scientific, professional, industry, and consumer organizations.

The Secretary may refer to independent ad hoc advisory committees of experts for reports and recommendations on standards.

Devices now on the market would be subject to the standards set by HEW.

Premarket clearance for devices is required, to assure that a device is safe, reliable and effective. Conditions are set forth as to when premarket clearance is required. A procedure is established for applying to HEW for clearance of a device.

The Secretary is required to maintain and publish a list of devices and their uses.

Certain devices would be exempt from the standard-setting and premarket clearance requirements. These would include devices used solely for investigational purposes by persons qualified to conduct such investigations, based on conditions set forth in the bill.

The bill also provides for exemptions of devices when the Medical Device Advisory Council, established by the bill, unanimously finds it unnecessary to reguate such products for the purpose of protecting the public health and safety.

The bill requires quality manufacturing controls and requires that manufacturers maintain and make available information received by them or distributors concerning the safety and effectiveness of products.

The Secretary can withdraw approval of devices when doubt of safety or effectiveness arises.

The Medical Device Advisory Council would advise the Secretary on policy matters. It would be comprised of 15 members appointed by the Secretary for their special knowledge in the field.

It is my hope that hearings on the subject of medical device regulation and use will be held and that legislation will be enacted during this session of Congress.

Mr. President, I ask unanimous consent that the bill, a section-by-section analysis, and supportive material be printed in the RECORD following these remarks.

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

S. 1337

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 "Medical Device Safety Act".

TITLE I—AUTHORITY TO ESTABLISH STANDARDS

SEC. 101. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351), is amended by adding at the end thereof the following new section:

"STANDARDS FOR MEDICAL DEVICES

"Authority to set standards

SEC. 513. (a) Whenever in the judgment of the Secretary such action will protect the public health and safety, he may by regulation establish for any device (including any type or class of device presently available for sale or use or intended to be made available for sale or use), a reasonable standard relating to the composition, the properties, the identification and the performance (including compatibility with power systems and connections) of the device or devices involved (or relating to two or more of such factors).

"Weight Given Other Standards—Consultation With Interested Groups

"(b) In the development and consideration of proposals for the issuance of standards under this section, and in particular prior to the commencement of formal proceedings on his own initiative pursuant to subsection (c), the Secretary shall to the optimum extent consult with, and give appropriate weight to relevant standards published by, other Federal agencies concerned with standard setting or other nationally or internationally recognized standard-setting agencies or organizations, and invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, and consumer organizations that in his judgment can make a significant contribution to such development.

"Procedure for Issuance, Amendment, or Repeal of Standards

"(c) The provisions of section 701 (e), (f), and (g) of this Act shall, subject to the provisions of subsection (d) of this section, apply to and in all respects govern proceedings for the issuance, amendment, or repeal of regulations under subsection (a) of this section (including judicial review of the Secretary's action in such proceedings). The Secretary may suspend the running of any applicable time limit under section 701(c) pending receipt of the report of an advisory committee under subsection (d) of this section and consideration of the committee's report by the Secretary.

"Refusal to Independent Advisory Committee

"(d)(1) In any proceeding for the issuance, amendment, or repeal of a regulation establishing a standard under this section, whether commenced by a proposal of the Secretary or his own inititative or by a proposal contained in a petition, the petitioner, or any other person who will be adversely affected by such proposal or by the Secretary's order issued in accordance with paragraph (1) of section 701(c) if placed in effect, may request, within the time specified in this subsection, that the petition or order thereon, or the Secretary's proposal, be referred to an advisory committee of experts for a report and recommendations with respect to any matter involved in such proposal or order that requires the exercise of scientific judgment. Upon such request, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint such an advisory committee and shall refer to it, together with all the data before him, the matter so involved for study thereof, and for a report and recommendations thereon in accordance with the applicable provisions of paragraph (5)(C)(ii) of subsection (b), and subject to paragraph (2) of subsection (d) of section 706. A person who has filed a petition or who has requested the referral to a matter to an advisory committee pursuant to this subsection, as well as representatives of the Department, shall have the right to consult with such advisory committee in connection with the matter referred to it. The request for referral under this subsection, or the Secretary's referral on his own initiative, may be made at any time before, or within thirty days after, publication of an order of the Secretary acting upon the petition or proposal.

"(2) The appointment, compensation, staffing, and procedure of such committees shall be in accordance with subsection (b)(5)(D) of section 706.

"(3) Where such a matter is referred to an expert advisory committee upon request of an interested person, the Secretary may, pursuant to regulations, require such person to pay fees to pay the costs, to the Department, arising by reason of such referral. Such fees, including advance deposits to cover such fees, shall be available, until expended, for paying (directly or by way of reimbursement of the applicable appropriations) the expenses of advisory committees under this subsection and other expenses arising by reason of referrals to such committees and for refunds in accordance with such regulations."

CONFORMING AMENDMENTS

SEC. 102. Section 501 of such Act is amended by adding at the end thereof the following new paragraph:

"(e) If it is, or purports to be or is represented as, a device of a type or class with respect to which, or with respect to any component, part, or accessory of which, a standard established under section 513 is in effect, unless such device, or such component, part, or accessory, is in all respects in conformity with such standard."

TITLE II—PREMARKET CLEARANCE OF CERTAIN MEDICAL DEVICES

SEC. 201. (a) Section 501 of such Act, as amended by section 102 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(f) If (1) it is a device, and (2) such device, or any component, part, or accessory

thereof, is deemed unsafe, unreliable, or ineffective within the meaning of section 514 with respect to its use or intended use."

(b) Chapter V of such Act, as amended by section 101 of this Act, is further amended by adding at the end thereof a new section as follows:

"PREMARKET CLEARANCE FOR CERTAIN MEDICAL DEVICES

"When Premarket Clearance Is Required

"SEC. 514. (a) A device shall, with respect to any particular use or intended use thereof, be deemed unsafe, unreliable, or ineffective for the purpose of the application of section 501(f) if—

"(1) its composition, cnstruction, or properties are such that such device is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety, reliability, and effectiveness of such device, to be safe, reliable, and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and

"(2) such device (A) is intended to be secured or otherwise placed, in whole or in part, within the human body or into a body cavity, or directly in contact with the mucous membrane, and is intended to be left in the body or such cavity, or in such direct contact, permanently, indefinitely, or for a substantial period or periods (as determined in accordance with regulations issued after notice and opportunity to present views), or (B) is intended to be used for subjecting the human body to ionizing radiation, electromagnetic, eletcric, or magnetic energy (including, but not limited to, diathermy, laser, defibrillator, and electroshock instrumentation), or heat, cold, or physical or ultrasonic energy, or is intended for physical or radio or electronic or electric communication in either direction with any part of the human body or with a device placed within or connected with the human body, or (C) is a device which the Secretary, by special order made on the basis of a finding (for reasons stated in the order) that there is probable cause to believe that the device is not effective for its use or intended use, or that it is not safe for use or not reliable, under the conditions prescribed, recommended, or suggested in its labeling, has declared to be subject to the requirements of this subsection with rsepect to such use or intended use, unless either—

"(3) an application with respect to such device has been filed pursuant to subsection (b) and there is in effect an approval of such application by the Secretary under this section,

"(4) such device is exempted by or pursuant to subsection (j), (k), or (l) of this section, or

"(5) such device is intended solely (A) for the use in the cure, mitigation, treatment, or prevention of disease in animals other than man or (B) to affect the structure or any function of the body of such animals.

The Secretary shall, by regulation issued or amended from time to time under the authority of this sentence, insofar as practicable promulgate and keep current a list or lists of devices, and of the particular uses (or conditions of use) thereof, which he finds are generally recognized, among experts qualified by scientific training and experience to evaluate the safety, reliability, and effectiveness of such devices, to be safe, reliable, and effective for use (under the conditions, if any, referred to in such list or lists), and the inclusion, while in effect, of a device in such a list shall, in any proceeding under this Act, be conclusive evidence against the United States of the facts stated in that list with respect to such device.

"Application for Clearance

"(b) Any person may file with the Secretary an application for determination by the Secretary of the safety, reliability, and effectiveness of any device to which paragraphs (1) and (2) of subsection (a) apply. Such persons shall submit to the Secretary as a part of the application (1) full reports of all information, published, or otherwise available to the applicant, concerning investigations which have been made to show whether or not such device is safe, reliable, and effective for use; (2) a full statement of the composition, properties, and construction, and of the principle or principles of operation, of such device; (3) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of such device; (4) an identifying reference to any standard, applicable to such device, which is in effect pursuant to section 513, and adequate information to show that such device fully meets such standard; (5) such samples of such device and of the articles used as components thereof as the Secretary may require; (6) specimens of the labeling proposed to be used for such device; and (7) such other information, relevant to the subject matter of the application, as the Secretary may require.

"Time for Initial Consideration of Application

"(c) Within one hundred and eighty days after the filing of an application under subsection (b), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) approve the application if he then finds that none of the grounds for denying approval specified in subsection (d) applies, or

"(2) give the applicant notice of an opportunity for a hearing before the Secretary to be held under subsection (d) on the question whether such application is approvable. The Secretary may suspend the running of the applicable time limit under this subsection pending receipt of the report of an advisory committee under subsection (h) and the period allowed to the Secretary for consideration of the report thereafter.

"Bases for Approval or Disapproval; Opportunity for Hearing

"(d)(1) If, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device, the Secretary finds, after due notice to the applicant and opportunity for a hearing to the applicant, that—

"(A) such device is not shown to be safe and reliable for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

"(B) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g);

"(C) there is a lack of substantial evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

"(D) based on a fair evaluation on all material facts, such labeling is false or misleading in any particular;

he shall issue an order denying approval of the application. If, after such notice and opportunity for hearing, the Secretary finds that clauses (A) through (D) of this subsection do not apply, he shall issue an order approving the application.

"(2) As used in this subsection and subsection (e), the term 'substantial evidence' means evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the device involved, on the basis of which it could fairly and responsibly be concluded by such experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

"(3) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety, reliability, and effectiveness shall be determined in the light of such intended use.

"Withdrawal of Approval

"(e)(1) The Secretary may, after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application with respect to a device under this section if the Secretary finds—

"(A) (i) that clinical or other experience, tests, or other scientific data show that such device is unsafe or unreliable for use under the conditions of use upon the basis of which the applicaiton was approved; or (ii) on the basis of evidence of clinical experience, not contained in such application or not available to the Secretary until after the application was approved, or of tests by new methods or by methods not reasonably applicable when the application was approved, evaluated together with the evidence available to the Secretary when the application was approved, that such device is not then shown to be safe or reliable for use under the conditions of use on the basis of which the application was approved;

"(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

"(C) that the application filed pursuant to subsection (b) contains an untrue statement of a material fact;

"(D) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records, or to make required reports, in accordance with an applicable regulation or order under subsection (a) of section 515, or that the applicant has refused to permit access to, or copying or verification of, such records as required by paragraph (2) of such subsection;

"(E) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(F) that on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such device, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(2) If the Secretary (or in his absence the officer acting as Secretary) finds that an imminent health or safety hazard is involved, he may suspend the approval of such application immediately, and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this paragraph to suspend the approval of an application shall not be delegated.

"(3) Any order under this subsection shall state the findings upon which it is based.

"Authority To Revoke Adverse Orders

"(f) Whenever the Secretary finds that the facts so require, he shall revoke any previous order under subsection (d) or (c) denying, withdrawing, or suspending approval of any application and shall approve such application or reinstate such approval, as may be appropriate.

"Service of Secretary's Orders

"(g) Orders of the Secretary under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by mailing the order by registered mail or certified mail addressed to the applicant at his last-known address in the records of the Secretary.

"Referral to Independent Advisory Committee

"(h)(1) In the application filed by the applicant under subsection (b), or at any time prior to the expiration of the time for action by the Secretary under clause (1) or (2) of subsection (c), or within such reasonable period after notice of opportunity for a hearing to be held under subsection (d) or (e) as may be specified by the Secretary in such notice, the applicant may request that such application or the Secretary's action thereon, or the matter or matters with respect to which notice of opportunity for hearing is given, be referred to an advisory committee of experts for a report and recommendations with respect to any question therein involved that requires the exercise of scientific judgment. Upon such request, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint an advisory committee and shall refer to it, together with all the data before him, the question so involved for study thereof, and for a report and recommendations thereon, in accordance with the applicable provisions of paragraph (5)(C)(ii) of subsection (b), and subject to paragraph (2) of subsection (d) of section 706. The applicant, as well as representatives of the Department, shall have the right to consult with such advisory committee in connection with the question referred to it.

"(2) The appointment, compensation, staffing, and procedure of such advisory committee shall be in accordance with subsection (b)(5)(D) of section 706.

"(3) Paragraph (3) of section 513(d) shall also apply in the case of a referral to an advisory committee under this subsection.

"Judicial Review

"(i) The applicant may, by appeal, obtain judicial review of a final order of the Secretary denying, or withdrawing approval of, an application filed under subsection (b) of this section. The provisions of subsection (h) of section 505 of this Act shall govern any such appeal.

"Exemption for Investigational Use

"(j)(1) It is the purpose of this subsection to encourage, to the maximum extent consistent with the protection of the public health and safety and with professional ethics, the discovery and development of useful devices and to that end to maintain optimum freedom for individual scientific investigators in their pursuit of that objective.

"(2) Subject to the provisions of paragraph (3), there shall be exempt from the requirement of approval of an application under the foregoing provisions of this section any device which is intended solely for investigational use (in a hospital, laboratory, clinic, or other appropriate scientific environment) by an expert or experts qualified by scientific training and experience to investigate the safety, reliability, and effectiveness of such device.

"(3)(A) The Secretary shall promulgate regulations relating to the application of the exemption referred to in paragraph (2) to any device that is intended for use in the clinical testing thereof upon humans by separate groups of investigators under essentially the same protocol, in developing data required to support an application under subsection (b).

"(B) Such regulations may provide for conditioning the exemption, in the case of investigations intended for such case, upon—

"(i) the submission to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of an adequate plan for the investigation, together with a report of prior investigations of the device (including where appropriate, tests on animals) adequate to justify the proposed investigation;

"(ii) the obtaining, by manufacturer, or the sponsor of the investigation, of a device to be distributed to investigators for such testing by a signed agreement from each of such investigators that humans upon whom the device is to be used will be under his personal supervision or under the supervision of investigators responsible to him;

"(iii) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of the device, as the Secretary finds will enable him to evaluate the safety, reliability, and effectiveness of the device in the event of the filing of an application pursuant to subsection (b), but nothing in this clause or in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of devices; and

"(iv) such other conditions relating to the protection of the public health and safety as the Secretary may determine to be necessary.

"(C) Such regulations shall also condition such exemption upon the manufacturer, or the sponsor of the investigation, of the device requiring that investigators using the device for the purpose described in subparagraph (A) certify to such manufacturer or sponsor that they—

"(i) will inform individuals upon whom such device or any controls in connection therewith are used, or the representatives of such individuals, that the device is being used for investigational purposes, and

"(ii) will obtain the consent of such individuals or representatives,

except where they deem it not feasible or, in their professional judgment, contrary to the best interest of such individuals.

"(D) Such regulations shall provide—

"(i) that whenever the Secretary determines that a device is being or has been shipped or delivered for shipment in interstate commerce for investigational testing upon humans as described in subparagraph (A) of this paragraph, and that such device is subject to the foregoing subsections of this section and fails to meet the conditions for exemption for investigational use of the device, he shall notify the sponsor of the Secretary's determination and the reasons therefor and that the exemption will not apply with respect to such investigational use until such failure is corrected, and

"(ii) that in determining whether subparagraph (A) of this paragraph (3) is applicable and, if so, in determining compliance with the conditions of exemption, including the adequacy of the plan of investigation submitted to the Secretary, or upon application for reconsideration of his determination with respect to any such matter, the Secretary shall, if so requested by the sponsor of the investigation, or may on his own initiative, obtain the advice of an appropriate expert or experts who are not otherwise, except as consultants, engaged in the carrying out of this Act.

"Exemptions for Devices Complying With or in Anticipation of Standards, Custom-Made Prescription Devices, and Devices Made to Specifications of Licensed Practitioners for Use in Their Practice

"(k) In addition to the devices exempted by subsection (j) the Secretary shall, by or pursuant to regulation, exempt the following devices, with respect to any particular use or intended use thereof, from the requirement of approval under this section:

"(1) Any device which, with respect to such use, fully conforms to an applicable standard in effect pursuant to section 513, or pursuant to section 358 of the Public Health Service Act, to the extent that the Secretary finds that the standards provides assurance that the device will be safe, reliable, and effective for such use.

"(2) Any device of a type or class with respect to which there is in effect a notice by the Secretary, published in the Federal Register, that in his judgment the establishment, within a reasonable time, of a standard (issued under authority referred to in paragraph (1)) that would adequately meet the requirements of public health and safety with respect to such use of the device (without subjecting such device to the requirement of approval under the foregoing subsections of this section) appears to be feasible; that he intends to propose the establishment of such a standard; and that the nonapplication of the foregoing subsections of this section to such type or class or device with respect to such use pending the establishment of such standards would involve no undue risk from the standpoint of the protection of the public health and safety.

"(3) Any device made to the lawful order, and in accordance with specifications, of a practitioner licensed by law to use or prescribe the use of the device if—

"(A) a device meeting such specifications (i) is not generally available in finished form for purchase or for dispensing upon prescription, and (ii) is not, whether in finished form or otherwise, stocked or offered through a catalog or advertising or other commercial channels by the maker or processor thereof; and either

"(B)(i) such device is intended for the use of a patient, named in such order of such practitioner, or (ii) such device is intended solely for use by such practitioner, or by persons under his professional supervision, in the course of his professional practice.

"EXEMPTIONS

"(l)(1) The Secretary may by regulation, with the unanimous consent of the Advisory Council on Medical Devices, exempt from one or more of such requirements, devices for which such requirements are found not to be necessry for the protection of the public health and safety.

"(2) The Secretary may also by regulation exempt (to the extent he finds appropriate to avoid duplication of regulatory controls or procedures) medical devices licensed by the Atomic Energy Commission. The Atomic Energy Commission shall cooperate with the Secretary by providing him with such information as is necessary consistent with the purposes of this Act.

PROHIBITED ACTS

SEC. 404. (a) Paragraph (e) of section 301 of such Act, is amended by striking out "or" before "512" and by inserting "or 514(j) or 515," after "512(j), (l), or (m),".

(b) Paragraph (j) of section 301 of such Act is amended by inserting "514," immediately after "512,".

(c) Paragraph (1) of such section 301 is amended (1) by inserting "or device" after the word "drug" each time it appears therein, and (2) by striking out "505," and inserting in lieu thereof "505 or 514, as the case may be,".

TITLE III—REQUIREMENT OF GOOD MANUFACTURING PRACTICE

SEC. 301. Section 501 of the Federal Food, Drug, and Cosmetic Act, as amended by sections 102 and 201 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(g) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, holding, or installation do not conform to, or are not operated or administered in conformity with, current good manufacturing practice to assure that such device is safe and reliable and has the properties and performance characteristics which it purports or is represented to possess and otherwise meets the requirements of this Act."

TITLE IV—RECORDS AND REPORTS; REGISTRATION OF ESTABLISHMENTS

SEC. 401. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act is further amended by adding at the end thereof the following new section:

"RECORDS AND REPORTS ON DEVICE EFFECTS AND EXPERIENCE

"SEC. 515. (a)(1) Every person engaged in manufacturing or processing, or in distributing, a device that is subject to a standard in effect under section 513, or with respect to which there is in effect an approval of an application filed under section 514(b), shall establish and maintain such records, and make such reports to the Secretary, of data relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such device, and bearing on the safety, reliability, or effectiveness of such device, or on whether such device may be adulterated or misbranded, as the Secretary may by general regulation, or by special regulation or order applicable to such device, require. Regulations and orders prescribed under the authority of this subsection shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, wherever the Secretary deems it appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(b) Subsection (a) shall not apply to—

"(1) pharmacies which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs or devices, upon prescriptions of practitioners licensed to prescribe such drugs or devices, to patients under the care of such practitioners in the course of their professional practice, and which do not, either through a subsidiary or otherwise, manufacture or process drugs or devices for sale other than in the regular course of their business of dispensing or selling drugs or devices at retail;

"(2) practitioners licensed by law to prescribe or administer drugs and devices and who manufacture or process devices solely for use in the course of their professional practice;

"(3) persons who manufacture or process devices solely for use in research or teaching and not for sale;

"(4) any person, with respect to any device if—

"(A) neither such device nor any of its components has been in interstate commerce; and

"(B) such device is not introduced or intended for introduction into interstate commerce; or

"(5) such other classes of persons as the Secretary may by or pursuant to regulation exempt from the applications of this subsection upon a finding that such application is not necessary to accomplish the purpose of this subsection."

INSPECTION RELATING TO DEVICES

SEC. 402. (a) The second sentence of subsection (a) of section 704 of such Act is amended by inserting "or prescription devices" after "prescription drugs" both times it appears.

(b) The third sentence of such subsection is amended (1) by striking out "for prescription drugs", (2) by striking out "and antibiotic drugs" and inserting in lieu thereof ", antibiotic drug, and devices," (3) by striking out "or section 507(d) or (g)" and inserting in lieu thereof ", section 507(d) or (g), section 513(j), or section 514", and (4) by inserting "or devices" after "other drugs", inserting "or of a device subject to section 513" after "new drug", and inserting "or section 514" after "section 505 (j)".

(c)(1) Paragraph (1) of the sixth sentence of such subsection is amended by inserting "or devices" after "drugs" each time such term occurs.

(2) Paragraph (2) of that sentence is amended by inserting ", or prescribe or use devices, as the case may be," after "administer drugs"; and by inserting ", or manufacture or process devices," after "process drugs".

(3) Paragraph (3) of that sentence is amended by inserting ", or manufacture or process devices," after "process drugs".

REGISTRATION OF DEVICE MANUFACTURERS

SEC. 403. (a) Section 510 of such Act is amended as follows:

(1) The section heading is amended by inserting "OF DRUGS AND DEVICES" after "PRODUCERS".

(2) Subsection (a)(1) is amended by inserting "or device package" after "drug package"; by inserting "or device" after "the drug"; and by inserting "or user" after "consumer".

(3) The first sentence of subsection (b) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or of any device" after "drug".

(4) The first sentence of subsection (c) is amended by inserting ", or a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or of any device" after "drug".

(5)(A) The first sentence of paragraph (1) of subsection (d) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such paragraph is amended by inserting "or any device" after "drug".

(B) Paragraph (2) of such subsection (d) is amended by inserting "or any device" after "drug".

(6) Subsection (g) is amended by inserting "or devices" after "drugs" each time such term occurs in paragraphs (1), (2), and (3) of such subsection.

(7) The first sentence of subsection (i) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or devices" after "drugs".

(b) Subsection 502(o) of such Act is amended by inserting "or device" after "drug".

(c) The second sentence of section 801(a) of such Act is amended by inserting "or devices" after "drugs" both times such words appear.

(d) Section 301 of the Drug Amendments of 1962 (76 Stat. 793) is amended by inserting "and devices" after "drugs" each time such word appears, except that "or devices" is inserted after "which drugs" and after "intrastate commerce in such drugs".

TITLE V—ADVISORY COUNCIL ON DEVICES, ETC.

SEC. 501. Chapter VII of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, is amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON DEVICES, AND OTHER ADVISORY COMMITTEES AND EXPERTS

"SEC. 708. (a) For the purpose of advising the Secretary with respect to matters of policy in carrying out the provisions of this Act relating to devices, there is established in the Department (in addition to the ad hoc advisory committees that may from time to time be appointed under sections 514 and 515) an Advisory Council on Devices not to exceed fifteen members appointed by the Secretary without regard to title 5, United States Code. Such members shall consist of persons chosen with a view to their special knowledge of the problems involved in the regulation of various kinds of devices under this Act, members of the professions using such devices, scientists expert in the investigational use of devices, and members of the general public.

"(b) In order to facilitate the carrying out of this Act, the Secretary may employ experts and consultants, as authorized by section 3109 of title 5, United States Code.

"(c) Members of an advisory council or committee appointed pursuant to subsection (a) who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the council or committee or otherwise engaged in its business, and experts or consultants employed pursuant to subsection (b) shall, while so employed, be compensated at per diem rates fixed by the Secretary but not in excess of the rate established for grade GS–18 of the General Schedule at the time of such service, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently."

TITLE VI—EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

SEC. 601. (a) Except as provided in subsections (b), (c), and (d) of this section, the foregoing provisions of this part shall take effect on the date of the enactment of this Act.

(b) Except as provided in subsection (c) of this section, paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act, as added to such section by section 201 (a) of this Act, shall, with respect to any particular use of a device, take effect (1) on the first day of the thirteenth calendar month following the month in which this Act is enacted, or (2) if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under section 514 of such Act as added by section 201(b) of this Act.

(c)(1) Where, on the day immediately prior to the date of enactment of this Act, a device was in use in the cure, mitigation, treatment, or prevention of disease in man, or for the purpose of affecting the structure of any function of the body of man, such paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act shall become effective with respect to such preexisting use or uses of such device on the closing date (as defined in this subsection) or, if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under such section 514 of such Act.

(2) For the purposes of this subsection, the term "closing date" means the first day of the thirty-first calendar month which begins after the month in which this Act is enacted, except that, if in the opinion of the Secretary it would not involve any undue risk to the public health, he may on application or on his own initiative postpone such closing date with respect to any particular use or uses of a device until such later date (but not beyond the close of the sixtieth month after the month in which this Act is enacted) as he determines is necessary to permit completion, in good faith and as soon as reasonably practicable, of the scientific investigations necessary to establish the safety and effectiveness of such use or uses. The Secretary may terminate any such postponement at any time if he finds that such postponement should not have been granted or that, by reason of a change in circumstances, the basis for such postponement no longer exists or that there has been a failure to comply with a requirement of the Secretary for submission of progress reports or with other conditions attached by him to such postponement.

(d) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act) engaged in the manufacture or processing of a device or devices, shall if he first registers with respect to devices, or supplements his registration with respect thereto, in accordance with subsection (b) of section 510 of that Act (as amended by section 403 of this Act), prior to the first day of the seventh calendar month following the month in which this Act is enacted, be deemed to have complied with that subsection for the calendar year 1972. Such registration, if made within such period and effected in 1973, shall also be deemed to be in compliance with such subsection for that calendar year.

BRIEF SECTION-BY-SECTION ANALYSIS OF MEDICAL DEVICES SAFETY ACT OF 1969

TITLE I. AUTHORITY TO ESTABLISH STANDARDS

Section 101—amends Chapter V of the Federal Food, Drug, and Cosmetic Act by adding a new section relating to the standards for medical devices.

Section 513(a)—authorizes the Secretary of Health, Education, and Welfare to establish standards for devices when such action will protect public health and safety.

Section 513(b)—requires that the Secretary, in developing standards, shall consult with and give appropriate weight to standards published by other Federal agencies and National or international standard-setting agencies, and shall invite participation of others representative of scientific, professional, industry, and consumer organizations.

Section 513(c)—establishes the procedure for issuance, amendment, or repeal of standards related to those now incorporated in the Federal food and drug law (announcement and hearings on proposed rule making), but authorizes also the use of a referral to an independent advisory committee, outlined in Section 513(d) below.

Section 513(d)—authorizes those who would be affected by a standard to request a review of a proposed standard, or any matter involved in such a proposal, to an independent advisory committee for consideration.

Section 102—makes conforming amendments in section 501 of the present food and drug law by amending the section defining "adulterated drugs and devices" to include devices which do not meet a standard set forth in accordance with Section 513 above, where such a standard exists.

TITLE II. PREMARKET CLEARANCE OF CERTAIN THERAPEUTIC DEVICES

Section 201(b)—amends the present food and drug law by adding a new Section 514, "Premarket Clearance for Certain Therapeutic Devices."

Section 514(a)—sets forth conditions for when a premarketing clearance is required. States that a device is to be deemed unsafe, unreliable, or ineffective for purposes of applying section 501(f) above when:

(1) the device is not generally recognized by experts, qualified by scientific training or experience, to be safe, reliable, or effective for use under the conditions prescribed, suggested or recommended; and,

(2) the device is intended for or is used within the human body, intended to be used for subjecting the human body to some process, or after investigation is found to be ineffective, unsafe, or unreliable.

unless—

(1) a new device application has been filed, or an approved application exists.

(3) is exempted as outlined in 513(j), (k), or (l) below,

(4) or is used solely in animals other than man.

This section also requires that the Secretary shall maintain and publish a list of devices and their uses.

Section 514(b)—describes the contents and procedure for new device applications to comply with the clearance procedure set forth in 514(a) above. These applications must contain:

(1) information and data to show the safety, reliability, and effectiveness of the device.

(2) composition, properties, and principles of operation,

(3) methods and controls used in manufacture,

(4) identification of the applicable standard and information to show that the device meets the standard,

(5) samples of the device,

(6) specimens of labeling, and

(7) other requirements the Secretary may require.

Section 514(c)—requires the Secretary to act on application within 180 days after filing by approving, denying and affording an opportunity for hearing, or suspending the time limit pending the report of an advisory committee.

Section 514(d)—establishes the basis for approval or disapproval. Disapproval would be made where:

(1) the device is not safe or reliable under conditions prescribed.

(2) manufacturing or processing controls do not meet good manufacturing practices,

(3) lack of substantial evidence that the device has the effect it purports,

(4) has false or misleading labeling.

Also defines substantial evidence to mean evidence from adequate and well-controlled investigations, including clinical investigations.

Section 514(e)—authorizes the Secretary to withdraw approval of an application where:

(1) other data, or later evidence, indicates that the device is unsafe or unreliable,

(2) new information shows the device to be ineffective,

(3) the application contains untrue statements of material fact,

(4) there is a failure to maintain records, as required elsewhere in the bill (see new section 515).

(5) good manufacturing practices are not employed as required elsewhere in the bill (see new section 501(g)).

(6) on the basis of new information, the labeling is false or misleading.

Where an imminent health or safety hazard is involved, the Secretary is authorized to suspend approval immediately and to provide for an expedited hearing into the matter.

Section 514(f)—provides the Secretary with authority to revoke adverse orders when the facts so require.

Section 514(g)—requires that the Secretary's order be served in person or by registered or certified mail.

Section 514(h)—authorizes the use of a referral committee for an opportunity for a hearing on an application or the Secretary's action to obtain the committee's report and recommendations. This procedure may be employed when filing an application or at any time prior to the expiration of the time for the Secretary to make a determination on an application. The committee would be appointed by the Secretary. This procedure also applies to Section 513(d) relating to standards as outlined above.

Section 514(i)—provides applicants with the right of appeal and to obtain judicial review.

Section 514(j)—establishes exemption for devices used solely for investigational purposes by persons qualified to conduct such investigation. The exemption would be conditioned upon:

(1) the existence of an adequate plan of investigation

(2) a written agreement that the use of the device will be under the supervision of the investigator in cases where the device is for human use

(3) that records and data obtained from the investigation are kept and available

(4) other conditions determined by the Secretary to assure public health and safety.

The exemption is conditioned also upon notification to those who use such a device that its use is for investigational purposes and that consent be obtained.

Section 514(k)—also exempts from the application procedure under section 514 any device which fully conforms to an applicable standard established under section 513, section 358 of the Public Health Service Act, or meets standards about to be announced or implemented, devices made upon order by a practitioner, where such a device is not generally available in finished form or in existing commercial channels, or where the device is for the use of a named patient, or for the sole use of a practitioner in the course of his professional practice.

Section 514(l)—provides exemptions for devices for which requirements are found not to be necessary for the protection of the public health and safety, with the unanimous consent of the Advisory Council on Medical Devices; and for devices licensed by the Atomic Energy Commission, where the Secretary finds regulation duplicative.

Section 202—makes conforming changes in existing law to include under the section on "prohibited acts" certain aspects of the new section 514.

TITLE III. REQUIREMENT OF GOOD MANUFACTURING PRACTICE

Section 301—amends present law to provide that a device is "adulterated" if the method and controls used to manufacture the device do not conform with good manufacturing practice to assure that such a device is safe and reliable and that it has the characteristics it purports to have.

TITLE IV. RECORDS AND REPORTS; INSPECTION AND REGISTRATION OF ESTABLISHMENTS

Section 401—amends present law by adding a new section 515 requiring that manufacturers, processors, and distributors of devices subject to standards keep records and make reports to the Secretary relating clinical experience and other data which bears on the safety, reliability, and effectiveness of such devices. The Secretary is also authorized to have access to such records.

Section 515(a)—sets forth the above requirements.

Section 515(b)—exempts from these requirements the following:

(1) pharmacies operating in conformance with applicable local laws.

(2) practitioners, licensed by law, who manufacture devices solely for use in the course of their professional practice.

(3) persons who manufacture devices sole-

ly for use in research or teaching, and not for sale.

(4) persons, with respect to any device, no part of which has been interstate commerce and which is not intended for interstate commerce.

(5) other classes, as determined by the Secretary.

Section 402—amends varied parts of existing law to provide the inspection provisions now relating to drugs to devices covered under the act.

Section 403—amends various sections of existing law relating to the registration of drug manufacturers to include the manufacturers, processors, and distributors of devices covered under the act.

TITLE V. ADVISORY COUNCIL

Section 501—establishes a new section 703 which provides for the creation of an Advisory Council on Devices within the Department of Health, Education, and Welfare to advise the Secretary on policy matters in carrying out the provisions of the bill. The members would be selected with a view toward their special knowledge of the problems involved in regulating various kinds of devices.

TITLE VI

Section 601—makes the provisions of the bill effective upon the date of enactment with the exception as shown in 502(b), (c), and (d).

Section 601(a)—makes the effective date (except as provided in 502(c) below) of the definition of an "adulterated device" on the 1st day of the 13th month following enactment (1 year from enactment), or sooner if, upon application, the Secretary issues an order with respect to such application. The effective date in latter case would be the date of the order. This effective date is the date on which the "safety, reliability, and effectiveness" requirement is imposed.

Section 601(b)—relates to devices already in existence. The safety, reliability, and effectiveness requirements shall become effective on a "closing date," the 1st day of the 31st month after enactment (2½ years after enactment), unless an application is filed sooner. If an application is filed sooner, the effective date is the date of an order with respect to such application. Under certain conditions, this date may be extended by the Secretary to the end of the 60th month following enactment (5 years after enactment), or to any date between the 31st and end of the 60th month.

Section 601(c)—requires registration of manufacturers, processors, and distributors prior to the 1st day of the 7th month (6 months after enactment).

[From the Medical Tribune, Mar. 24, 1971]

STUDY FINDS DEFECTS IN EQUIPMENT USED FOR HOSPITALS' CRITICAL CARE

ATLANTIC CITY, N.J.—Numerous defects in the electronic equipment used in the critical care units of 12 leading hospitals were found in a cardiologist-engineer study reported here at the annual meeting of the American Heart Association.

Among the findings:

Defibrillators: Among 51 studied, electric malfunction was common. In one brand, the circuit breaker could be depended on to open if four to eight shocks were delivered in rapid succession. In at least two brands, one of the paddles was electrically connected to ground, allowing part of the defibrillating current to pass through and burn any ground part of the patient and also to defibrillate the operator. Of the 41 D.C. defibrillators, 10 were 25 per cent or more high in output energy at least one setting and 16 were more than 25 per cent low. Ten "ancient" A.C. instruments were encountered.

Monitors: Of 95 examined, 56 had substandard frequency response. Leakage current exceeded the now-accepted maximum in 44. Six others sent a current surge through the patient cable when the power was switched on or off. Many had poor wiring connections, failing components and internal adjustment defects that caused a distorted display. Six rate meters were inaccurate.

Electrocardiographs and direct writers: Of 51 examined, over half showed unsafe leakage current and 75 per cent had frequency rsponses that failed to meet 1967 criteria of the American Heart Association. The controls sometimes malfunctioned and the 1-millivolt calibration pulse was often inaccurate.

Pacemakers: Of 57 tested, 28 had what appeared to be a grossly abnormal wave form or amplitude. In 32 the amplitude of the output wave form was not proportional to the dial setting. Rate control was inaccurate in about 40 per cent of the instruments. In four pacemakers there was interaction between rate and amplitude controls.

Other devices, such as aspirators and portable x-ray machines, showed excessive leakage current in several instances. Electric outlets were found to be sometimes broken, loose, or dead. A few had reversed polarity.

According to Dr. Henry L. Green, G. E. Hieb, and Dr. Irwin J. Schatz, of Wayne State University College of Medicine, many of the problems resulted from a lack of communication between the manfacturers and users of cardiac care equipment.

"Engineers have not always considered the manner in which the equipment will be employed or the skill of the personnel responsible for it," they said. "At times, more consideration seems to have been given to economy of production than to future servicing. Physicians in turn have not related problems of utilizing these devices to the manufacturer in order that he might improve his design.

"Both physicians and nurses should know more about how to use their equipment. Often we found monitor controls set improperly, exposed pacemaker terminals, and the like. Almost no one keeps an adequate battery log with the pacemaker. Crash carts are badly maintained. Often there is no monitor or defibrillator in the emergency room."

The investigators stressed the need for a program of preventive maintenance and for a highly developed medical electronic repair service, which should not only make routine inspections but also be on 24-hour call.

[From American Dental Association News, June 19, 1972]

FDA WARNS OF SHOCK HAZARD IN CERTAIN SMALL STERILIZERS

ROCKVILLE, MD.—The Food and Drug Administration has alerted consumers that some 20,000 small sterilizers—used at home by diabetics and in the offices of dentists, physicians, and veterinarians—can shock the user.

According to the FDA, the electrical shock hazard is sufficient to cause severe shock, muscle spasm, and possible unconsciousness. In some extreme cases it could be lethal, the FDA said.

Models 5, 8, 16, and 18 of the Renwal Sterilizer are involved. All consist of an oval porcelain boiling chamber plus a metal lid; they range in size according to model. Most can be held in one hand.

The sterilizers were distributed by the American Sundries Company of Roslyn Heights, N.Y. The firm has recalled Model 18, but has declined to recall other models, according to the FDA.

The FDA is asking retailers to stop selling all models and inform customers who have made previous purchases.

Several of the sterilizers were seized May 15 by the FDA at the regional offices of Top Value Enterprises, Inc., Dayton. Additional action will be taken to remove the devices from trade channels, the FDA said.

[From the Washington Post, June 2, 1972]

TREATMENT DEVICE LABELED "QUACKERY"

The Food and Drug Administration announced yesterday it has begun seizing expensive Diapulse machines described by a federal judge as "no less than sheer quackery."

The first two were seized at Norfolk General Hospital in Virginia, an FDA spokesman said, and more seizures are planned.

More than 4,000 of the devices have been sold since the late 1950s at prices ranging from $2,400 to $4,000 each to hospitals, clinics, physicians, chiropractors and other health practitioners in the United States, Israel, England, Mexico and Canada, the FDA said.

That many machines could provide 1.5 million half-hour treatments annually at an average fee of $10 per 15 minutes, said Harry Butts, a compliance officer in FDA's division of medical devices.

The FDA said Diapulse Corporation of America, based at New Hyde Park, N. Y., claimed the device could treat more than 300 medical and therapeutic conditions, including wounds, fractures, infections, arthritis, burns, bursitis and shingles.

The Diapulse resembles a conventional diathermy machine used to produce deep heat treatment, the FDA said.

[From Medical World News, Apr. 28, 1972]

PACEMAKER RECALL: THERE OUGHT TO BE A LAW

General Electric Co. is recalling a batch of 487 pacemakers it produced last summer—a sticky proposition because indications are that all the suspect units had already been implanted in heart patients when the recall was sounded early this month.

So GE has been moving quickly and voluntarily—but also very quietly—to trace the pacemakers and get replacements into the recipients (with the company paying the installation charge). And as of mid-April, it said that 90% of the patients involved had either received a substitute device or were scheduled to get one. GE estimates that about 20 of the 487 pacemakers will boost heart rates by ten to 20 beats per minute; they don't shut off their electrical stimuli once the desired rate is attained. And the company concedes that the speedup could get worse with time. But beyond that, it will only say that no deaths have been associated with the defective pacemakers, and that the situation should not arouse fears in heart patients.

The recall comes at a time when several medical device control bills are rattling around Congress, and GE's silence points up what many decry in the present system. "We found out as everyone else did—from newspapers," says Dr. Joseph Davis, director of scientific review in the FDA's Office of Medical Devices. "If GE gives us its data, we'll have it for further reference; but we have no authority to force them to give us details. This is one situation I'd hope new legislation would correct."

GE acted after receiving a physician's report of tachycardia in one of his pacemaker patients. An investigation pinpointed the devices assembled last June, July, and August. Unfortunately, their serial numbers do not run consecutively, but the company advises doctors that they can easily detect a defective unit by monitoring a patient's pulse.

"It isn't always possible to prevent an incident like this," FDA's Dr. Davis says, "but a 4% rate of products found to be defective [the GE incidence] is a high risk rate. As a physician, I think a 1% defect rate in medical devices is too high."

CONTROLLING MEDICAL DEVICES IS A STRUGGLE

At the recent AMA convention, surgeon Joel J. Nobel, research director of the nonprofit Emergency Care Research Institute of Philadelphia, pointed to photographs of two emergency breathing devices, one a resuscitator shaped like a bottle and the other an accordion-like respirator. "They don't work," he said. "About 50,000 of them have been sold, and the public would be better off using mouth-to-mouth resuscitation." When questioned later, Dr. Joseph Davis of the FDA's Division of Medical Devices agreed with this charge, which implied that people could be dying because the contrivances are in use. He noted that the FDA had issued a public warning about the accordion-shaped item, had seized some of them on the basis of false and misleading labeling. "But we can't search out all 50,000 of the two devices that have been sold," declared Dr. Davis, "since we have a limited number of inspectors."

The incident is a particularly disturbing example of the gray area of medical device regulation, long a concern of physicians, medical manufacturers, and legislators alike. For five straight years, legislation to clear up the device mess has been introduced in Congress. Lacking unified support from the health community, the bills have died four times, and this year's bills are in committee.

But the judiciary is now forcing action and focusing attention on medical device control as never before. In a landmark decision last April 28, the Supreme Court held, in effect, that a medical device can be regulated by the FDA just as a drug would be, unless the device is clearly exempt or nonmedical such as a quack contraption, a bathroom scale, or a crutch. Thus, the highest court in the land supports the establishment of the safety and efficacy of a device before it is marketed. Heretofore, only the misbranding and adulteration proscriptions of the Food, Drug and Cosmetic Act have been applied to devices.

But can a device be defined that simply? Many experts believe that the safety and efficacy provisions applying to drugs cannot successfully be applied to devices. The fear is that medical equipment ranging from artificial heart valves to hemostats cannot be proved safe and effective under standards now applied to drugs.

The Supreme Court decision came in a case involving the sale by Difco Laboratories, Inc., of Bacto-Unidisk, a paper disk for laboratory testing of cultures for their antibiotic sensitivity. The court found that Bacto-Unidisk meets the catch-all definition and can be regulated.

The definition of a regulable device had been stretched a year earlier, when the U.S. Court of Appeals, Second Circuit, found that a disposable hemostat with a loop of suture material and a nylon button, designed to make an automatic tie, falls under drug control provisions. The decision is being interpreted by lawyers to mean that anything used "in or on the body" is subject to the stricter FDA drug rules.

In the light of judicial action on devices, and legislative stand-off, a summit meeting on the problem has been scheduled by the Association for the Advancement of Medical Instrumentation (AAMI), aided by a grant from the National Institutes of Health. The parley is to be held September 6 and 7 in Bethesda, Md. Interested parties—physicians, representatives of industry and government—are to be invited.

According to Dr. Arthur C. Beall Jr., associate professor of surgery at Houston's Baylor College of Medicine and outgoing president of the AAMI, the Bethesda conference will try to define the problem of whether devices should be regulated, and what constitutes a device. Says Dr. Beall, "We want to make a diagnosis before we start treatment."

The conference will feed to Congress the recommendations of the nation's leading experts. And hopefully, Congress will listen. Dr. Beall points out that the Supreme Court ruling actually leaves very few "devices" as exceptions to the FDA's safety and efficacy authority. Even an ECG machine would be regulable. "We are afraid that some of the proposed legislation would hamper development of new equipment," he added. "The AAMI is not pushing any particular piece of legislation."

Most to the liking of the AAMI and other interested groups is a bill introduced this year by Rep. Edwin Reinecke (R-Calif.) which would start from the ground up by appointing a study commission.

In the meantime, Philadelphia's Dr. Nobel is left pointing at the defective respirators and FDA officials are left with their inadequate policing forces. One FDA official said that it would take a "thalidomide incident" to achieve new legislation in the medical devices area.

The bottle-shaped resuscitator, a green rubber device with a face mask, is three inches in diameter and twelve inches long. It is no longer being sold, Dr. Nobel said, but hundreds have been purchased by police departments and others. The accordion-like respirator, a green polyethylene bellows, is still being promoted and sold.

A team of physicians, engineers, and others at the institute in Philadelphia tested the two emergency breathing devices by measuring the blood gases while patients at two Philadelphia hospitals were on the machines. A $90,000 computerized installation helped determine that the two were ineffective.

In Portland, Me., Dr. Chester W. White Jr., the chairman of the equipment committee of the American Society of Anesthesiologists, pointed out that there are a number of effective manually operated breathing devices on the market.

"There is no need for a device that is not thoroughly effective to be marketed." Dr. White declared. He added that to extend FDA authority in the area of medical devices would require a far greater FDA appropriation and a far bigger professional staff.

Dr. Daniel Jenkins, professor of medicine and chief of the pulmonary service at Baylor and chairman of the pulmonary committee for the AAMI, says his committee is working on standards for instrumentation in the pulmonary field. But the AAMI has not yet reached the point where standards for resuscitators have been set, he added.

No one is certain, but there are probably fifteen emergency breathing devices on the market. In general, they operate by hand or through an electrical or pneumatic power source. They provide oxygen, or air, or some mixture of these to the patient.

Dr. Nobel's research institute, financed by a grant from the Public Health Service and by private contributions, is set up to improve medical care through the utilization of advanced technology.

A full-time professional staff of physicians, physiologists, biomedical engineers, technicians, and administrative personnel, along with an advisory board of specialists, is set up to work on emergency care techniques and equipment.

In 1965, the institute developed the MAX Mobile Emergency Life Support System. Within two years, Dr. Nobel says, this system for cardiopulmonary resuscitation and emergency support of critically ill patients was in use throughout the world. It saves time in emergencies and permits a small team to sustain moribund patients. Adds Dr. Nobel: "What we would like to do is set up a sort of Consumer's Union for medical devices. Instead of merely publishing, however, we will turn over our findings to the manufacturers concerned. In most cases, we find we get good cooperation."

[From Hospital World, January 1972]

ELECTRONIC POLLUTION: THE INVISIBLE INVADER

(By James D. Snyder)

During one of the President's recent stays at the "Western White House" in San Clemente, a vital national security communications line suddenly was disrupted by a crackle of static and unrecognizable voices.

An eavesdropper Deliberate jamming by a hostile power? Or was a distant U.S. Command Post broadcasting an urgent message? After several anxious hours, a team of technicians finally traced the trouble to a routine broadcast by a nearby community antenna television station.

What strayed into the top secret White House communications network is no different than what makes your TV picture flutter, mysteriously activates your electronic garage door opener—*or can kill a patient at your hospital.* Called radio frequency interference (RFI), it is "electronic pollution" that occurs when any plug-in device sprays enough electo-magnetic energy into the air to upset the operation of another. Experts fear that one day so many industrial motors, office machines, and household gadgets will be polluting the airways with their electronic emissions that their usefulness will dissolve in a din of static.

Nowhere is the problem more acute than in the hospital, where the needles of supersensitive monitoring equipment can go haywire when a patient down the hall turns on a radio, or when the accouting department's new adding machine gets its daily workout. In some cases interference is merely annoying. But in others it can be very dangerous.

At a well-known Midwestern hospital, for instance, an interference-causing diathermy machine rang the alarms on a cardiac monitor located in the intensive care unit one floor below. Nurses in the ward were accustomed to the problem and "solved it" by simply turning off the alarms when the diathermy was in use—until one day a patient's fatal heart attack went unnoticed.

THE INVISIBLE VILLAIN

To suggest that interference is merely a nuisance is a gross understatement. Not only does it disturb the readings on the equipment and prevent accurate monitoring, but it can alter their accuracy, according to manufacturers. Part of the problem is that interference signals can be generated from a variety of sources. Among the most common:

Private radio telephones from passing traffic, commercial radio and TV stations.

Motors that are frequently switched causing arcing or sparking, such as elevators, power tools, light switches, air conditioners and office machines.

X-ray transformers and electrical conductors, which can send out an electromagnetic force field and seriously inhibit nearby instrumentation.

Carrier current on power transmission lines.

Other medical equipment including diathermy, electro-surgical units, electro-cautery equipment and neurosurgical stimulators.

Electric discharge or "leakage" from fluorescent lights.

Ultrasonic equipment used for therapeutic treatment and for cleaning laboratory equipment.

Improper grounding of equipment, probably the largest cause of 60 cycle interference or "hum".

Just how serious is interference in the hospital? "Very," says North American Rockwell's Elden Hughes, chairman of the Electronic Industries Association's Electromagnetic Compatibility Committee. "Take any medical clinic for example," he says. "If

there's a dentist drilling a tooth right above an EKG machine, you've got trouble."

The most drastic example of the effects of interference are pacemakers, whose low levels of power make them highly susceptible to RFI from many unexplained sources. Radio transmitters can be very hazardous to the heart patient, but generators or even adding machines can send waves that will alter the speed of the pacemaker's beat—or even stop it altogether. In some cases the electric knife used to insert the unit into the body can transmit waves that, by simulating the heart beat, will stop the pacemaker from functioning. And even microwave ovens, operating within their assigned frequencies, present a distinct hazard to pacemaker wearers.

No matter what levels of power or frequency these sensitive monitors are designed to detect, they are all affected by interference. Their basic design—which generally consists of a probe or sensor responding to some type of physiological activity—makes them unable to discriminate between the impulses being monitored and insignificant signals of about the same strength. Small signals will be displayed as erroneous measurements at the output while large ones may overload the monitor's amplifier and completely distort the output altogether.

If instruments in the hospital are connected to several different power circuits, they will be interfered with by a "ground loop" effect. In this instance, a serious problem with many institutions, unwanted signals are easily induced in the amplifier circuit.

APPROACHING A SOLUTION

"The real cure to interference is double-barreled," says EIA's Hughes. "We need adequate equipment standards and we need operating room standards to keep these sensitive pieces of equipment from interfering with each other. And only government—with the help of industry—can provide it."

And government is in no hurry to begin working on a solution if, indeed, it could. The Food and Drug Administration, with its regulatory powers over medical devices, would be the likely agency to look to for any standardization. But says one FDA official, "You can't minimize the technical nature of the problem. Standardization would be, to say the least, difficult."

The Federal Communications Commission keeps watch over the commercial range of frequencies that affect medical equipment, and frequency levels of diathermy, x-ray, and other products are controlled by that bureau. In fact, all known radiating devices must contain controls in their design to limit radiation of all frequencies other than the designed operating frequency. These controls include directional radiators, shielding and filtering. The FCC, however, makes no effort to insure that the frequencies of equipment—particularly medical equipment—are compatible. It gladly defaults this responsibility to the FDA.

But regulation is only a partial remedy anyway. There are more immediate methods:

The use of filters on monitoring equipment is sometimes an effective measure against "electronic pollution" and many manufacturers include them as standard features with their equipment. Other filters can be used to lock on to and cancel the spectral components of periodic signals. Yet, although effective against some types of interference, filters cannot generally be used with success with all equipment in the hospitals.

Another cure might be to schedule the use of monitors during periods of low interference levels, particularly where the source can be easily recognized and eliminated. Often, however, this is not possible since much interference cannot be predicted and scheduling during "off times" is impractical. Still another method is to locate the equipment as far away as possible from the source of interfering radiations.

The most effective measure—and quite obviously the most expensive—is building a "frequency free" shielded enclosure for rooms where sensitive monitoring is conducted.

The leader in this tactic is the Veterans Administration, which has spent millions of dollars shielding many of its rooms, as well as designing many standards in all areas of electronic interference. And as pioneers in shielding, the VA has run into its share of problems. "Although shielding is very effective if done properly," says one spokesman, "one of the biggest problems is to get proper coordination by the workmen to insure that the job is done right. Everything from electrical circuits to door knobs must be protected."

Two corporations that specialize in preventing interference through shielding are the Ray Proff Corp., Norwalk, Conn. and the Filtron Corp. of Flushing, N.Y. Both firms design systems for manufacturers, computer companies, research laboratories and medical institutions—not to mention multi-million dollar units to shield U.S. embassies and military institutions from electronic bugging.

"Hospital administrators don't know what new equipment they will be buying in the future," says Filtron's President Dr. Leonard Milton, "and the kitchen's new dishwasher, an oscillator or a TV set can be future sources of RFI. Today's hospitals need an electronically sterile environment, and shielding gives it to them."

In most hospitals where interference is a real problem, a combination of filtering and shielding is most effective. "The problem of RFI must be approached from a systematic basis," says EIA's Huges. "You put one piece of equipment in a room and you have no trouble. Put another one beside it and problems begin."

A LOOK AHEAD

If interference is a particular problem at your hospital, or if construction is planned, you may want to consider some degree of shielding. Steel or lead lining, if done properly, can be very effective against extraneous waves. But shielding is expensive, and more so obviously if installed in an already completed room. But even if interference is causing some monitors to malfunction, shielding may not be necessary.

A survey of "noise" in the area of proposed installation—called an electromagnetic compatability survey—can be made to determine the source of all problems and will show the degree of interference and the fidelity required of physiological data recordings.

The final decision concerning whether and where shielding is required will be made by the hospital designer, who will consider future electronic instrumentation requirements as well as present needs. If considered at a time of general building construction, shielding represents a small investment compared to the cost of electronic instruments, and will be ready when more sensitive equipment arrives.

According to a Dept. of Health, Education, and Welfare study, shielding is not generally required for rooms in which EKG or less sensitive equipment is used. It is usually recommended for EEG and EMG rooms, and especially where the output of such equipment is to be fed into a computer for analysis or comparison. Shielding may also be necessary in neurosurgery, cardiovascular surgery, and special procedure operating rooms. Electron microscope rooms, too, says HEW, frequently need magnetic shielding.

Hospitals located in metropolitan areas have the greatest difficulty with interference, and they represent the largest market for the shielding makers. St. Clare's Hospital in Danville, N.J. for example, recently spent $12,000 shielding two monitoring rooms used for EEG and EMG. According to administrator Kenneth Courey, "we were totally unable to get true readings from our equipment and now we have no problem." The monitors at St. Clare's were disturbed by radios and tv's in patients' rooms, and by elevators, among other equipment.

At St. Joseph's Hospital, Lexington, Ky., Administrator Sister Michael Leo reports similar results after new construction included several shielded rooms: "We just don't worry about getting inaccurate readings any more," she says and for Sister Michael—like many others—that's peace of mind.

By Mr. BEALL (for himself and Mr. CRANSTON) (by request):

S. 1338. A bill to authorize appropriations for ACTION, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, I am introducing a bill which authorizes the domestic volunteer programs of the ACTION Agency. As the ranking minority member of the Subcommittee on Human Resources, I have been working with the distinguished chairman (Mr. CRANSTON) regarding a somewhat similar bill he introduced earlier this year (S. 1148).

I believe that legislation is improved when various ideas are brought together within the committee process. I am pleased to note that the senior Senator from California has joined in cosponsoring this proposal. This spirit of bipartisan support reflects a desire on the part of all of the parties involved in expedite consideration of legislation designed to expand and improve our domestic volunteer programs.

Mr. President, I ask unanimous consent that this bill and the section by section analysis be printed in full at the conclusion of my remarks.

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

S. 1338

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 "ACTION Domestic Programs Amendments of 1973."

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. There are authorized to be appropriated such sums as may be necessary to enable the Director to carry out his functions, powers, and duties, except those authorized under the Peace Corps Act. Sums appropriated for use under Title VIII of the Economic Opportunity Act of 1964 may be expended without regard to the ten per centum limitation set forth in the second sentence of Section 821 of such Act.

AMENDMENTS TO THE ECONOMIC OPPORTUNITY ACT OF 1964

SEC. 3. Section 810(b) of the Economic Opportunity Act of 1964 is amended to read as follows

"(b) The assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities. No program designed to carry out the purpose of this title shall be established within a State unless such program has been submitted to the Governor and has not been disapproved by him within forty-five days of such submission. The assignment of a volun-

teer in any State shall be terminated by the Director when so requested by the Governor of such State not later than thirty days or at a time thereafter agreed upon by the Governor and the Director after such request has been made by the Governor to the Director.

SEC. 4. Sections 811(b) and (c) of the Economic Opportunity Act of 1964 are amended to read as follows:

"(b) Volunteers under this title shall be enrolled for a two-year period of service, or for such other period of service as the Director may determine.

"(c) Volunteers under this part shall, upon enrollment, take the same oath of office as prescribed for persons enrolled in the Peace Corps (22 U.S.C. 2504(j)): *Provided*, That persons legally residing within the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, either permanently or temporarily, but who are not citizens of the United States, may serve in programs carried on under this title without taking or subscribing to such oath, if the Director determines that the service of those persons will further the interest of the United States. Those persons shall take such alternative oath or affirmation as the Director shall deem to be appropriate. No funds may be expended to transport such persons either to or from any place outside the areas specified in this subsection."

SEC. 5. Section 833 of the Economic Opportunity Act of 1964 is amended:

(a) by amending subparagraph (b) to read as follows:

"(b) Volunteers (including trainees) and volunteer leaders who receive either a stipend or a living allowance under this title shall, with respect to their service or training, (1) be deemed, for the purposes of subchapter III of chapter 73 of title 5 of the United States Code, persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 *et seq.*) and title II of the Social Security Act (42 U.S.C. 401 *et seq.*) be deemed employees of the United States, and any service performed by an individual as a volunteer, trainee, or volunteer leader shall be deemed to be performed in the employ of the United States, and (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be considered employees of the United States."

(b) by striking out of subsection (c) the words "a full-time volunteer receiving either a living allowance or a stipend under this title" and inserting in lieu thereof "a volunteer under part A of this title", and by inserting in subsection (c) the words ", including training," after the word "service" the first time it appears.

(c) by adding at the end thereof the following two new subsections:

"(d) For the purpose of computing the tax payable under the Internal Revenue Code of 1954, a volunteer or volunteer leader shall be deemed to be paid and to receive each amount of any stipend to which he is entitled under this Act when such amount is transferred from funds made available for the payment of such stipend to the fund from which such stipend is payable. Such stipend shall otherwise be considered to be income for the year in which it is actually received.

"(e) Amounts received by volunteers or volunteer leaders as allowances other than amounts received as—

(1) leave allowance, or

(2) such portion of living allowances as the Director may determine as constituting basic compensation, shall not be included in gross income for purposes of income taxation under the Internal Revenue Code of 1954."

SEC. 6. Section 835 of the Economic Opportunity Act of 1964 is hereby repealed and the following new section is added in its place:

"SEC. 835. (a) The Director is authorized to enter into agreements with, or make grants to, Federal, State or local government agencies, or private nonprofit organizations for the conduct of any program authorized under this title.

(b) The Director may require that any agency or organization to which volunteers are assigned, or which is conducting a program authorized by this title under a grant or contract, shall bear all or part of the cost of support of such volunteers or of such program."

SEC. 7. Title VIII of the Economic Opportunity Act is amended by adding the following new section:

SEC. 836. The term "Governor" as used in this title means the Governor of the State, in the case of any of the 50 States, and in the case of the District of Columbia, the Commonwealth of Pureto Rico, Guam, American Samao, the Virgin Islands, or the Trust Territory of the Pacific Islands, the chief executive officer thereof.

AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

SEC. 8. Section 601 of the Older Americans Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) No payments made to or on behalf of individual volunteers under this Part shall be considered income for any purpose whatsoever."

SEC. 9. (a) The heading of Part B of Title VI of such Act is amended to read as follows: "FOSTER GRANDPARENT PROGRAM AND OTHER SENIOR VOLUNTEER PROGRAMS".

(b) Section 611 of such Act is amended to read as follows:

"SEC. 611. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of the development and operation of community projects designed to provide volunteer opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs."

"(b) For the purposes of subsection (a), grants or contracts shall be made principally for projects providing services as 'foster grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

"(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Director may determine."

(c) The first sentence of section 613 of such Act is amended to read as follows:

"SEC. 613. In administering this part, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels."

SEC. 10. (a) Title VI of such Act is amended by striking out the word "Secretary" wherever it appears, and inserting in lieu thereof "Director".

(b) Such title is further amended by adding at the end thereof the following new sections:

"MEANING OF DIRECTOR

"SEC. 615. For purposes of this title, the term 'Director' means the 'Director of ACTION.'

"SEC. 616. Notwithstanding any other law of the United States or of any State, no payment made to low-income persons aged sixty or over for supportive services described in Section 611(a) of the Older Americans Act of 1965 shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement or similar benefit payments, or minimum wage laws. This section shall be effective with respect to all payments made on or after January 1, 1974.

(c) Section 202(3) of the Older Americans Act of 1965 is amended by inserting before the semicolon at the end thereof ", except for title VI thereof".

AMENDMENT TO THE SMALL BUSINESS ACT

SEC. 11. Subparagraph (B)(ii) of section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)(B)(ii) is amended to read as follows:

"to pay the transportation expenses and a per diem allowance in accordance with section 5703 of title 5 to any such individual for travel and subsistence expenses incurred at the request of the administration in connection with travel to provide gratuitous services to small businessmen in furtherance of the purposes of Subparagraph (A) or in connection with attendance at meetings sponsored by the administration."

AMENDMENTS TO THE INTERNAL REVENUE CODE

SEC. 12. Section 1304 of the Internal Revenue Code of 1954 (26 U.S.C. 1304) is amended by adding at the end thereof the following new subsection:

"(g) For treatment of the stipend paid to VISTA volunteers and volunteer leaders, see section 833 of the Economic Opportunity Act of 1964 (42 U.S.C. 2994b)."

(b) Section 3401(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3401(a)) is amended by adding at the end thereof the following new paragraph:

"(17) to a volunteer or volunteer leader within the meaning of title VIII of the Economic Opportunity Act of 1964 except stipends, leave allowances, or living allowances determined by the Director of ACTION to be basic compensation." and by eliminating the word "or" from the end of paragraph 15 and adding it to the end of paragraph 16.

(c) Section 124(a) of the Internal Revenue Code of 1954 (26 U.S.C. 124(a)) is amended by adding at the end thereof the following new paragraphs:

"(19) Certain allowances paid to domestic volunteers and volunteer leaders, see section 833 of the Economic Opportunity Act of 1964 (42 U.S.C. 2994b).

"(20) Certain allowances paid to volunteers under the Retired Senior Volunteer Program, see Section 502 of the Older Americans Act of 1965 (42 U.S.C. § 3044b)."

(d) Section 3121(b) of the Internal Revenue Code of 1954 (relating to the definition of employment for purposes of the Federal Insurance Contributions Act (26 U.S.C. § 3121 (b) is amended—

(1) by striking out "or" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and adding in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(20) Supportive services performed by low-income persons aged sixty and over which are described in section 611(a) of the Older Americans Act of 1965 (42 U.S.C. § 3044b)."

(e) Section 3306(c) of the Internal Revenue Code of 1954 (relating to the definition of employment for purposes of the Unemployment Tax Act (26 U.S.C. § 3121(c)) is amended—

(1) by striking out "or" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18), and adding in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(19) Supportive services performed by low-income persons aged sixty and over which are described in section 611(a) of the Older Americans Act of 1965 (42 U.S.C. § 3044b)."

AMENDMENT TO TITLE 5, UNITED STATES CODE

SEC. 13. Section 8143(b) of Title 5 of the United States Code is amended by deleting the words "part A of" therefrom.

SEC. 14. Section 210(a) of the Social Security Act (relating to the definition of employment) is amended by deleting the word "or" at the end of subparagraph (18); by deleting the period at the end of subparagraph (19) and by adding "; or" in lieu thereof, and by adding the following new subsection:

"(20) Supportive services performed by low-income persons aged sixty and over which are described in Section 611(a) of the Older Americans Act of 1965 (42 U.S.C. § 3044b)."

GENERAL PROVISIONS

SEC. 15. The Director is authorized to (a) accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of ACTION. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Director. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. For the purpose of the Internal Revenue Code of 1954 (including sections 170(j), 2055(f), 2106(a)(2)(f), and 2522(d)), property accepted under this section shall be considered as gifts or bequest to the United States.

(b) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. § 665(b));

(c) adopt an official seal, which shall be judicially noticed;

SEC. 16. Section 3679(a) of the Revised Statutes (31 U.S.C. § 665(b)) shall not apply to services rendered by any person enrolled as a volunteer in any program transferred to ACTION by Reorganization Plan Number 1 of 1971.

SEC. 17. Notwithstanding any other provision of law, not to exceed 10 per centum of the sums appropriated or otherwise fixed by law to ACTION for a fiscal year to carry out any activity or function vested in that agency by Reorganization Plan Number 1 of 1971 may be transferred and used by the Director for the purpose of carrying out any other such activity or function.

DEFINITION

SEC. 18. As used in the Act the word "Director" means the Director of ACTION.

ACTION DOMESTIC PROGRAMS AMENDMENTS OF 1973—SECTION-BY-SECTION ANALYSIS

Section 1, the enacting clause, provides that the Act may be cited as the ACTION Domestic Programs Amendments of 1973.

Section 2 provides a permanent authorization of appropriations for ACTION programs. It also provides that funds may be expended without regard to the 10% limit contained in Section 821 of the Economic Opportunity Act. Without this provision, there would not be sufficient funds to operate UYA.

Section 3 amends the Governor's veto provision to provide that no program may be established within a State if it is disapproved within 45 days of submission to him. This provision replaces a requirement for prior affirmative approval of programs by the Governor and is in line with the practice in other parts of the Economic Opportunity Act except that the Governor has 45 rather than 30 days in which to disapprove a program, and the Director has no authority to override a veto.

Section 4 would authorize enrollment of volunteers for periods up to two years, in place of the present one year maximum term. The Director would have authority to enroll full-time volunteers for shorter periods, as he has now. As has been the practice under the EOA, no one would be enrolled for less than two months. It also provides that VISTAs shall take the same oath as is prescribed for Peace Corps Volunteers, and that nonresident aliens may take a different oath which shall be prescribed by the Director.

Section 5 amends Section 833 of the Economic Opportunity Act of 1964, dealing with the application of Federal law to volunteers under the Act.

Subparagraph (a) is a restatement of the substance of existing subsection (b). It eliminates the necessity of referring to Section 116 of the Act, dealing with Job Corps, to determine that full-time volunteers are deemed to be Federal employees for the purposes of the Hatch Act, the Internal Revenue Code, Title II of the Social Security Act, and the Federal Tort Claims Act.

Subparagraph (b) clears up an apparent conflict between this section and Section 8332(b)(7) of Title 5 of the United States Code, by limiting the credit for volunteer service which is available in connection with future Federal employment to volunteers under Part A of Title VIII.

Subparagraph (c) extends the tax treatment of the volunteer's stipend presently available to Peace Corps Volunteers to full-time domestic volunteers under the Act. The stipend is not taxed until actually received by the volunteers, but the rate at which it is taxed is determined by treating the stipend as having been received month-by-month during the volunteer's term of service.

It also exempts from income tax amounts received by volunteers or volunteer leaders as allowances, other than amounts received as (1) leave allowances, or (2) such portion of living allowances as the Director may determine is basic compensation. This treatment of allowances is identical with the treatment of Peace Corps Volunteer allowances (26 U.S.C. § 912(c)). The allowance now referred to as the "living allowance," amounting to $75 per month for volunteers and $1.00 per day for trainees, which is for personal expenses, would be determined to be taxable, but food and lodging allowances, and adjustment allowances would not be subject to tax. Stipends remain subject to tax.

Section 6 repeals Section 835 of the Economic Opportunity Act of 1964, which limits the time during which programs under Title VIII of the Economic Opportunity Act may be operated to a period ending June 30, 1975. The effect of the repeal is to make the period during which such programs may be operated indefinite. A new section replaces former Section 835. It authorizes the Director to make contracts or grants with public or private nonprofit agencies or organizations for the conduct of any program under Title VIII of the Act.

The section also contains a provision making clear the Director's authority to require a contractor or grantee to bear all or part of the costs of volunteers' support or the program.

Section 7 contains a definition of the term "Governor," which includes within the meaning of the term the chief executive officer of jurisdictions not having a Governor, such as the District of Columbia.

AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

Section 8 provides that no compensation paid to individual volunteers in the Retired Senior Volunteer Program (RSVP) program for out-of-pocket expenses shall be considered income for any purposes whatsoever. This confirms the informal indication of the Internal Revenue Service that they do not consider such compensation to be taxable income. It also resolves questions which have been raised by welfare officers with regard to deducting from benefits paid to welfare recipients involved in the Retired Senior Volunteer Program, the monies they receive as reimbursement for out-of-pocket expenses incident to their volunteer service.

Section 9 amends the title of Title VI of the Older Americans Act to reflect the expanded authority provided for in the amended Section 611(a). The amended Section 611(a) provides opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs. This includes the person-to-person services presently provided under Part B of Title VI of the Older Americans Act, the Foster Grandparents Program to children in hospitals, homes for dependent and neglected children or other establishments providing care for children with special needs. It is intended that appropriations under this part will be used principally for the Foster Grandparents Program.

In addition, it includes services described by the President at the White House Conference on Aging on December 2, 1971, where he stated that the kinds of persons who participate in the Foster Grandparents Program should also work with older people. This is an expansion of Part B of Title VI of the Older Americans Act and would permit low-income older people to work with adults and children with exceptional needs in community settings.

Sections 9(c) and 10 (a) and (b) contain technical amendments substituting the Director of ACTION for the Secretary of HEW throughout Title VI of the Older Americans Act of 1965. This change conforms the statute to the changes made by Reorganization Plan Number 1 of 1971.

Section 10(b) also adds a new section to Title VI which will exempt payments to Foster Grandparents from any tax or charge for the purposes of unemployment, temporary disability, retirement or similar payment benefits. It also provides that such payments are not subject to minimum wage laws. Only a small percentage of Foster Grandparents are not currently eligible for social security benefits. It is unlikely that additional contributions would increase benefits or create eligibility for Foster Grandparents in proportion to the required contribution. Since Foster Grandparents are not true members of the labor force—they may not displace employed workers—it is inappropriate that program funds be used to make unemployment insurance or similar contributions.

Section 10(c) is a technical amendment which reflects the fact that grants under Title VI of the Older Americans Act are now administered by ACTION, rather than the Administration on Aging.

Scetion 11 eliminates the provision contained in Section 8(b)(1) of the Small Business Act under which SCORE/ACE Volunteers are ineligible for reimbursement of out-of-pocket expenses or for per diem allowances unless they travel 50 miles from their homes.

AMENDMENTS TO THE INTERNAL REVENUE CODE

Section 12(a) amends the Internal Revenue Code to provide a reference to the tax treatment of volunteers' stipends provided by section 5.

Section 12(b) removes from the definition of "wages" contained in section 3401(a) of the Internal Revenue Code of 1954 the allowance exempted from tax by section 5 of the Act. This provision is consistent with the treatment accorded Peace Corps Volunteer allowances (26 U.S.C. § 340(a)(13)).

Subsection (c) of Section 12 provides for a reference to the tax treatment of allowances of volunteers provided by section 5 to be

inserted in the appropriate section of the Internal Revenue Code of 1954.

Sections 12(d) and (e) eliminate payments made to Foster Grandparents from taxation for the purposes of the Federal Insurance Contributions Act (Social Security) and the Unemployment Tax Act.

Section 13 amends Section 8143(b) of Title 5 of the United States Code to make it clear that all full-time volunteers under Title VIII are covered by the Federal Employees Compensation Act.

Section 14 removes payments to Foster Grandparents from the definition of the term "employment" contained in the Social Security Act.

Section 15 authorizes the Director of ACTION to (a) accept gifts and bequests on behalf of ACTION, (b) accept voluntary and uncompensated services on behalf of ACTION, and (c) to adopt an official seal. At present the Director has authority to accept gifts and voluntary services on behalf of component programs such as Peace Corps or VISTA, but not on behalf of ACTION.

Section 16 makes it clear that Federal agencies may accept the services of volunteers enrolled in any program transferred to ACTION by Reorganization Plan No. 1 of 1971.

Section 17 provides authority for the Director to transfer up to 10 per cent of the amounts appropriated or otherwise fixed by law to ACTION for any fiscal year to carry out any activity or function transferred to ACTION by Reorganization Plan No. 1 of 1971 to any other such activity or function.

Section 18 defines the term "Director", as used in the Act, to mean the Director of ACTION.

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

S. 1339. A bill to provide for the creation of the Indian Trust Counsel Authority, and for other purposes;

S. 1340. A bill to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits, for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes;

S. 1341. A bill to provide for financing the economic development of Indians and Indian organizations, and for other purposes;

S. 1342. A bill to amend acts entitled "An Act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes," and "To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes" and for other purposes;

S. 1343. A bill to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government, and for other purposes;

S. 1344. A bill to amend certain laws relating to Indians; and

S. 1345. A bill to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior, 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), and the senator from South Dakota (Mr. ABOUREZK) seven bills for appropriate reference.

Mr. President, this draft legislation makes up the Indian package submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication and additional material accompanying the proposals from the Secretary of the Interior to be printed in the RECORD at this point in my remarks.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To provide for the creation of the Indian Trust Counsel Authority, and for other purposes."

We recommend that the proposal be referred to the appropriate committee for consideration and that it be enacted.

Creation of the Indian Trust Counsel would provide independent legal counsel and representation on behalf of Indians and Alaska Natives in the assertion of their natural resource rights. Such an authority is needed to remedy a conflict of interests on the part of the Federal Government. President Nixon described this conflict in his Indian Message of July 8, 1970:

"The United States Government acts as a legal trustee for the land and water rights of American Indians. These rights are often of critical economic importance to the Indian people; frequently they are also the subject of extensive legal dispute. In many of these legal confrontations, the Federal government is faced with an inherent conflict of interest. The Secretary of the Interior and the Attorney General must at the same time advance *both* the *national* interest in the use of land and water rights *and* the *private* interests of Indians in land which the government holds as trustee.

"Every trustee has a legal obligation to advance the interests of beneficiaries of the trust without reservation and with the highest degree of diligence and skill. Under present conditions, it is often difficult for the Department of the Interior and the Department of Justice to fulfill this obligation. No self-respecting law firm would ever allow itself to represent two opposing clients in one dispute; yet the Federal government has frequently found itself in precisely that position. There is considerable evidence that the Indians are the losers when such situations arise. More than that, the credibility of the Federal government is damaged whenever it appears that such a conflict of interest exists.

"In order to correct this situation, I am calling on the Congress to establish an Indian Trust Counsel Authority to assure independent legal representation for the Indians' natural resource rights."

This proposal will carry out the policy enunciated in the President's message by establishing the Indian Trust Counsel Authority. President Nixon reaffirmed the need for the Authority in his March 1, 1973, Human Resources Message to the Congress. The Authority will be free from control by any Executive Department. This independence will enable the Authority to protect the natural resource rights and interests of Indians untrammeled by any other interest.

A sectional analysis in the Appendix to this letter spells out the structure and functions of the Trust Counsel Authority in detail. Some of the special features of the proposal, however, require further explanation.

The Authority will be under the direction of a three-man Board of Directors, two of whom must be Indians. The Board is given the authority to hire necessary attorneys including the chief legal officer and his deputy and such other personnel as they deem necessary to carry out the functions given them by the proposal. Having majority control of the Board will assure Indians that they can determine the direction of the Authority's activities and that the people hired to carry out the Authority's functions are acceptable to them. Such assurance should make the Authority a body that from its inception enjoys the confidence and trust of Indians.

The proposal provides that the Indian Trust Counsel, who is the chief legal officer for the Authority, shall be a level V in the Executive Schedule. We feel that this level is necessary in order for the Authority to be able to obtain the kind of person that it needs to direct the legal activities of the Authority and in order to give him sufficient stature to be able to deal with cabinet and sub-cabinet members of the Executive Department. The Board of Directors is also authorized to hire, fix the pay, and prescribe the duties of such attorneys, including special counsel, as it deems necessary. These attorneys will be the working group that will carry out the responsibilities and functions of the Authority. It is the Administration's intention that the Authority will build up a cadre of well-trained and devoted attorneys whose energies will be turned to the protection and preservation of the Indian's natural resource rights and interests. The Authority to hire special counsel is needed in those instances when the Authority must go outside of its own staff to hire someone uniquely qualified to assist in the preparation of trial or appeal material regarding a special case. The Board will have similar authority to hire outside experts.

The proposal authorizes the Authority, upon the request of an aggrieved Indian or group of Indians, to assist those Indians in the protection of their natural resource rights and interests in the courts and before administrative bodies. This authority will be used when a tribe has a justiciable claim and feels that it needs the assistance of the Authority for prosecuting that claim. The assistance rendered by the Authority is in addition to the responsibilities that the Department of the Interior has to protect Indians, not only in their natural resource rights, but in all rights protected by the trust relationship between the United States and American Indians. Upon enactment of the proposal, the Department of Justice will be relieved of its responsibility to represent Indians in the area of natural resources but will continue to fulfill the responsibilities it has with regard to Indians generally (for example, its responsibility to advise the Secretary of the Interior with respect to the probate of Indians' wills). This relief of Justice is subject to the responsibility of Justice, in conducting any litigation that affects Indians' natural resource rights, to recognize the responsibilities of the United States which arise from its trust relationship to Indians.

Acting in the name of the United States as Indian trustee, the Authority will be able to initiate suits, upon request by an aggrieved Indian or group of Indians, to protect the rights of the Indians in their natural resources against the United States, or any of its departments, agencies, officers or employees as well as against the States, their subdivisions, departments and agencies or against any private or public person or corporation. The United States waives its sovereign immunity as to such litigation ini-

tiated by the Authority. (The Authority will use its power to initiate litigation in those cases where the Indians' rights or claims are of such a nature that Indians are precluded from bringing suit against the United States because of bars that the United States has as a sovereign to suits generally. These will be removed by the provision waiving the United States' sovereign immunity as it relates to actions brought by the Authority. The proposal clearly limits the waiver of sovereign immunity to the narrow area of litigation initiated by the Authority.)

We wish to stress that the Authority will be barred from relitigating any claims that have been filed or should have been filed before the Indian Claims Commission. However, the Authority will be permitted to assist in claims that are still in the process of being litigated before the Commission.

American Indians have for long felt that the Federal government, because of the inherent conflict of interests that the President discussed in his message, has not given their natural resource rights adequate legal protection. We believe that enactment of this proposal will restore the confidence of the American Indian in the ability of our government to meet the legal obligation it has as trustee to advance the rights and interests of the beneficiaries of the trust without reservation and to the highest degree of its ability and skill.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

APPENDIX

SECTIONAL ANALYSIS OF PROPOSAL

Section 1 of the proposal outlines its purpose, as described in the letter, *supra.*

Section 2 establishes in the Executive Branch an independent agency to be known as the Indian Trust Counsel Authority. The Authority will be governed by a three-man Board of Directors who will be appointed by the President by and with the advice and consent of the Senate. At least two of the members of the Board must be Indians. The term of members of the Board shall be 4 years except that the initial Board shall be appointed in a staggered manner. The President shall designate one of the members of the Board to serve as chairman. The members of the Board shall receive pay that is the daily equivalent to that of a GS–18 for each day they are engaged in the business of the Authority and shall be allowed necessary travel expenses.

Section 3 provides that the Board of Directors shall convene at the call of the chairman but must meet at least once each quarter to set policy for the Authority and to review its activities. This section requires the Board to report annually to the President and the Congress on the activities of the Authority.

Section 4 authorizes the Board, without regard to the civil service laws, to appoint and prescribe the duties of the chief legal officer for the Authority, who shall be called the Indian Trust Counsel, at level V of the Executive Schedule, and a Deputy Indian Trust Counsel, who shall be a grade GS–18.

Section 5 authorizes the Authority to appoint and fix the pay and prescribe the duties of attorneys it employs. It also authorizes the Authority to appoint and fix the compensation of needed special counsel and experts. Finally, it authorizes the attorneys or special counsel appointed by it to appear for and represent the Authority in any case before any court, commission or administrative proceeding pertaining to its responsibilities. In order to deal with conflicting requests for the Authority's assistance, the Board is provided with authority to hire experts or special counsel to represent one or all of the parties involved.

Section 6 authorizes the Authority to hire such other employees as it deems necessary.

Section 7 provides that the Authority shall be free of control by any Executive Department.

Section 8 authorizes the Authority, with the consent of any aggrieved Indian or Indian tribe, band, or other identifiable group of Indians, to render legal services in regard to rights or claims of the Indians in relationship to their natural resources. The Section spells out the kinds of natural resource rights and interests to be protected by the Authority. The Authority's exercise of its responsibility to protect Indian resources does not absolve the Department of the Interior or the Department of Justice from their trust responsibilities to Indians, except that the Department of Justice is relieved of its responsibility to represent Indians with regard to natural resources—the same responsibility which the Trust Counsel Authority will assume. This section also provides that the Authority may perform such services as the investigation and inventorying of Indians' land and water rights and the preparation, trial and appeal of cases involving the natural resources of Indians in all courts and before Federal, State, and local commissions and administrative bodies.

Section 9 authorizes the Authority, with the consent of any aggrieved Indians, Indian tribe, band, or other identifiable group of Indians, acting in the name of the United States as trustee for the Indians, to initiate and prosecute to final judgment in all Federal courts against the United States or any of its officers or employees, or in the Federal or State courts against any of the States, their subdivisions, departments or employees or against any persons or corporations, public or private, all actions in law and equity for the protection of the natural resource interests and rights of the Indians. The United States waives its sovereign immunity to suit in connection with litigation initiated by the Authority under this section. Suits against the United States and its officers and employees shall be tried before the court without a jury.

Section 10 provides that the powers granted the Authority by this Act shall not extend to the filing or prosecution of or intervention in any action, claim, or other proceeding against the United States relating to any matter as to which a claim has been filed or could have been filed before the Indian Claims Commission or under any special statute authorizing a suit to be brought against the United States but makes it clear that the prohibition does not include suits that could be brought under the provisions of sections 1346(a)(2) and 1491, title 28, U.S.C. The Authority can assist in cases pending before the Indian Claims Commission if so requested.

Section 11 enumerates the authorities of the Authority.

Section 12 authorizes the appropriation of funds necessary to carry out the provisions of the Act.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes."

We recommend that the proposal be referred to the appropriate committee for its consideration and that it be enacted.

This proposal is a companion to our proposal that authorizes Indian tribes to assume control and operation of programs and services now rendered for them by the Federal Government. This proposal allows civil service employees to transfer with the program or service and retain the coverage that they now enjoy as civil servants and also gives them preferential reemployment rights for a period of five years. In most instances, where programs or services are transferred to an Indian tribal organization, the organization will request that certain employees who are operating the program or service be transferred with it. By enabling employees to retain all of their civil service benefits, this proposal will be an important factor in encouraging those employees to make a transfer to an Indian tribal organization, thus lending continuity to the programs and services transferred. We believe that without the opportunity for continuity in the operation of transferred programs, as provided in this proposal, most if not all such transfers would be doomed to failure.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

SECTIONAL ANALYSIS OF PROPOSAL

Section 1 gives the Act the name of the "Federal Employees Indian Tribal Organizational Transfer Act."

Section 2 entitles a federal employee who transfers to an Indian organization to carry out a federal program to retain the following federal benefits, if agreed upon by him and that organization:

(1) workmen's compensation rights, except that payments made by the tribal organizational shall be deducted from the compensation due from the federal government;

(2) retirement benefits, provided that necessary payments continue to be made to the Civil Service Retirement and Disability Fund;

(3) life insurance benefits, provided that necessary payments continue to be made to the Employees' Life Insurance Fund;

(4) health insurance benefits, provided that necessary payments continue to be made to the Employees' Health Benefits Fund;

(5) the entitlement to be reemployed by the federal government in a comparable position if he makes application for transfer not later than 5 years after transferring to a tribal organization, and his time spent with the tribal organization shall be credited with respect to all appropriate civil service employment purposes.

During a federal employee's sojourn with a tribal organization, that organization shall deposit in the appropriate funds the payments necessary with respect to benefits numbered 2, 3, and 4, described above.

Section 3 directs a transferring federal employee and the Indian organization to which he transfers to choose before hand whether or not to retain benefits numbered 1, 2, 3, and 4, described above.

Section 4 contains definitions.

Section 5 authorizes the President to prescribe necessary regulations.

Section 6 declares that the Act shall take effect 60 days after enactment.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposed bill, "To provide for financing and economic development of Indians and Indian organizations, and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee for consideration and that it be enacted.

This proposal consolidates two proposals of this Department in the 92nd Congress—the Indian Financing Act (Titles I and II of this bill) and the Indian Business Development Program Act (Title III of this bill). A sectional analysis of the proposal is contained in an Appendix to this letter.

TITLES I AND II

The essence of these titles was outlined by President Nixon in his Indian message of July 8, 1970:

"Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average; the unemployment rate runs as high as 80 percent on some of the poorest reservations. Eighty percent of reservation Indians have an income which falls below the poverty line; the average annual income for such families is only $1,500. As I said in September of 1968, it is critically important that the Federal government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the 'Indian Financing Act of 1970'.

This Act would do two things:

1. It would broaden the existing Revolving Loan Fund, which loans money for Indian economic development projects. I am asking that the authorization for this fund be increased from approximately $25 million to $75 million.

2. It would provide additional incentives in the form of loan guarantees, and interest subsidies to encourage *private* lenders to loan more money for Indian economic projects. An aggregate amount of $200 million would be authorized for loan guarantee and loan insurance purposes.

Inability to raise capital in effect freezes most Indians out of the American free enterprise system. We believe that, in conjunction with the Business Development Program established in Title III, the loan incentives offered in these titles will go far toward eliminating the chronic state of Indian poverty.

TITLE III

This title would revive and expand a grant program that was conducted by the Bureau of Indian Affairs during fiscal year 1971. Using funds appropriated as tribal development funds, the Bureau aided individual Indians or tribes which sought to open or expand businesses. The grants provided needed capital for Indians unable, because of insufficient equity, to qualify for small business loans from public or private sources; supplements to business grants-in-aid from Government agencies or private foundations; and supplements to business loans. One example of the kind of problems this program can alleviate is that most Indians have been unable to take advantage of the 90 percent loan guarantee programs of the Small Business Administration because most private lenders have required a 100 percent guarantee for Indian loans. The Bureau used its grants to make up the difference for this and similar types of financing.

Since in all essentials the grant program established in Title III will be identical to that operated by the Bureau in fiscal '71, the effectiveness of the latter augurs well for the success of the Title III operation. As of March 31, 1972, Bureau grants had assisted in forming 237 new Indian-owned businesses and expanding 142 existing ones. These grants generated some $16.4 million from other financial sources. The Bureau received 770 applications for grants totaling $10.8 million, or more than triple the amount of money allocated for the program. The Bureau received inquiries about the program from throughout the Indian community. We consider this program to be a proven success and believe that, along with the other programs contained in this proposal, its enactment would lead to substantial Indian economic progress.

The Office of Management and Budget has advised that enactment of this proposal would be in accord with the President's program.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

APPENDIX

Explanation of a bill to provide for financing the economic development of Indians and Indian organizations to be cited as the "Indian Financing Act of 1973."

Section 1 contains the title of the Act.

Section 2 declares it to be the policy of Congress to furnish capital to Indians so that they can manage their own resources and enjoy a standard of living comparable to that of their non-Indian neighbors.

TITLE I

Section 101 makes the total revolving fund equally available to all Indians and Indian organizations, and resolves doubts as to the statutory authority to make loans to certain Indians and Indian organizations from part of the fund.

The revolving fund for loans was authorized by four main Acts: (a) the Indian Reorganization Act (IRA) of June 18, 1934 (48 Stat. 986), as amended and supplemented; (b) the Oklahoma Welfare Act (OWA) of June 26, 1936 (49 Stat. 1968); (c) the Navajo-Hopi Rehabilitation Act of April 19, 1950 (64 Stat. 44); and the Act of November 4, 1963 (77 Stat. 301), as amended, authorizing loans for expert assistance in connection with the preparation and trial of claims pending before the Indian Claims Commission. The Act of May 24, 1950 (64 Stat. 190), authorized the deposit in the revolving fund of moneys received in settlement of debts of livestock and from the sale of livestock. The livestock originated mainly in drought relief purchases by the Department of Agriculture in 1934 and were turned over to the Bureau of Inidan Affairs to establish foundation herds for Indians. The livestock were loaned on a "repayment in kind" basis. The Act of June 28, 1941 (55 Stat. 316), provided that interest collections on these loans be credited to the revolving fund.

Funds authorized by the IRA, supplemented by funds from livestock settlements, are the only moneys in the revolving loan fund available to Indians and Indian organizations for loans generally. Funds authorized by the OWA are available for loans only in the State of Oklahoma, exclusive of Osage County. Funds authorized by the Navajo-Hopi Rehabilitation Act are available only for loans to the Navajo and Hopi Tribes and their members. Funds authorized for loans for export assistance may not be used for any other purposes, and no change is contemplated in this authorization.

The relation of amounts authorized under these funds and amounts appropriated is as follows:

	Authorized	Total appropriated	Authorizations unappropriated
Indian Reorganization Act	$20,000,000	$19,999,600	$400
Oklahoma Welfare Act	2,000,000	2,000,000	----------
Navajo-Hopi Rehabilitation Act	5,000,000	1,800,000	3,200,000
Expert assistance	1,800,000	1,800,000	----------
Total	28,800,000	25,599,600	3,200,400

Funds made available for loans through the Bureau of Indian Affairs never have been adequate. A survey conducted by the Civil Works Administration in 1935 estimated the Indian credit needs at $65 million. The IRA and OWA authorized original amounts totaling $12 million. Inadequate as this amount was, it took from 1934 until 1951 to obtain appropriations of the original authorizations. Not only have the appropriations been inadequate to meet Indian financing needs, but even the meager appropriations made were not wholly available for loans. Nearly $4.1 million was spent for administrative expenses between 1936 and 1961 under Congressional authorizations. Of the amount appropriated, only $21.5 million was available for loans. The following summarizes transactions from the revolving loan fund:

Appropriated to June 30, 1969	$25,599,600
Less: Amount expended for administrative expenses	4,073,940
Appropriations available for loans	21,525,660
Plus: Interest collections	6,642,423
Livestock settlements	2,783,109
Total	9,425,532
Total available for loans	30,951,192
Less: Total amount loaned	66,678,111
Total amount paid	38,853,694
Total	27,824,417
Cash balance June 30, 1969	3,126,775

The cash balance was available for loans as follows:

General Fund	$1,088,446
Oklahoma	143,338
Navajo-Hopi	794,551
Expert Assistance	1,100,440
Total	3,126,775

The repayment record through June 30, 1969, follows:

Payments due	$47,671,723
Payments made	38,853,694
Payments in transit	3,613
Payments extended	1,687,412
Amount canceled	2,596,843
Payment delinquent	4,530,161

The fund had a surplus at the close of the fiscal year, calculated as follows:

Interest earned	$8,090,261
Less: Cancellations—Principal	2,596,843
Interest	570,248
Allowance for Losses	2,305,665
Total	5,472,756
Surplus	2,617,505

This section also authorizes the use of these funds to pay for the administrative expenses incurred under this title.

Section 102 provides that loans may be made for any purposes that will promote Indian economic development, including loans for educational purposes. It also provides that loans may be made to Indian organizations to permit them to make loans to other organizations and to make investments in other organizations, regardless of whether the borrowing organizations are organizations of Indians. It is sometimes necessary and desirable for tribes to make loans to private organizations in order to encourage such organizations to establish industries in localities where their operations will provide wage income for the Indians and promote their economic development. In other cases it may be necessary and desirable for tribes to invest in industries being established on or near reservations, *i.e.* equity participation. The section also permits loans to be guaranteed for these same purposes.

Section 103 makes policies which have long been followed on loans from the revolving

loan fund a matter of law: loans may be made or guaranteed only when there is a reasonable prospect of repayment and only to applicants unable to obtain financing from other sources on reasonable terms and conditions, *e.g.* tribes unable to obtain necessary financing from customary sources including financing under title I of the bill. Such tribes are required to use their own moneys before a loan from the revolving loan fund may be approved. On June 30, 1969, loans from the revolving fund totaled $25.3 million or 6.6 percent of total Indian financing. Tribal funds in use totaled $105.1 million or 27.4 percent of the total. This is indicative of the importance of tribal funds in Indian financing. Estimated financing by customary lenders totaled $252.6 million or 66 percent of the total. The section also provides that before a direct loan can be made the Secretary must find the applicant unable to avail himself of the guaranteed loan provisions of the Act.

Section 104 provides that loans made or guaranteed shall provide for complete amortization within no more than 30 years or three-fourths of the useful life of the capital asset, whichever is less. It also provides that loans shall bear interest at rates determined by the Secretary. The section allows the Secretary to defer interest on educational loans while the borrower is in school or the military service. Loans already made shall be conformed to this section as soon as possible.

Section 105 requires the Secretary to pay into the Treasury, at least at the end of each fiscal year, interest on the value of the Government's equity transferred to the fund pursuant to section 101, plus other amounts. The interest rate on payments to the Treasury is to be determined by the Secretary of the Treasury. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred also bear interest. This payment provision is a new requirement in that the Department of the Interior is not now required to pay interest to Treasury on funds presently contained in existing Indian revolving loan fund accounts.

Section 106 authorizes the Secretary to cancel, compromise, adjust or reduce the amount of any loan made from the fund or any portion thereof, and to modify the terms of securing documents given for loans made from the revolving loan fund. This authority is essential for the efficient administration of the revolving loan fund. The existing authority of the Secretary pursuant to the Act of July 1, 1932 (47 Stat. 564), to "* * * adjust or eliminate reimbursable charges of the Government of the United States existing as debts against individual Indians or tribes of Indians in such a way as shall be equitable and just in consideration of all the circumstances under which such charges were made * * *" is inadequate. There is no authority to deal with the debts of some Indian organizations, which are neither "individual Indians or Tribes of Indians". Some organizations presently in existence are of a type that were not contemplated in 1932, *eg.*, incorporated cooperative and credit associations. The Secretary of Agriculture has authority under subtitle D of the Agricultural Act of 1961 (75 Stat. 312), to adjust loans by the Farmers Home Administration. The Secretary would be given similar authority under this section. The Secretary would make an annual report of all such actions to the Congress.

Section 107 authorizes the Secretary, with the approval of the Secretary of the Treasury, to sell loans made from or acquired by the fund, and to guarantee the loans which are sold. This approval authority is not intended to allow Treasury to interfere with the day-to-day operation of the program but is intended as a method of allowing Treasury to coordinate the marketing of the obligations generated by this Fund with other obligations marketed by the Federal Government. Receipts from sales are to be deposited in the revolving fund and be available for further loans. This provision should help to maintain the revolving fund without additional appropriations.

Section 108 limits loan guarantees to 90 percent of the unpaid principal and interest due on any one loan and 15 percent of the aggregate average unpaid balance of such loans held by a single lender in any one year.

Section 109 directs the Secretary to charge fees sufficient to cover administrative expenses and probable losses on loans made or guaranteed but also authorizes him to pay subsidies to cover all or part of these fees.

Section 110 requires prior approval of loans to be guaranteed, and the issuance of a certificate of guarantee. It also places a ceiling of $100,000 on loans to individuals which may be guaranteed. This amount is consistent with loans by the Farmers Home Administration pursuant to the Agricultural Act of 1961 (75 Stat. 308). Guaranteed loans to Indian organizations in excess of $100,000, or such lower amount as the Secretary may determine to be appropriate, would require Secretarial approval.

Section 111 disqualifies governmental and certain other loans from guarantee provisions. Otherwise, there could be situations where the Government was guaranteeing its own loan. Loans made by Indian organizations from funds borrowed from the United States also are not eligible for loan guarantee. It would not be proper for the Government to guarantee loans made by an Indian organization from funds which the organization had borrowed from the United States. Loans by an Indian organization from its own funds to other tribes or organizations of Indians would be eligible for guarantee. It also provides that obligations, the interest on which is non-taxable, shall not be eligible for either guarantee.

Section 112 provides for the purchase of guaranteed loans by any lender satisfactory to the Secretary and provides that the liability under a guarantee shall increase or decrease pro rata according to any change in the unpaid portion of the obligation.

Section 113 permits certain financial institutions to utilize the guarantee provisions without regard to present legal restrictions.

Section 114 provides that the United States may take title to certain land in trust for the tribe or individual Indian purchasing it with a loan made or guaranteed by the fund. However, title to personal property purchased with such funds must be taken in the name of the purchaser.

Section 115 requires that property purchased with loans made from or guaranteed by the fund be pledged as security for loans, unless the Secretary determines that the repayment of the loan is otherwise reasonably assured. It also provides that trust land purchased with and given as security for a loan shall be subject to foreclosure and sale free of trust restrictions in accordance with the laws of and in the courts of the State in which the land is located.

Section 116 requires that an organization receiving a loan made from or guaranteed by the fund assign the securities it acquires with the loan to the United States as security for the loan, unless the Secretary determines that the repayment of the loan is otherwise reasonably assured. This section is applicable to loans by the United States to Indian organizations to enable them to relend money to their members.

Section 117 authorizes the Secretary to collect delinquent loans from per capita payments or other distributions of tribal assets. If a tribe is awarded a money judgment against the United States, and is indebted for a loan, any installment of which is in default, the Secretary may, at his discretion, collect the delinquent installment or the balance of the loan from the appropriation to satisfy the judgment insofar as it will cover the delinquency.

Section 118 prescribes the procedure to be followed in the event of default on guaranteed loans. The lender is to notify the Secretary, who shall examine the claim. The Secretary would be subrogated to the rights of the holder of the guarantee to the extent of the amount paid thereon, and receive an assignment of the complete obligation and security. Before a lender could be reimbursed, however, all reasonable collection efforts must have been exhausted, the security must have been liquidated, and the proceeds must have been applied on the debt. Upon reimbursement, the lender is required to assign the debt to the United States. The lender then has no further claim against either the borrower or the United States. The Secretary would then take such further collection action as might be warranted. The procedures in this section also permit forbearance for the benefit of a borrower and permit establishment of a date upon which further interest charges on a loan shall cease. Provision also is made for the Secretary to concel the uncollectable portion of any obligation to which he has an assignment or subrogated right.

Section 119 authorizes the Secretary to take appropriate action should a lender or holder of a guarantee certificate fail to operate in accordance with accepted credit principles. The Secretary may, in his discretion, refuse to guarantee further loans by such lender or guarantee certificate holder.

Section 120 includes provisions necessary for the effective administration of the Act. Any guarantee certificate issued shall be conclusive evidence that the loan was eligible for guarantee. The Secretary may, however, establish defenses based on fraud or material misrepresentation, and defenses as to the amount payable on the guarantee based on regulations.

Section 121 provides certain authorities to enable the Secretary effectively to administer the provisions of the bill. These authorities are similar to those of the Administration of the Veterans Administration authorized by section 509 of the Servicemen's Readjustment Act (38 U.S.C. 1820(a)–(c)). These authorities will permit the Secretary to readjust interest rates, time of payments, etc., in order to carry out the purposes of loan guarantee.

Section 122 pertains to the guarantee of loans. A limitation of $200,000,000 is placed on the amount of guaranteed loans by the Secretary that may be outstanding at any one time.

This section also defines what shall constitute the assets and liabilities of such a fund. Subsection (c) authorizes the Secretary to borrow money from the Treasury to meet obligations of the fund. Subsection (d) authorizes the Secretary to make disbursements from the fund to protect the United States' interest as may be necessary and to pay administrative expenses.

Section 123 authorizes the appropriation of $50,000,000 to provide capital for the fund and to restore any impairment of capital.

Section 124 authorizes the Secretary to promulgate rules and regulations.

TITLE II

Section 201 authorizes the Secretary to make periodic debt service payments on loans made or guaranteed so as to reduce Indians' interest and other payments by up to 30 percent or to reduce the outstanding principal amount of the loan by 3 percent, whichever is less. We believe that this authority will enable the Secretary to provide Indians a favorable, low rate of interest.

Section 202 provides that no contract for such debt service payment may be entered into unless the Secretary has determined that other credit provisions are not sufficient to accomplish the purposes of the program.

Section 203 authorizes the appropriation of necessary funds to make such debt service payments.

TITLE III

Section 301 authorizes the Indian Business Grant Fund and authorizes the appropriation of such funds as may be needed.

Section 302 sets the conditions under which the Secretary may make grants from

the fund. These conditions include a limit of $50,000 to any one applicant; the inability of the applicant to borrow the money from any other source, including the title I revolving loan fund; Indian ownership of the business involved; and benefit from the grant to Indians living on or near a reservation.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To amend Acts entitled 'An Act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes', and To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes' and for other purposes."

We recommend that the proposal be referred to the appropriate committee and that it be enacted.

In his Indian message of July 8, 1970, President Nixon emphasized the need for Johnson-O'Malley funds, which are used to help Indian students, to be expended in accordance with the problems and desires of Indians. The President proposed that this goal be reached by amending the Johnson-O'Malley Act (48 Stat. 596, as amended by 49 Stat. 1458), to authorize the Department of the Interior to channel funds appropriated under the Act directly to Indian tribes and communities. The amendment proposed in section 1 of our proposal will carry out this Presidential request. This amendment will add to the present authority of the Secretary of the Interior to contract with State and local institutions, new authority to contract directly with Indian tribes, bands, groups, or communities who run their own educational institutions, thus enabling the Secretary to arrange for direct Indian involvement in carrying out his responsibilities for Indian education, agricultural assistance, and social welfare. This new authority will be exercised in conjunction with President's directive that the Department make every effort to ensure that Johnson-O'Malley funds which are presently directed to public school districts are actually spent to improve education of Indian children in those districts.

The same authority to contract directly with Indians—although in the area of Indian health—will be given to the Secretary of Health, Education, and Welfare by virtue of the amendments in section 2 of our proposal. (Responsibility for Indian health was transferred from the Secretary of the Interior to the Secretary of Health, Education and Welfare by Public Law 568 of the 83rd Congress.) In both cases the amendments allowing contracting to take place directly with Indian tribes consist of inserting a variation of the phrase "any Indian tribe, band, group, or community" in the appropriate place in the appropriate act. The Secretary of Health, Education, and Welfare will also be given authority to detail personnel from the Public Health Service to Indian groups who need aid in carrying out health-service contracts.

The Office of Management and Budget has advised that this proposal is in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

SECTIONAL ANALYSIS

Section 1 amends the Johnson-O'Malley Act to add the term "or with any Indian tribe, band, group, or community, recognized by the Secretary" and to strike the word "Territory" wherever it appears in the first section of the Act, as being no longer applicable to the Act. The addition of the phrase set out above means that Indians would join the public and private groups with which the Federal Government may contract for the carrying out of Federal responsibilities in education, agricultural assistance, and social welfare.

Section 2 amends the Act of August 5, 1954, by adding two new sections and renumbering other sections accordingly. The first added section, to be the new section 4, authorizes the Secretary of Health, Education, and Welfare to contract with "any Indian tribe, band, group, or community" to carry out his health responsibility to the Indians. The second added section, to be the new section 9, gives the Secretary of Health, Education, and Welfare the authority to detail Public Health Service personnel for the purpose of assisting an Indian tribe, band, group, or community in carrying out Indian health functions.

U.S. DEPARTMENT OF THE INTERIOR,
Washngton, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government, and for other purposes."

We recommend that the proposal be referred to the appropriate committee for its consideration and that it be enacted.

In his Indian message of July 8, 1970, President Nixon expressed the rationale of this proposal:

"For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the Federal authorities and not the Indian people who finally make that decision.

"This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing and able to assume administrative responsibility for a service program which is presently administered by a Federal agency."

This proposal (a sectional analysis of which serves as the appendix to this letter) will enable any Indian tribe, band, group, or community to request and assume control of any program or service now extended to it by the Bureau of Indian Affairs of the Department of the Interior or the Indian health service program of the Public Health Service of the Department of Health, Education, and Welfare. The two program areas are the ones that deal most directly with Indan people.

President Nixon reaffirmed the need for this proposal in his March 1, 1973, message on Human Resources to the Congress.

If any Indian group decides it is willing and able to assume administrative responsibility for a service or program which is presently administered by the Bureau of Indian Affairs or Public Health Service, it can request that such service or program be turned over to it. The only prerequisite that the group must meet is to obtain adequate insurance. The bill waives the group's immunity to suits arising out of its operation of a program only to the extent of this insurance. We believe that this condition is necessary to protect persons who may be injured or property which may be damaged in the carrying out of a program. Since Indian tribes would not otherwise be subject to suit, lack of insurance could work substantial injustice to innocent parties.

The turnover will be made after the tribe has consulted with the appropriate Department, has worked out a transfer plan with that Department, and has submitted that plan formally along with its request for the turnover. But it will be the Indian group whose decision will prevail. That is, if the Indians persist in their request, the program or service will be turned over to their control even if, in the judgment of the appropriate Department, they are not adequately equipped to operate that program or service. The transfer will be made subject to the right of the Indian group to retrocede any program or service to the appropriate Secretary. Such a retrocession would not prejudice the group's right to reassume control of any service or program at a later date.

In those instances where there is a question about the adequacy of the Indian group to control or operate the transferred service or program, the Secretary will monitor the program or service to be certain that the rights, health, safety and welfare of the Indians involved is not endangered. The proposal empowers the Secretary to move to reassume control of a service or program at any point where he thinks the health, safety or welfare of an Indian is jeopardized. The proposal contemplates that the Secretary will make every effort to assist Indian groups in their efforts to assume the control and operation of the program or service. The proposal will allow the Secretary to detail to the Indian group those civil servants who, although not transferring with the service or program to Indian employment (under a companion to this proposal), might be useful during the transition period. Such employees could be detailed for a period of 180 days, with the possibility of extending their assignment for an additional 180 days. The proposal also authorizes the detailing of Public Health Service employees to Indian tribes and groups.

The proposal makes it clear that there will be no discrimination against those tribes who assume control or operation of a service or program. In particular, the proposal assures Indians that any transferred program or service will be given the same consideration in the allocation of budget funds as it would have received if it had continued under the control of the Federal government.

The last section of the proposal provides that nothing in the proposal shall be interpreted as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indians. This provision makes it clear that even though an Indian group assumes the control and operation of a program or service, the Federal government will retain its ultimate responsibility for that program or service and will maintain its trust relationship with that Indian group.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

APPENDIX.—SECTIONAL ANALYSIS OF PROPOSAL

Section 1 contains definitions.

Section 2 provides that, notwithstanding any other provisions of law, if an Indian tribe or community requests that it be given the control or operation of a program or service administered by the Federal Government, the Secretary shall turn over to that tribe or community, within 120 days after the request or such other period as may be agreed to, the control and operation of such program or service. The only prerequisite that the group must meet is to obtain adequate insurance. The bill waives the group's immunity to suits arising out of its operation of a program only to the extent of this insurance. We believe that this condition is necessary to protect persons who may be injured or property which may be damaged in the carrying out of a program. Since Indian tribes would not otherwise be subject to suit, lack of insurance could work substantial injustice to in-

nocent parties. Section 2 requires that the request made by the Indian tribe or community be accompanied by a plan for carrying out the service or program involved. It authorizes the tribe or community to enter into agreements to carry out all or any part of the transferred program or service. Such a transfer shall stipulate the retrocession provision provided for in a later subsection of this section.

In subsection (b) of section 2, the Secretary is required to provide assistance, other than financial, to any Indian tribal organization which requests it during the period preceding or immediately following a transfer made under this proposal.

Subsection (c) of section 2 requires that for each fiscal year during which an Indian tribal organization engages in the operation or control of a program or service transferred to it under the provisions of this proposal, it must report to the Secretary, such report to include an accounting of the amounts expended and the purposes for which Federal funds were expended. Subsection (c) opens reports and records of the Indian tribal organization maintained in connection with such program or operation for audit by the Secretary and Comptroller General.

Subsection (d) provides that should an Indian tribe or community request a retrocession to the Secretary of any program or service which it assumed pursuant to this proposal, such retrocession shall be effective within 120 days after such request or such later period as may be agreed to by the Secretary and the Indian group. This subsection specifically provides that retrocession of any program or service will not prejudice the Indian tribe or community's right to again assume control of the service or program.

In subsection (e) of section 2, if the Secretary determines that any program or service assumed by an Indian tribe is being accomplished in a manner which would violate the rights or endanger the health, safety or welfare of individual Indians served by such program or service or that there has been gross negligence or mismanagement in the use of Federal funds provided pursuant to this proposal, the Secretary may reassume control of the program or service under such regulations as he may prescribe but only after providing notice and hearing to the Indian tribal organization involved. The Secretary is authorized to retain the service or program until he is satisfied that the problems causing him to reassume control of it have been corrected.

Subsection (f) of section 2 provides that in the allocation of funds for programs and services to Indians, those Indian tribal organizations which assume control or operation of programs or services pursuant to this proposal or which retrocede control or operation to the Secretary shall be treated in the same manner as if the control or operation of the program or service had been maintained continuously by the Federal Government.

Section 3 authorizes the Secretary, upon the request of any Indian group, to detail any Civil Service employee for a period of up to 180 days to assist the Indian group in its control or operation of a program or service transferred pursuant to this proposal. This section also provides that the Secretary may, upon a showing of need by an Indian group for the continued services of the detailed employee, extend the detail of the employee for a period not to exceed 180 days.

Section 4 amends the Act of August 5, 1954, to enable physicians, nurses, and other health personnel of the Public Health Service to be detailed to tribes to assist them in taking over Federal programs or services.

Section 5 provides that nothing in this proposal shall be interpreted as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indians.

U.S. DEPARTMENT OF INTERIOR,
Washington, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To amend certain laws relating to Indians."

We recommend that the proposal be referred to the appropriate Committee for consideration, and that it be enacted.

The amendments in this proposal, designed to afford Indians greater control over activities conducted on their reservations, concern the areas of livestock trespass and traders.

I. LIVESTOCK TRESPASS

Section 1 of the bill provides that any person allowing his livestock to trespass on trust or restricted land without the consent of the Secretary of the Interior shall be liable for a penalty of $5 per day for each head of livestock in trespass, together with the value of forage used by the animal during the period of trespass plus any other cost incurred in connection with the trespass. It also provides that the Secretary of the Interior may impound any livestock trespassing on trust or restricted land, with notice of such impoundment being given as prescribed by regulations of the Secretary. The owner of any impounded livestock may claim the impounded animal within the time specified in the notice upon the payment of $5 per day for each impounded animal and the reasonable value of forage consumed by the impounded animal. If not claimed within the time specified in the notice, an animal may be sold; the proceeds of the sale, after payment of necessary expenses and the deduction of the $5 per day fee and reasonable forage charges, shall be paid to the owner of the animal upon satisfactory proof of ownership submitted within six months of the date of the sale. The proposal provides that the $5 per day animal fee and reasonable forage charges and the net proceeds of the sale of an animal not paid to the owner, shall be deposited in the Treasury to the credit of the tribe or to the individual Indian, depending upon whether tribal or individually owned land is involved. Further, the proposal provides that any unbranded livestock over one year of age found running at large on trust or restricted land will be presumed to be in trespass and shall come under the provisions of the proposal.

This part of the proposal replaces section 2117 of the Revised Statutes (25 U.S.C. 179) (which is repealed by paragraph (1) of section 3 of this proposal). Section 2117 of the Revised Statutes provided for a fee of $1 per head for cattle driven on or otherwise conveyed on Indian land. This provision was not adequate in that the fee was too low in most instances to really protect Indian land from trespass by livestock. Section 1 of the proposal sets a fee high enough for livestock trespass to penalize those who let their cattle trespass on Indian land. The section also provides a clear standard as to what constitutes trespass by livestock and the procedure to be followed in dealing with it.

II. TRADERS

Section 2 of the proposal authorizes Indian tribal governments to enact laws and ordinances relating to the issuance of trader licenses on their reservation. It then provides that when such laws and ordinances have been enacted, certain existing statutes relating to trading on Indian reservations will no longer apply. The section makes it clear that the tax statutes now applicable to traders on Indian reservations shall continue in effect when the traders are controlled by tribal laws and ordinances.

The Federal statutes regulating trading on Indian reservations date from the late 1800's and early 1900's. At that time there was a definite need for govrenmental control over the business activities, prices, and practices of Indian traders, who generally were the sole supply source available to reservation Indians. This situation does not exist today on a great majority of Indian reservations.

Today, Indian traders no longer have a monopoly on trade in the Indian country. The mobility of Indians, achieved through modern means of transportation, better reservation roads, and other related developments within the reservation, removed the need for strict Federal regulation of traders. The great majority of Indian traders now find that they are forced to compete in the matter of prices and quality of goods with other shops and businesses located on the reservation and with those located in communities and cities adjacent to the reservations.

There is, however, a limited number of reservations where, primarily because of isolation, Indians remain somewhat dependent upon the Indian trader. It is for this reason, and the need to place with tribal governments the ultimate decision as to whether federal law or their own trading ordinances shall obtain on the reservations, that we are not recommending outright repeal of the pertinent statutes. Rather, Section 2 of the proposal would honor the decision of any tribe to assume regulation of business activities on its land by rendering the corresponding Federal statutes inoperative vis-a-vis that reservation.

III. OTHER PROVISIONS

All of the paragraphs of section 3 except for paragraph (1) repeal statutes dealing with trading between Indians and employees of the Federal Government, particularly those employed in the Indian Service. These statutes were once needed because of the undue influence that Government employees in the Indian Service could exercise over Indians. We feel that there are other safeguards today and these statutes are no longer needed.

Paragraph (1) of section 3 repeals the old livestock trespass statute.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior, and for other purposes."

We recommend that the proposal be referred to the appropriate committee for consideration and that it be enacted.

The purpose of this proposal is to upgrade the position of Commissioner of Indian Affairs (which would be eliminated by this proposal) to that of an Assistant Secretary of the Interior. This Assistant Secretary, who would be in addition to those which the Department of the Interior currently has, would be appointed by the President with the advice and consent of the Senate, would have such duties as the Secretary of the Interior assigned, and would be paid at the same rate as the Department's other Assistant Secretaries. The proposal would amend section 5315 of Title 5, United States Code, to increase the Department's number of Assistant Secretaries from 6 to 7.

The new Assistant Secretary will assume the duties of the Commissioner of Indian Affairs—i.e., the supervision of the Bureau of Indian Affairs—and will have the title of Assistant Secretary for Indian Affairs.

Although it is not contemplated that elimination of the post of Commissioner will require the restructuring of the Bureau it-

self, we believe that the Secretary of the Interior has ample authority under Reorganization Plan No. 3 of 1950 (15 F.R. 3174) to make such alterations as might be needed.

We believe that the creation of this position will raise the Department's responsibility for Indians to its proper level within the structure of the Department. Indians will no longer have to compete with the land and other natural resource problems for attention as they now do in the day-to-day operation of the Department. Focusing his attention solely on their unique problems, the new Assistant Secretary will work full-time with Indians to improve their economic and social conditions and assist in the development of their full potential, both for their own and the Nation's benefit. One of the primary responsibilities of the new Assistant Secretary will be to help guide the implementation of the new National policy of Indian self-determination that President Nixon outlined in his July 8, 1970, message to the Congress and recently, in his March 1, 1973, Human Resources Message to the Congress.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

By Mr. BROCK (for himself and Mr. SPARKMAN, Mr. HATHAWAY, Mr. BENNETT, and Mr. TOWER):

S. 1348. A bill to provide for the establishment of safety standards for mobile homes in interstate commerce, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

THE NATIONAL MOBILE HOMES SAFETY STANDARDS ACT OF 1973

Mr. BROCK. Mr. President, on behalf of myself and the Senator from Alabama (Mr. SPARKMAN), the Senator from Utah (Mr. BENNETT), the Senator from Maine (Mr. HATHAWAY), and the Senator from Texas (Mr. TOWER), I introduce, for appropriate reference, a bill to provide assurances to every mobile homebuyer that the home he purchases will be safe and constructed in such a manner as to insure him that it meets certain basic standards of quality. Moreover, this bill will fill the void which currently exists between the various State mobile home construction requirements and between State and Federal requirements as well.

In the past several years, mobile homes have risen to a position of dominance in the low-cost housing field. In fact, they are virtually the only source of housing now available to those who cannot afford a typical new site-built home. Some 95 percent of all new single family homes sold for $15,000 or less are mobile homes. The primary purchasers are those young people just beginning their married lives and business careers and those who have reached retirement age and are beginning to adjust to the realities of a fixed income. These groups, in particular, deserve to be assured that when they buy a home it meets certain minimum quality and life-safety standards. An expensive repair bill or loss of the home could be especially devastating to a homemaker in either category.

A review of current State laws governing mobile home construction makes clear the necessity for my legislation. To begin with, there is no unanimity among the various States having existing laws. While it is true that approximately 36 States have now adopted similar mobile home construction codes, enforcement varies from stringent to virtually none at all. Moreover, among those States which have stringent laws, reciprocity of commerce has proved difficult, if not impossible. At the same time, States with weak enforcement programs permit almost indiscriminate importation of homes from neighboring States. While some guarantee the quality of the homes built within their borders, they nevertheless, permit the importation of homes which have no real guarantee of assured quality. In my home State of Tennessee, for instance, resident manufacturers must meet the State mobile home code, while outsiders are not required to. This demonstrated lack of uniformity adversely affects the manufacturer's ability to deliver housing at the lowest possible price.

The jurisdictional picture regarding mobile home safety standards at the Federal level provides no more assurance than does the diversity of State programs. For instance, the Department of Transportation, through the National Highway Traffic Safety Administration, is responsible for construction aspects which affect highway movement safety. HUD is involved, too, inasmuch as the FHA requires that homes insured under their mortgage insurance program be built to the American National Standards Institute—ANSI—standard for mobile homes. However, they rely on self-certification and impose no requirement that the homes be physically inspected. On the other hand, the Veterans' Administration, under its loan guaranty program, does physically inspect some of the mobile homes covered under its program. However, plants and manufacturers are too numerous for the VA to visit more frequently than on a quarterly basis. Finally, and most surprisingly, the Federal Home Loan Bank Board, while allowing federally insured savings and loan associations to make loans on mobile homes, imposes no construction requirements on them.

With mobile home sales rising annually, it is clear that questions surrounding mobile home safety have to be addressed, and quickly. According to one leading insurance company, the average fire loss in a mobile home in 1971 was $1,529 as compared to $350 for a conventional home. This disparity needs to be studied and clarified to insure that mobile homes do not represent an unusual fire safety hazard.

A recent comparative analysis of insurance for a $7,000 mobile home indicated that premiums were 70 percent higher than similar coverage for a $25,000 site-built home. The cost/risk ratio of mobile home insurance coverage needs to be more fully analyzed in order to assure mobile home dwellers that the premiums they pay are commensurate with the degree of risk they represent.

Mobile home overturns undoubtedly account for some of the disparity between mobile and site-built housing insurance premiums. Most States do not require that mobile homes be tied down or anchored to their sites. An analysis of experiences from coast to coast clearly documents the vulnerability of mobile homes to high winds. No part of this country is immune to occasional high wind. Moreover, several parts of our continent are characterized by it during certain seasons of the year. The necessity for a universal tiedown requirement is obvious. While the Mobile Homes Manufacturers Association made tiedowns mandatory for its members' homes on January 1, 1973, more needs to be done. The association represents some 65 to 70 percent of the industry's productive capacity leaving approximately one-third of the homes produced annually without regulation. Further, mandatory installation of tiedowns in the home is not the ultimate answer. States and local political jurisdictions must require that mobile homes sited within their respective borders be tied down with approved anchoring systems. I believe that regulations of this sort would be effected as a result of my legislation.

Mr. President, over 7 million people now live in mobile homes. Some 580,000 units were shipped to dealers throughout the country in 1972 and it is estimated that approximately 623,000 will be sold in 1973. As virtually the only low-cost housing available, mobile homes seem destined to increase in popularity and sales. They have become increasingly immobile as they have grown in size and form. Double-wides now range upward to almost 1,700 square feet in size. Single-wide homes are being increased in size to the point that the 14-foot wide home will be the standard in the very near future. At least 34 States already permit them to be moved and sited within their borders. These homes, completely finished with carpeting, draperies, and furnishings, represent the highest level of achievement within the industrialized housing field. As it increases in sophistication and manufacturing expertise, the industry seems assured of even greater success. While most manufacturers build to the American National Standards Institute Code for mobile homes, there are some who do not. Still, well-meaning manufacturers are sometimes guilty of violations through oversight or ignorance. Instances of malicious intent are not common. However, this in no way alleviates the fact that noncompliance can and does lead to the delivery of substandard and, in some cases, unsafe homes. As more and more Americans turn to mobile homes for their primary housing, we need to be sure that they are safe and free from defects.

Mr. President, my legislation, if passed, would eliminate the maze of State laws currently applicable to mobile home construction and insure their quality, safety, and construction integrity no matter in which State they are produced. In addition, the cost savings realized through the economy of scale and the elimination of needless production line changes could be passed on to the consumer. Moreover, this bill would eliminate the gaps which currently exist between the various State and Federal requirements. It would require standards for those States which have none and, most importantly, it would prevent unsafe mobile homes from ever reaching the market-

place. I am hopeful that prompt action will be taken on this measure in order to assure minimum safety standards for all mobile homes.

The following is an analysis of the legislation:

The Secretary of HUD shall through a National Mobile Home Safety Bureau establish Federal mobile home safety standards. In prescribing standards, the Secretary shall consider: First, all relevant mobile home safety data; second, consult with the States; and third, consider whether a proposed standard is reasonable, practicable, and will not place undue financial burden on the manufacturer or dealer or result in a substantial increase in the retail price of mobile homes.

The standards would be established no earlier than 180 days after enactment with revised standards at least 180 days later. A National Mobile Home Safety Advisory Council will be established. The majority will be representatives of the general public, including representatives of the American National Standards Institute Committee on Mobile Homes and Recreational Vehicles, the National Fire Protection Association, and representatives of the mobile home manufacturers, dealers, and insurers. The Secretary must consult with the advisory council before establishing or amending any standards. These standards shall not apply to the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of any mobile home after the first purchase of it in good faith for purposes other than resale.

Once the standards have been promulgated, no person shall manufacture for sale, offer for sale, or introduce or deliver for introduction in interstate commerce or import into the United States, any mobile home manufactured unless it conforms to such standards.

The Secretary is further authorized to conduct research, testing, development, and training for the development of new standards and to determine the relationship between mobile home performance characteristics and accidents involving mobile homes and the occurrence of death or injury from such accidents.

The Secretary is also authorized to conduct with the advisory council a thorough study of standards for used mobile homes and recommend additional legislation if he feels such is necessary within 1 year after this legislation is enacted.

Each violation of the prohibited acts outlined in section 108 of the bill are subject to the civil penalty of $1,000. Injunctive relief is also available in the U.S. district courts. In addition, if a mobile home does not conform to applicable Federal mobile home safety standards prior to sale by a distributor or dealer, the manufacturer or distributor shall either repurchase the home at his cost or furnish the parts and costs of installation to the distributor or dealer.

Provision is made for judicial review for any person adversely affected by an order—standard—issued by the Secretary.

Inspection and investigation is authorized as may be necessary to enforce the standards established. Designated employees may enter at reasonable times factories or warehouses for prompt inspection. Each manufacturer, distributor, and dealer shall establish and maintain such records and reports as the Secretary may require. Finally, each manufacturer shall furnish to each first purchaser and all dealers notification of any defect in a mobile home that relates to mobile home safety which he has discovered after manufacturing such home or which has been discovered through testing or inspection by the National Mobile Home Safety Bureau.

Certification that each mobile home conforms to the Federal safety standards shall also be given by each manufacturer to each distributor or dealer at the time of delivery.

Section 120 of the bill allows any State to assume responsibility for the enforcement of mobile home safety standards if the plan they submit is acceptable to the Secretary. Detailed reports would still be made by manufacturers, distributors, and dealers to the Secretary. And, the State agency will make such reports as the Secretary may require. The Secretary shall make a continuing evaluation of the way each State is carrying out its plan. Approval may be withdrawn at any time.

Grants will be made to States that have designated a State agency to assist them in identifying their needs and responsibilities in the area of mobile home safety standards or in developing State plans. The Federal share shall not exceed 90 percent. Grants of up to 50 percent can also be made to assist the States in administering and enforcing State plans for mobile home safety. Title II in the bill amends existing law to provide that loans made by the FHA, VA or a Federal savings and loan association for the purchase of a mobile home may only be made for a home that meets the mobile home safety standards established by this legislation.

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

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

S. 1348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress declares that the purpose of this Act is to reduce the amount of insurance costs, property damage, personal injury, and death resulting from mobile home accidents without any substantial increase in the retail price of a mobile home. Therefore, Congress determines that it is necessary to establish practical Federal safety standards for mobile homes in interstate commerce, to authorize mobile home safety research and development; to encourage and provide financial assistance for the development of State mobile home safety programs; and to provide that for the purposes of any Federal guarantee of a loan for the purchase of a mobile home or the making or investing in any such loan by a Federal savings and loan association, each such mobile home shall meet such Federal safety standards.

TITLE I—MOBILE HOME SAFETY STANDARDS

SHORT TITLE

SEC. 101. This Act may be cited as the "National Mobile Home Safety Standards Act of 1973".

DEFINITIONS

SEC. 102. As used in this title, the term—

(1) "dealer" means any person who is engaged in the sale and distribution of new mobile homes, primarily to persons who in good faith purchase any such mobile home for purposes other than resale;

(2) "defect" includes any substantial defect in the performance, construction, components, or materials of a mobile home;

(3) "distributor" means any person who is engaged in the sale and distribution of mobile homes for resale;

(4) "interstate commerce" means commerce between any place within a State and any place within another State, or between places within the same State through another State;

(5) "manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale;

(6) "mobile home" means a transportable structure which exceeds 8 body feet in width and 32 body feet in length and is built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities;

(7) "mobile home safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the public if such accidents do occur;

(8) "mobile home safety standard" means a minimum, practicable standard for mobile home performance which meets the need for mobile home safety;

(9) "Secretary" means the Secretary of Housing and Urban Development;

(10) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa; and

(11) "United States district courts" means the Federal District Courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

FEDERAL MOBILE HOME SAFETY STANDARDS

SEC. 103. (a) The Secretary shall establish by order appropriate Federal mobile home safety standards. Each such Federal mobile home safety standard shall be practicable, shall meet the need for mobile home safety, and shall be stated in objective terms.

(b) The provisions of sections 551 through 559 of title 5, United States Code, shall apply to all orders establishing, amending, or revoking a Federal mobile home safety standard under this title.

(c) Each order establishing a Federal mobile home safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(d) Whenever a Federal mobile home safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any mobile home, any safety standard applicable to the same aspect of performance of such mobile home which is not identical to the Federal standard.

(e) The Secretary may by order amend or revoke any Federal mobile home safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the

date the order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(f) In prescribing standards under this section, the Secretary shall—

(1) consider relevant available mobile home safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this title, and those activities conducted by the American National Standards Institute Committee on Mobile Homes and Recreational Vehicles and the National Fire Protection Association to determine how to best protect the public;

(2) consult with such State or interstate agencies (including legislative committees) as he deems appropriate;

(3) consider whether any such proposed standard is reasonable, practicable, and appropriate for the particular type of mobile home for which it is prescribed;

(4) consider whether any such standard will place an undue financial burden upon manufacturers and distributors of mobile homes;

(5) consider whether any such standard will result in a substantial increase in the retail price of mobile homes; and

(6) consider the extent to which any such standard will contribute to carrying out the purpose of this title.

(g) The Secretary shall issue initial Federal mobile home safety standards upon the expiration of the one hundred eighty-day period which begins on the date of enactment of this Act. The Secretary shall issue new and revised Federal mobile home safety standards under this title upon the expiration of the three hundred sixty-day period which begins on the date of enactment of this Act.

NATIONAL MOBILE HOME SAFETY ADVISORY COUNCIL

SEC. 104. (a) The Secretary shall establish a National Mobile Home Safety Advisory Council, a majority of which shall be representative of the general public, including representatives of Federal, State, and local governments, and the remainder shall include members of the American National Standards Institute Committee on Mobile Homes and Recreational Vehicles and representatives of mobile home manaufacturers, dealers, financiers, and insurers.

(b) The Secretary shall consult with the Advisory Council before establishing, amending, or revoking any mobile home safety standard pursuant to the provisions of this title.

(c) Members of the National Mobile Home Safety Advisory Council may be compensated at a rate not to exceed $100 per diem (including traveltime) when engaged in the actual duties of the Advisory Council. Such members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 (b) of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Advisory Council employees or officials of the United States for any purpose.

JUDICIAL REVIEW OF ORDER

SEC. 105. (a) (1) In a case of actual controversy as to the validity of any other under section 103, any person who will be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28 of the United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with the provisions of sections 701 through 706 of title 5, United States Code, and to grant appropriate relief.

(4) the judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary of any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this title, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a).

RESEARCH, TESTING, DEVELOPMENT, AND TRAINING

SEC. 106. (a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this title, including, but not limited to—

(1) collecting data from any source for the purpose of determining the relationship between mobile home performance characteristics and (A) accidents involving mobile homes, and (B) the occurrence of death, or personal injury resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other mobile homes for research and testing purposes;

(3) selling or otherwise disposing of test mobile homes and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this title.

(b) The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by making grants for the arrangement for such research or development, and training to States, interstate agencies, and nonprofit institutions.

(c) Whenever the Federal contribution for any research or development activity authorized by this title encouraging mobile home safety is more than minimal, the Secretary shall include in any contract, grant, or other arrangement for such research or development activity, provisions effective to insure that all information, uses, processes, patents, and other developments resulting from that activity will be made freely and fully available to the general public. Nothing herein shall be construed to deprive the owner of any background patent of any right which he may have thereunder.

COOPERATION WITH PUBLIC AND PRIVATE AGENCIES

SEC. 107. The Secretary is authorized to advise, assist, and cooperate with, other Federal departments and agencies, including the American National Standards Institute Committee on Mobile Homes and Recreational Vehicles and the National Fire Protection Association, in the planning and development of—

(1) mobile home safety standards; and

(2) methods for inspecting and testing to determine compliance with mobile home safety standards.

PROHIBITED ACTS

SEC. 108. (a) No person shall—

(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any mobile home manufactured on or after the date any applicable Federal mobile home safety standard takes effect under this title unless it is in conformity with such standard, except as provided in subsection (b) of this section;

(2) fail or refuse access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 112;

(3) fail to issue a certificate required by section 114, or issue a certificate to the effect that a mobile home conforms to all applicable Federal mobile home safety standards, if such person in the exercise of due care has reason to know that such certificate is false or misleading in a material respect; or

(4) fail to furnish notification of any defect as required by section 113.

(b) (1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any mobile home after the first purchase of it in good faith for purposes other than resale. In order to assure a continuing and effective national mobile home safety program, it is the policy of Congress to encourage the adoption of State inspection of used mobile homes. Therefore, to that end the Secretary shall conduct a thorough study and investigation to determine the adequacy of mobile home safety standards and mobile home inspection requirements and procedures applicable to used mobile homes in each State, and the effect of programs authorized by this title upon such standards, requirements, and procedures for used mobile homes, and report to Congress as soon as practicable, but not later than one year after the date of enactment of this Act, the results of such study, and recommendations for such additional legislation as he deems necessary to carry out the purposes of this title by the Secretary relating to the problems of disposal of used mobile homes. As soon as practicable after the submission of such report, but no later than one year from the date of submission of such report, the Secretary, after consultation with the Council and such interested public and private agencies and groups as he deems advisable, shall establish uniform Federal mobile home safety standards applicable to all used mobile homes. Such standards shall be expressed in terms of mobile home safety performance. The Secretary is authorized to amend or revoke such standards pursuant to this Act.

(2) Paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such mobile home is

not in conformity with applicable Federal mobile home safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such mobile home, to the effect that such mobile home conforms to all applicable Federal mobile home safety standards, unless such person knows that such mobile home does not so conform.

(3) A mobile home offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such mobile home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such mobile home will be brought into conformity with any applicable Federal mobile home safety standard prescribed under this title, or will be exported or abandoned to the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the temporary importation of any mobile home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) shall not apply in the case of a mobile home intended solely for export, and so labeled or tagged on the mobile home itself and on the outside of the container, if any, which is exported.

(c) Compliance with any Federal mobile home safety standard issued under this title does not exempt any person from any liability under common law.

CIVIL PENALTY

SEC. 109. (a) Whoever violates any provision of section 108, or any regulation issued thereunder, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. Such violation of a provision of section 108, or regulations issued thereunder, shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty shall not exceed $400,000 for any related series of violations.

(b) Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

JURISDICTION AND VENUE

SEC. 110. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or to restrain the sale, offer for sale, or the introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of any mobile home which is determined, prior to the first purchase of such mobile home in good faith for purposes other than resale, not to conform to applicable Federal mobile home safety standards prescribed pursuant to this title, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this Act, 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 4(b) of the Federal Rules of Criminal Procedure.

(c) Actions under subsection (a) of this section and section 109(a) 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.

(d) In any actions brought under subsection (a) of this section and section 109(a), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

(c) It shall be the duty of every manufacturer offering a mobile home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process, notice, order, requirement or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this title or any standards prescribed pursuant to this title may be made by posting such process, notice, order, requirement or decision in the Office of the Secretary.

NONCOMPLIANCE WITH STANDARDS

SEC. 111. (a) If any mobile home is determined not to conform to applicable Federal mobile home safety standards, or contains a defect which relates to mobile home safety, after the sale of such mobile home by a manufacturer or a distributor to a distributor or a dealer and prior to the sale of such mobile home by such distributor or dealer—

(1) the manufacturer or distributor, as the case may be, shall immediately repurchase such mobile home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of receipt by certified mail of notice of such nonconformance to the date of repurchase by the manufacturer or distributor; or

(2) the manufacturer or distributor, as the case may be, at his own expense, shall immediately furnish the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such mobile home, and for the installation involved the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the required part or equipment is received.

(b) In the event that any manufacturer or distributor refuses to comply with the requirements of paragraphs (1) and (2) of subsection (a), then the distributor or dealer, as the case may be, to whom such nonconforming mobile home has been sold may bring suit against such manufacturer or distributor in any district court of the United States in the district in which such manufacturer or distributor resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover the damage by him sustained, as well as all court costs plus reasonable attorneys' fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

(c) The value of such installations and such reasonable reimbursements as specified in subsection (a) of this section shall be fixed by mutual agreement of the parties, or failing such agreement, by the court pursuant to the provisions of subsection (b) of this section.

INSPECTION OF MOBILE HOMES AND RECORDS

SEC. 112. (a) The Secretary is authorized to conduct such inspection and investigation as may be necessary to enforce Federal mobile home safety standards established under this title. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards, for appropriate action.

(b) For purposes of enforcement of this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, any factory, warehouse, or establishment in which mobile homes are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction; and

(2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment.

Each such inspection shall be commenced and completed with reasonable promptness.

(c) Every manufacturer, distributor, and dealer of mobile homes shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this title and mobile home safety standads prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this title and mobile home safety standards prescribed pursuant to this title.

(d) Every manufacturer of mobile homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this Act. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data that the Secretary determines necessary to carry out the purposes of this Act, to—

(1) each prospective purchaser of a mobile home before its first sale for purposes other than resale at each location where any such manufacturer's mobile homes are offered for sale by a person with whom such manu-

facturer has a contractual, proprietary, or other legal relationship in a manner determined by the Secetary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a mobile home for purposes other than resale, at the time of such purchase, or in printed matter placed in the mobile home.

(e) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b) or (c) which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

NOTIFICATION OF DEFECTS

SEC. 113. (a) Every manufacturer of mobile homes shall furnish notification of any defect in any mobile home produced by such manufacturer which he determines, in good faith, relates to mobile home safety, to the purchaser of such mobile home, within a reasonable time after such manufacturer has discovered such defect.

(b) The notification required by subsection (a) shall be accomplished—

(1) by certified mail to the first purchaser (not including any dealer of such manufacturer) of the mobile home containing such a defect, and to any subsequent purchaser to whom has been transferred any warranty on such mobile home; and

(2) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such mobile home was delivered.

(c) The notification required by subsection (a) shall contain a clear description of such defect, an evaluation of the risk to mobile home safety reasonably related to such defect, and a statement of the measures to be taken to repair such defect.

(d) Every manufacturer of mobile homes, shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of mobile homes of such manufacturer regarding any defect in such mobile home sold or serviced by such dealer. The Secretary shall disclose so much of the information contained in such notice or other information obtained under section 112(a) to the public as he deems will assist in carrying out the purposes of this title, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, unless he determines that it is necessary to carry out the purposes of this Act.

(e) If through testing, inspection, investigation, or research carried out pursuant to this title, or examination of reports pursuant to subsection (d) of this section, or otherwise, the Secretary determines that any mobile home—

(1) does not comply with an applicable Federal mobile home safety standard prescribed pursuant to section 103; or

(2) contains a defect which relates to mobile home safety;

then he shall immediately notify the manufacturer of such mobile home of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not affect mobile home safety. If after such presentation by the manufacturer the Secretary determines that such mobile home does not comply with applicable Federal safety standards, or contain a defect which relates to mobile home safety, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the purchaser of such mobile home as provided in subsections (a) and (b) of this section.

(f) Every manufacturer of mobile homes shall maintain a record of the name and address of the first purchaser, other than a dealer or distributor, of each mobile home produced by that manufacturer. The Secretary may establish, by order, procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection which will not affect the obligation of manufacturers under this subsection. Such procedures shall be reasonable for the particular type of mobile home for which they are prescribed.

CERTIFICATION OF CONFORMITY WITH SAFETY STANDARDS

SEC. 114. Every manufacturer or distributor of a mobile home shall furnish to the distributor or dealer at the time of delivery of each such mobile home by such manufacturer, the certification that each such mobile home conforms to all applicable Federal safety standards. Such certification shall be in the form of a label or tag permanently affixed to each such mobile home.

NATIONAL MOBILE HOME SAFETY BUREAU

SEC. 115. The Secretary shall carry out the provisions of this title through a National Mobile Home Safety Bureau (hereinafter referred to as the "Bureau"), which he shall establish in the Department of Housing and Urban Development. The Bureau shall be headed by an Assistant Secretary who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and the duties delegated to him pursuant to this title. The Assistant Secretary shall perform such duties as are delegated to him by the Secretary.

EFFECT UPON ANTITRUST LAWS

SEC. 116. Nothing contained in this title shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws.

USE OF RESEARCH AND TESTING FACILITIES OF PUBLIC AGENCIES

SEC. 117. The Secretary, in exercising the authority under this title, shall utilize the services, research and testing facilities of public agencies to the maximum extent practicable in order to avoid duplication.

RULES AND REGULATIONS

SEC. 118. The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this title.

ANNUAL REPORT TO CONGRESS

SEC. 119. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on March 1 of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include but not be restricted to (1) a thorough statistical compilation of the accidents and injuries occurring in such year; (2) a list of Federal mobile home safey standards prescribed or in effect in such year; (3) the degree of observance of applicable Federal mobile home standards; (4) a summary of all current research grants and contracts together with a description of the problems to be considered by such grants and contracts; (5) an analysis and evaluation, including relevant policy recommendations, of research activities completed and technological progress achieved during such year; (6) a statement of enforcement actions including judicial decisions, settlement, or pending litigation during such year; (7) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to mobile home owners; and (8) a list of all State plans in effect pursuant to section 120 and an evaluation of each such plan.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of mobile home safety and to strengthen the national mobile home program.

STATE PLANS

SEC. 120. (a) Nothing in this title shall prevent any State agency or court from asserting jurisdiction under State law over any mobile home safety issue with respect to which, no standard has been established pursuant to the provisions of section 103.

(b) Any State which, at any time, desires to assume responsibility for development and enforcement of mobile home safety standards relating to any safety issue with respect to which a Federal standard has been established under section 103, shall submit to the Secretary a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

(2) provides for the development and enforcement of mobile home safety standards which are identical to the standards promulgated under section 103;

(3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which mobile homes are manufactured, and which is at least as effective as that provided in section 112;

(4) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

(5) give satisfactory assurances that such State will devote adequate funds to the Administration and enforcement of such standards;

(6) requires manufacturers, distributors, and dealers in such State to make reports to the Secretary in the same manner and to the same extent as if the State plan were not in effect; and

(7) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 106, 108, 109, 112, and 113 with respect to enforcement of standards established under section 103 for the period specified in the next sentence. The

Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such determination for at least three years after the plan's approval under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of sections 108, 109, 111, 112, and 113, and standards promulgated under section 103 of this title, shall not apply with respect to any mobile home safety issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 108 or 109 before the date of determination.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan, he shall notify the State agency of his withdrawal of approval of such plan. Upon receipt of such notice by such State agency such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce mobile home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(g) Each State may obtain a review of each decision of the Secretary withdrawing approval of or rejecting its plan by filing in the United States court of appeals for the circuit in which such State is located within thirty days following receipt of notice of such decision, a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan is not supported by substantial evidence the court shall affirm the Secretary's decision. 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.

GRANTS TO THE STATES

SEC. 121. (a) The Secretary is authorized to make grants to the States which have designated a State agency under section 120 to assist them—

(1) in identifying their needs and responsibilities in the area of mobile home safety standards; or

(2) in developing State plans under section 120.

(b) The Governor of each such State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary. The Secretary shall review and either accept or reject such application.

(d) The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(c) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for mobile home safety contained in State plans approved by the Secretary pursuant to section 120 of this title. The Federal share for each State grant under this subsection may not exceed 50 per centum of the total cost to the State of such program. The last sentence of subsection (d) shall be applicable in determining the Federal share under this subsection.

AUTHORIZATION OF APPROPRIATIONS

SEC. 122. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

EFFECTIVE DATE

SEC. 123. The provisions of this title shall take effect upon the expiration of the one hundred eighty-day period which begins on the date of the enactment of this Act.

TITLE II—CHANGES IN EXISTING LAW

HOME OWNERS' LOAN ACT OF 1933

SEC. 201. The third paragraph of section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by striking out clause (B) and inserting in lieu thereof the following:

"(B) any loan made for the purchase of a mobile home which meets or exceeds the mobile home safety standards established under the National Mobile Home Safety Standards Act of 1973."

NATIONAL HOUSING ACT

SEC. 202. The last sentence of the second paragraph of section 2(a) of the National Housing Act (12 U.S.C. 1703 (a)) is amended by—

(1) striking out "the livability and durability of the mobile home and' in clause (i);

(2) striking out "and" after the semicolon at the end of clause (i); and

(3) striking out the period at the end of clause (ii) and adding in lieu thereof "; and (iii) require that the mobile home meets or exceeds the mobile home safety standards established under the National Mobile Home Safety Standards Act of 1973."

TITLE 38, UNITED STATES CODE

SEC. 203. Section 1819 of title 38, United States Code, is amended by—

(1) striking out subsection (i) and inserting in lieu thereof the following:

"(i) No loan for the purchase of a mobile home shall be guaranteed under this section unless—

"(1) the mobile home meets or exceeds the mobile home safety standards established under the National Mobile Home Safety Standards Act of 1973; and

"(2) the lot, if any, meets or exceeds standards prescribed by the Administrator for the planning, maintenance, and development of mobile home sites which are attractive residential areas and which are free from, and do not substantially contribute to, adverse scenic or environmental conditions.

For the purpose of assuring compliance with such mobile home safety standards, the Administrator shall from time to time inspect the manufacturing process of mobile homes to be sold to veterans and conduct random onsite inspections of mobile homes purchased with assistance under this chapter."; and

(2) striking out "standards prescribed by the Administrator" in clause (1) of subsection (j) and inserting in lieu thereof "safety standards required".

EFFECTIVE DATE

SEC. 204. The provisions of this title shall apply with respect to any loan application filed, pursuant to the provisions of the Home Owners' Loan Act of 1933, the National Housing Act, or section 1819 of title 38, United States Code, as the case may be, after the effective date of title I of this Act.

By Mr. MAGNUSON (by request):

S. 1351. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes and ask unanimous consent that the section-by-section analysis and the letter of transmittal be printed in the RECORD with the text of the bill.

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

DEPARTMENT OF STATE,
Washington, D.C., February 6, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill to "amend the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes."

It would be appreciated if you would lay this proposal before the Senate and if it would be referred to the appropriate Committee for consideration. A similar proposal has been submitted to the Speaker of the House of Representatives. We respectfully urge that it be enacted at an early date.

The proposed legislation would provide the amendments to the Marine Protection, Research, and Sanctuaries Act of 1972 which are required to enable that Act to implement fully the Convention on the Prevention of Marine Pollution By Dumping of Wastes and Other Matter.

Because of the great similarity of the Convention and the Act, the amendments required to the Act are minor. Most of the amendments deal with the addition of one further jurisdictional basis is to those found in the Act. The Act applies to (1) transportation of material from the United States for the purpose of dumping, (2) dumping of material transported from outside the United States in our territorial sea or into our contiguous zone where the dumping affects our territory or territorial sea, and (3) transportation of material for the purpose of dumping by any officer, employee, agent, department, agency, or instrumentality of the United States from any location outside the United States. The Convention adds a fourth ground of application, i.e., transportation of material for the purpose of dumping if such transportation is (1) by a vessel or aircraft registered in the United States or flying the United States flag, and (2) from the territory of any foreign State not a Contracting Party to the Convention. Thus, the added jurisdictional basis involves U.S. control over the vessels of its own flag or registry, and in particular control through permits when the port State is not Party to the Convention and required under it to regulate the transportation from its port of material intended for dumping.

The Convention also differs from the domestic legislation in that its annexes specify certain substances which are to be banned from ocean dumping except in extraordinary circumstances, and substances which are to require special permits for dumping. The Act provides authority in subsection 104(d) for the Administrator to set bans by administrative regulations, aside from radiological, chemical, or biological warfare agents, or high-level radioactive wastes which are covered by the Act. Also, all permits issued under the Act will be "special permits" within the meaning of the Convention, except for those "general permits" issued pursuant to

subsection 104(c). Subsection 102(d) provides for a special statutory general permit for fish wastes. Thus, the existing legislation provides the necessary authority to issue administrative regulations to carry out the Convention annexes. We accept and support this statutory approach in view of the fact that the annexes are likely to change rapidly as new information on the pollution effects of substances is developed and becomes available to the Convention Parties.

The Office of Management and Budget has advised that enactment of this proposed legislation is consistent with the Administration's objectives.

Sincerely,

MARSHALL WRIGHT,
Acting Assistant Secretary for Congressional Relations.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill would amend section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972, which sets out definitions. The definition of material would extend the Act's coverage to include oil taken on board a vessel or aircraft for the purpose of dumping. The Convention applies to such oil (Annex I (5)) while it excludes oil pollution from the normal operation of ships (Art. III(1)(b)). As to pollution from ship operation, the Convention contains a pledge by the Parties to promote other oil pollution protection measures in for such as that provided by the Inter-Governmental Maritime Consultative Organization (IMCO) (Art. XII(a)).

Section 2 of the bill would amend section 101 of the Marine Protection, Research, and Sanctuaries Act of 1972 to add new subsections (d) and (e). The new subsection (d) would partially implement Articles VI (2)(b) and VII (1)(a) of the Convention on the Prevention of Marine Pollution By Dumping of Wastes and Other Matter. Article VI (2)(b) provides that a Contracting Party to the Convention shall exercise permit control over matter intended for dumping "loaded by a vessel or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not party to this Convention." The new subsection 101(d) would enforce the permit requirement by prohibiting the loading of material by a vessel or aircraft registered in the United States or flying the United States flag where the purpose of the loading was for ultimate dumping and where the material was loaded in the territory of any foreign State not a Contracting Party to the Convention.

The new subsection 101(e) would round out the requirement that a Party to the Convention exercise control over vessels or aircraft of its flag or registry (Art. VII(a)(1)). The subsection would prohibit any transportation of material for the purpose of dumping by a vessel or aircraft registered in the United States or flying its flag when the material is loaded in a State Party to the Convention, except pursuant to a permit issued by the State of loading. In such a situation the United States could not issue a permit to a U.S. vessel or aircraft, thus avoiding any possibility of conflicting permit requirements and ensuring that all Party States have clearly defined responsibilities.

Section 3(a) of the bill would amend subsection 102(a) to actually provide authority for the Administrator to grant the permits contemplated by Article VI(2)(b) of the Convention. Section 3(b) of the bill would amend section 103(a) of the Act to authorize the Secretary of the Army to grant similar permits for dredged material.

Article VI(2)(b) of the Convention was inserted to provide control over the vessels of a Contracting Party that might hold themselves out as "dumping ships" for wastes generated in States which are not Contracting Parties to the Convention. The dumping of such wastes would otherwise be outside the coverage of the Convention. The Marine Protection, Research, and Sanctuaries Act of 1972 had not taken into account such a control measure because there were no known instances of U.S. flag vessels engaged in the practice of transporting wastes for dumping purposes other than from U.S. territory. In the unlikely event that any U.S. ships might wish to transport wastes from Non-Party States to the Convention, the addition of the added jurisdiction over U.S. flag vessels would modestly increase the administrative burdens involved in implementing the Act.

Section 4 of the bill makes the only other change involved in implementation. It modifies existing section 109 of the Act to recognize the existence of the Convention and to clearly reflect the interest of the United States in seeing that all parties to the Convention carry out their obligations under it.

S. 1351

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

(a) Subsection 3(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended to read as follows:

"(c) 'Material' means matter of any kind or description including, but not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, sludge, munitions, radiological, chemical, and biological warfare agents, radioactive materials, chemicals, biological and laboratory waste, wreck or discarded equipment, rock, sand, excavation debris, and industrial, municipal, agricultural, and other waste; but such term does not mean sewage from vessels within the meaning of section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1322). Oil within the meaning of section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1321), shall be included only insofar as such oil is taken on board a vessel or aircraft for the purpose of dumping."

(b) Section 3 of such Act is amended to add a new subsection (*l*) to read as follows:

"(*l*) 'Convention' shall mean the Convention on the Prevention of Marine Pollution By Dumping of Wastes and Other Matter."

SEC. 2. Section 101 of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended to add new subsections (d) and (e) to read as follows:

"(d) No person shall load any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or except as may be authorized in a permit issued under this title, any other material for the purpose of transporting it for dumping into ocean waters, if such loading (1) is by a vessel or aircraft registered in the United States or flying the United States flag and (2) occurs in the territory of any foreign State not a Contracting Party to the Convention. Any permit issued for such loading shall be subject to regulations issued under section 108 hereof by the Secretary of the Department in which the Coast Guard is operating.

"(e) No person shall transport any material by a vessel or aircraft registered in the United States or flying the United States flag for the purpose of dumping such material in ocean waters when the loading of the material occurs in the territory of a foreign State Party to the Convention, except pursuant to a permit issued by the foreign State in which the material was loaded.

SEC. 3. (a) The first sentence of subsection 102(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended to read as follows:

"Except in relation to dredged material, as provided for in section 103 of this title, and in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste, as provided for in section 101 of this title, the Administrator may issue permits, after notice and opportunity for public hearings—

(1) for the transportation from the United States of material for the purpose of dumping it in ocean waters, or (2) in the case of an agency or instrumentality of the United States, for the transportation from a location outside the United States of material for the purpose of dumping it in ocean waters, or (3) for the loading by a vessel or aircraft registered in the United States or flying the United States flag, in the territory of any foreign State not a Contracting Party to the Convention, of material for the purpose of transporting it for dumping it in ocean waters, or (4) for the dumping of material into the waters described in section 101(b)— where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine ennvironment, ecological systems, or economic potentialities."

(b) Subsection 103(a) of the Act is amended to delete "for the transportation of dredged material for the purpose of dumping it in ocean waters" and to insert in its stead the following: "for the transportation, loading, and dumping of dredged material, in the instances set out in paragraphs (1) through (4) of subsection 102(a),".

SEC. 4. Section 109 of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended to read as follows:

"SEC. 109. (a) The provisions of this Act shall be construed in a manner which is consistent with the provisions of the Convention, or any amendments thereto which, as interpreted by the United States, are binding upon the United States.

"(b) It is the policy of the Congress that the President shall undertake to seek effective international action and cooperation to ensure that all Parties to the Convention shall carry out their requirements and obligations under the Convention and may formulate, present, or support specific proposals in the forum provided by the international organization charged with providing administrative, scientific, and technical services to the Parties to the Convention."

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

S. 1352. A bill to require load lines on United States vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to require load lines on U.S. vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes, 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:

S. 1352

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 International Voyage Load Line Act of 1973.

SEC. 2. The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as "Secretary") shall enforce the provisions of this Act and prescribe regulations to carry out its provisions. With the consent of the Secretary of the Treasury, the Secretary may utilize officers of the Bureau of Customs to enforce this Act and the regulations established hereunder.

SEC. 3. Definitions.

As used in this Act—

(1) "new ship" means a vessel the keel of which is laid (or which is at a similar stage of construction) on or after July 21, 1968; and

(2) "existing ship" means a vessel which is not a "new ship".

SEC. 4. Applicability.

(a) This Act applies to vessels which—

(1) arrive at any port or place within the jurisdiction of the United States from foreign ports;

(2) make voyages between foreign ports (except foreign vessels engaged in such voyages); or

(3) depart from any port or place within the jurisdiction of the United States for a foreign port.

(b) This Act does not apply to—

(1) ships of war;

(2) pleasure craft not used in trade or commerce;

(3) fishing vessels;

(4) existing ships of less than one hundred fifty gross tons;

(5) new ships of less than seventy-nine feet in length;

(6) vessels which navigate exclusively on the Great Lakes; or

(7) vessels operating on sheltered waters between ports of the United States and neighboring countries as provided in any treaty of the United States.

(c) A vessel which voluntarily obtains load lines shall be treated as a vessel subject to this Act until its load line certificate is surrendered and its load line marks removed.

(d) This Act does not abrogate any provisions of treaties or conventions in effect, which are not in conflict with the International Convention on Load Lines 1966, and to which the United States has acceded.

SEC. 5. Determination of load lines; issuance of certificate; prohibition.

(a) The Secretary shall prescribe load lines, the marking thereof, and associated condition surveys for vessels subject to this Act to indicate the minimum freeboard to which each may be safely loaded, giving due consideration to, and making differentials for the service, type, and character of each vessel, and in conformance with applicable international treaties or conventions to which the United States has acceded.

(b) Load lines shall be permanently and conspicuously marked and maintained in the manner prescribed by the Secretary. Upon completion of survey requirements and a finding that the load line is positioned and marked in the manner prescribed, the Secretary shall issue a load line certificate, to the master or owner of the vessel, which shall be carried on board the vessel.

A load line shall not be established or marked which, in the judgment of the Secretary, authorizes less than the minimum safe freeboard. At the request of the owner a load line may be established or marked to indicate a greater freeboard than that which the Secretary determines is the minimum safe freeboard; any such load line shall be the prescribed load line for purposes of section 9.

SEC. 6. Appointment of surveyors; revocation.

(a) The Secretary shall appoint the American Bureau of Shipping, or such other U.S. non-profit corporations or associations for the survey or registry of shipping which he approves, to determine that a vessel's condition is satisfactory and whether its load line is positioned and marked in the manner prescribed by the Secretary and thereupon to issue a load line certificate.

(b) The Secretary may appoint for the purpose of this section:

(1) any officer of the United States, or

(2) at the request of a shipowner, any other corporation or association for the survey or registry of shipping which he approves.

(c) The Secretary may revoke an appointment under this section at any time.

SEC. 7. Exemptions.

When a vessel subject to this Act is shown to be entitled to an exemption from the provisions of this Act by an international agreement to which the United States has acceded, a certificate of exemption shall be issued to the vessel, and carried in lieu of the certificate required by section 5 of this Act.

SEC. 8. Recognition; non-applicability.

(a) When it is found that the law and regulations in force in a foreign country relating to load lines are equally effective as this Act and the regulations hereunder, or when a foreign country has acceded to an international load line agreement to which the United States has acceded, the markings and certificate thereof of a vessel of the country shall be accepted as complying with the provisions of this Act and regulations hereunder. The control of such vessels shall be as provided in the applicable international agreement.

(b) Subsection (a) does not apply to vessels of foreign nations which do not similarly recognize the load lines prescribed under this Act.

SEC. 9. Loading restrictions; recordation.

(a) No vessel subject to this Act may be so loaded as to submerge the prescribed load line, or to submerge the point where an appropriate load line under the Act and the prescribed regulations should be marked.

(b) The master of a vessel subject to this Act shall, after loading but before departing for a voyage by sea from any port or place in which this Act applies, record in the official log book or other permanent record of the vessel a statement of the relative position of the prescribed load line mark applicable at the time in question with respect to the water surface, and of the actual drafts of the vessel, forward and aft, at the time, as nearly as they may be ascertained.

SEC. 10. Detention of vessels.

(a) When the Secretary has reason to believe that a vessel is about to leave a port in the United States or its possessions in violation of this Act or the regulations hereunder, the Secretary may, upon notifying the master or officer in charge of the vessel, order the vessel detained.

(b) Clearance required by section 4197 of the Revised Statutes, as amended (46 U.S.C. 91), shall be refused or withdrawn from any vessel so detained until correction of deficiencies.

(c) The master or officer in charge of a vessel may petition the Secretary, in a manner prescribed by regulation, to review the detention order.

(d) Upon receipt of a petition, the Secretary may withdraw the detention order, modify it, or require independent surveys as may be necessary to determine the extent of deficiencies. Upon completion of his review, including results of any required independent surveys he shall affirm, set aside, or modify the detention order.

(e) The owner of a vessel is liable for any costs incident to a petition for review and any independent surveys if the vessel is found to be in violation of this Act or the regulations hereunder.

SEC. 11. Penalties for violations.

(a) Except as otherwise provided in this section, the owner and the master of a vessel found in violation of this Act or the regulations thereunder, are each liable to a civil penalty of not more than $1,000 for each day the vessel is in violation.

(b) Each person, if the owner, manager, agent, or master of a vessel who knowingly allows, causes, attempts to cause, or fails to take reasonable care to prevent the violation of subsection 9(a) of this Act or the regulations thereunder, is liable to a civil penalty of not more than $1,000 plus an additional amount of not more than $500 per inch of unlawful submergence.

(c) For any violation of subsection (b) of section 9 of this Act or the regulations thereunder, the master of the vessel is liable to a civil penalty of not more than $500.

(d) Any person who knowingly causes or permits the departure of a vessel from any port or place within the jurisdiction of the United States or its possessions in violation of a detention order pursuant to section 10 of this Act, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(e) Any person who causes or allows the concealment, removal, alteration, defacement, or obliteration of any mark placed on a vessel pursuant to section 5 of this Act and the regulations thereunder, except in the event of a lawful change or to escape enemy capture in time of war, shall be fined not more than $2,000 or imprisoned not more than two years or both.

(f) For any penalty under this section the vessel is also liable.

(g) The Secretary may assess and collect any civil penalty incurred under this Act and, in his discretion, remit, mitigate, or compromise any penalty prior to referral to the Attorney General.

SEC. 12. Act, March 2, 1929, C. 508, 45 Stat. 1493; Act, May 26, 1939, C. 151, 53 Stat. 783; and section 1 of Act, August 31, 1962, P.L. 87-620, 76 Stat. 415, are hereby repealed.

SECRETARY OF TRANSPORTATION,
Washington, D.C., February 9, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill,

"To require load lines on United States vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes."

The draft bill is submitted to implement the provisions of the International Convention on Load Lines 1966, which the United States has accepted and which came into force on July 21, 1968. The Convention recognizes developments in the maritime industry since the drafting of the International Convention respecting Load Lines 1930, and the new regulations annexed to the 1966 Convention reflect these changes. The enclosed draft bill would provide for the implementation of these changes in the United States and to this end would replace existing authority commonly referred to as the "Foreign Load Lines Act," which would be repealed.

This proposed legislation was introduced in the 92nd Congress at the request of this Department as S. 1696. Based upon comments received in the course of continuing review of the proposal, we recommended minor changes in the legislation by letter report of August 3, 1972 to the Chairman of the Committee on Commerce. The draft proposal transmitted herewith reflects those subsequent recommended changes.

The existing law which requires load lines on certain vessels of 150 gross tons or more, would be supplanted for new vessels, by load line requirements based on a vessel's length. This is the major substantive change in the bill. The proposal follows the 1966 Convention in setting forth the vessels to which the load line requirements are applicable and in enumerating vessels excepted. With the exception of a new section dealing with certificates of exemption as provided for in the Convention, the remaining provisions of the draft bill parallel existing sections 2 through 8 of the Act of March 2, 1929, which were generally in need of editorial revision.

The draft bill would authorize the Secretary of the department in which the Coast Guard is operating to prescribe regulations for determining load lines. He would also be responsible for enforcing the provisions of the Act, and to this end use of the officers of the Bureau of the Customs with the con-

sent of the Secretary of the Treasury, is provided for. Provision is also made for the determination of the position and manner of marking of load lines by the American Bureau of Shipping or other United States non-profit making organizations for the survey or registry of shipping and for the recognition of load line certificates issued by other nations which extend reciprocity to U.S. load line certificates.

Other provisions of the draft bill make it unlawful for a vessel to be so loaded as to exceed the maximum safe draft provided under the regulations and permit the detention of a vessel about to depart in an overloaded condition. The master of a vessel subject to the Act is required to record the ship's draft and position of the load line mark prior to the departure of a vessel from any port or place to which this Act applies.

Civil penalties are provided for violation of the Act or any regulations issued thereunder. The Act would also make it a crime to knowingly permit a vessel to depart from any port in violation of a detention order and to cause or allow the alteration of prescribed load line marks.

In the preamble to the 1966 Convention, the contracting governments state their intention "to establish uniform principles and rules with respect to the limits to which ships on international voyages may be loaded having regard to the need for safeguarding life and property at sea." The proposal being submitted therefore, does not apply to vessels which engage in coastwise trade, or which navigate exclusively on the Great Lakes, and existing authority requiring load lines on vessels engaged in these trades would not be affected.

The enactment of this proposed bill would not impose any additional budgetary requirement upon this Department.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

By Mr. MAGNUSON (by request):

S. 1353. A bill to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 27, 1973.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill, "To deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials."

The proposed bill would amend Section 77 of Title 46, United States Code, to permit the deduction from gross tonnage of a vessel, in determining net tonnage, of certain spaces used for carriage of slop oil mixture or other waste materials, including sewage, and machinery used exclusively to separate, clarify or purify slop oil mixtures or sewage.

In May and June of 1967, certain amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, came into effect. These amendments greatly increased the number of areas and zones in which the discharge of oil and oily mixture is prohibited. Thus, shipowners now find it necessary to retain slop oil on board vessels in spaces which would otherwise be available for the carriage of cargo. In similar vein, recent and anticipated antipollution statutes and regulations indicate a growing trend toward vessel holding tanks for the retention of sewage and other liquid wastes. The provisions of the proposed bill would afford an additional incentive for, and encourage cooperative efforts on the part of, shipowners and operators in behalf of the program for prevention of pollution of the seas, by omitting from the taxable net tonnage spaces which would not be revenue producing because they would be reserved for the carriage of slop oil and other waste materials.

A similar bill, H.R. 11533, but not including the sewage aspect, was introduced in the 89*th* Congress, First Session. It was subsequently decided, however, that since the entire problem of tonnage measurement was under consideration by the Intergovernmental Maritime Consultative Organization (IMCO) on an internattional basis, the proposal in H.R. 11533 should not be dealt with on a unilateral basis by the United States but should be referred to IMCO for consideration and action.

The United States presented a proposal containing the provisions of H.R. 11533 to IMCO in September 1966. This proposal was approved by the IMCO Subcommittees on Tonnage Measurement and Oil Pollution and the Maritime Safety Committee, and finally by the IMCO Assembly at its Fifth Session in October 1967. Accordingly, it was determined appropriate to proceed with domestic legislation and this Department proposed it in the 91*st* Congress (H.R. 6970 and S. 1239) and in the 92*nd* Congress (S. 3989). The proposals were not the subject of Congressional action in either instance. The current proposal is similar to that introduced in the 92*nd* Congress, S. 3989 in that it includes sewage or other waste materials spaces as within the admeasurement deduction, and provides for consultation with the Administrator of the Environmental Protection Agency in the issuance of regulations.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

S. 1353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4153 of the Revised Statutes (46 U.S.C. 77) is amended by inserting following subsection (d) the following new paragraph:

"(e) Space occupied by machinery used exclusively to separate, clarify, or purify a ship's own slop oil mixture or tank-cleaning residue or other waste materials, including sewage, and space occupied by any tank or tanks used exclusively for the carriage of such slop oil mixture, tank-cleaning residue or other waste materials, but not to exceed a maximum space deduction established by regulations hereunder. The Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator of the Environmental Protection Agency, shall issue regulations to define the slop oil mixtures, cleaning residue, and waste materials, establish the maximum deductions which may be made, define the manner in which the spaces shall be used and marked, and as necessary otherwise to carry out the provisions of this subsection."

SEC. 2. Section 4153 of the Revised Statutes (46 U.S.C. 77) is further amended by redesignating existing subsections (e) through (i) as (f) through (j).

By Mr. PELL:

S. 1354. A bill to establish a Regional Railroad Rights-of-Way Authority. Referred to the Committee on Commerce.

Mr. PELL. Mr. President, I introduce today for appropriate reference a bill designed to afford a solution to the problems faced by bankrupt railroads. The bill is similar to one which I introduced last year on September 21 during the second session of the 92d Congress and on which action was not taken; but I believe it has a special timeliness today because of the crisis confronting the Penn Central Railroad, its employees and the public—a crisis which we in the Congress legislated to ease on February 8.

However, that crisis remains very much with us. It affects our Nation's largest rail system. It affects nearly 30,000 workers. It involves essential freight services—and the crisis involves essential passenger service within the Northeast Corridor, with which I have been long concerned.

Mr. President, there are a number of proposals now before the Senate to improve service in both passenger and freight areas. I was privileged to cosponsor on February 5 Senator HARTKE's excellent bill to provide high-speed rail passenger service between Boston, New York, and Washington by 1976.

I was also very pleased to cosponsor Senator HARTKE's comprehensive bill, S. 1031, introduced on February 27. Among its farsighted provisions, this bill calls for the creation of a not-for-profit corporation to acquire and maintain rail lines in the northeast. The proposal I am offering today relates to this concept and to my continuing concern and belief that all possible avenues should be explored, as we seek to resuscitate and improve our railroads, especially in the northeast.

In this connection, may I recall a bit of past history. Early in my first term in the Senate—as the result of considerable research and study, I might add also as a result of my own personal experiences with inadequate rail passenger service—I introduced the legislative concept of creating a public authority to improve our lagging railroads in the Northeast Corridor, or megalopolis as it was named in the now classic study by the French geographer, Jean Gottman.

On June 1, 1962, I introduced Senate Joint Resolution 194. The authority I envisioned could be formed by a compact agreement among the eight States of megalopolis—Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland, plus the District of Columbia. It would be established in a similar manner to the New York Port Authority and other authorities organized to operate

public facilities, notably in transportation, with marked success. It would own, operate, and maintain railroad passenger services within megalopolis, and it would contract with existing railroad companies to operate the equipment.

This concept received considerable attention. It led to the establishment in May 1963, of the Northeast Corridor project in the Department of Commerce, to comprehensive studies, and eventually to the High-Speed Ground Transportation Act of 1965 and the inauguration of today's Metroliners and Turbotrains.

I well remember when this act was signed by President Johnson on September 30, 1965. Midway through his introductory remarks and in thanking all who had contributed to the passage of the legislation, he turned toward me, with humor in his eyes, and said:

Particularly Senator Pell, who harassed me week after week until he got me to take some action.

I greatly appreciated this remark. It is recalled in my book, "Megalopolis Unbound," published in 1966; and although these events are now past history, I have continued to believe that some form of regional authority is needed to revive our railroad transportation system and to bring it into proper balance with other modes of transport and travel.

On November 16, 1971, with the cosponsorship of Senator PASTORE, Senator BROOKE, Senator KENNEDY, Senator CASE, Senator WILLIAMS, Senator RIBICOFF, Senator TUNNEY, Senator EAGLETON, Senator HUMPHREY, Senator MUSKIE, Senator BAYH, Senator MCGOVERN, and Senator JAVITS, I introduced an amendment to the Rail Passenger Service Act of 1970 to provide up to $1 billion in loans for capital improvements in the urban corridors served by Amtrak.

At that time, I said:

The potential for those urban corridors to not only make Amtrak a viable economic entity but also to relieve urban congestion is dramatically outlined by the fact that one railroad track can accommodate as many travelers as 20 lanes of highways.

I further pointed out that a balanced transportation system, making appropriate use of improved rail service, would have a substantial impact on reducing highway congestion and pollution.

This amendment, modified by in-Senate deliberations, did not survive in conference with the House. I mention it as an indication of my consistent concern and abiding beliefs that our railroads must be given the incentives not only to survive but to reach their full potentials of service.

Today we are confronting the grave danger that these true potentials may be seriously abridged. Unless wise action is taken, we could well confront a tragic twilight period of railroad decline in our Nation's most densely populated area, the Northeast Corridor, where railroads can be of special value.

Today we are facing a situation in which a bankrupt railroad, the Penn Central, is involved, and my bill deals with such a situation specifically.

Much has been written—indeed, there are volumes of material—on the crisis confronting the Penn Central and its national ramifications. Policies which led to the bankruptcy have been debated and criticized, but there is a root problem which is common to railroads in general.

They are not treated as are other forms of transportation. They are inflicted with the total burden of their rights-of-way and roadbeds: Tax costs, maintenance costs, the costs of improvement. When a railroad is bankrupt, the roadbeds deteriorate and abandonment of rights-of-way is considered. It is reported that the Penn Central has asked the court supervising its bankruptcy reorganization to approve an immediate abandonment of approximately 5,000 miles of tracks, tracks serving a useful purpose and, in some cases, providing the only link to communities which have long depended on rail service. This would mean a shutting down of approximately one quarter of the Penn Central's present track mileage.

Indeed, with a few notable exceptions, we have seen a general deterioration of rail service, and we have watched the development of an increasing reliance on roads, trucks and automobiles—accompanied by an alarming rise in air pollution, growing highway congestion and resistance to unrestricted highway construction.

It is all very well to say that railroads are of essential value to our Nation, and that a fully balanced system of transportation is desirable. But with each bankruptcy, each deterioration of a roadbed, each abandonment, we move a step closer to an unbalanced system. If we take a few more steps in this direction, we will, in reality, be striding toward a transportation system that is bankrupt in meeting our needs of today and the future; for deterioration feeds on itself.

The improvement, needed now and unmade, will be more costly a year hence.

It is ironic that we now have the capability of high-speed rail transportation, but because the roadbeds have been neglected, the new rail vehicles cannot reach their potential. It is like having a fine new car, but only a rutted, dirt road for it to travel on.

Mr. President, the bill I am introducing attacks these problems directly. It attacks the problem of a bankrupt railroad and the shortage of funds for proper maintainance and improvements.

I believe we want to avoid such emergency solutions as a nationalization of railroads, or of any given one. I believe we want to avoid a program of massive railroad subsidization. It is reported that the trustees of the Penn Central consider that between $600 million and $800 million in Federal funds are needed to allow the railroad to function over the next few years alone, even in an abbreviated basis with 25 percent of the current track mileage no longer in service. These costs appear huge. I believe they can be avoided.

I believe we have a far better alternative.

Stated in simple terms, I propose that railroads be treated in Government policy in the same manner as airlines and truck companies are treated.

Airlines are provided runways and airlines, and truck companies are provided highways through Government programs. Yet railroads are left solely responsible for the costs, including taxes, maintenance, and improvements of their roadbeds and rights-of-way.

It seems to me unreasonable to expect that the railroads can remain competitive with other modes of transportation under these circumstances.

The bill I am introducing would establish in the executive branch of the Government an independent Regional Rights-of-Way Authority to take ownership of the roadbeds of bankrupt railroads through the issuance of tax-exempted revenue bonds which the bankrupt railroad could then use in transactions to exchange for their existing long-term debt.

The regional authority would lease back to the bankrupt railroad the continuing use of the roadbed through an arrangement whereby the railroad pays for the maintenance of the roadbed.

I realize that this is a controversial concept. It could be considered that maintenance costs should be borne in part by the lessor. However, until it is proven otherwise, I believe that there are fair incentives in this bill to permit the railroads to become truly competitive with other modes of transportation.

The lease would be given on the basis of a minimum payment together with a predetermined and equitable car toll similar to the procedure used on toll roads. Electronic devices are available which could be placed along the roadbed at various points to audit and monitor the use of the roadbed.

The bonds that would be issued by the regional authority would bear interest at appropriate going rates and would be wholly negotiable in tax-free exchanges. Section 5 of the bill deals with such exchanges.

If a regional authority determined that a particular railroad was not providing adequate freight and passenger service to a region, the authority could give the lease to another competing railroad.

Mr. President, I believe this bill would provide the following benefits:

First. It would provide a means for keeping in effect needed rail service of a bankrupt railroad without direct costs to the Federal Government. Obviously, the roadbeds would no longer be a source of property tax revenue for communities under this proposal; but it can also be said that a bankrupt railroad is hardly a source of tax revenue.

Second. The revenue bonds would serve to make the railroad's roadbeds a liquid asset thus enabling the bankrupt railroad to reduce its liabilities, to save on the amortization costs attached to its roadbed, and to provide for the creation of new capital needed by the railroad to modernize equipment and improve service.

Three. Since the railroad rights-of-way authority could lease the use of its roadbeds to more than one railroad, it could provide for competitive service to communities inefficiently served.

Four. I foresee no large bureaucracy created by this bill. The authority would chiefly be empowered to appraise and

condemn property and to issue bonds. Therefore, it could operate effectively with a relatively small number of personnel.

Fifth. The work of the National Rail Passenger Corporation—Amtrak—would, I believe, be simplified. Instead of contracting with existing railroads which are primarily concerned with freight service, Amtrak could contract directly with the rights-of-way authority and thus be in a better position to ascertain the true costs of roadbed usage, and to contract for improved treatment of its passenger trains vis-a-vis freight trains.

I believe enactment of this proposal would be a great boon to the northeast section of our country. It would, of course, have general applicability; but in the northeast it could mean the end of the Penn Central's bankruptcy, a modernization and improvement of Penn Central's freight service, and a return to a sound financial footing for railroads serving the northeast and linked to the Penn Central's current crisis.

Mr. President, I have noted with great interest a staff report released on February 11, 1973, by the Senate Committee on Commerce and entitled "The Penn Central and Other Railroads," and specifically a section in this report dealing with recommendations for the future of the Penn Central.

This report, prepared at the direction of the distinguished senior Senator from the State of Washington, suggests the creation of a Northeast Transportation Authority "with authorization for it or another Government controlled entity to operate essential rail service in the northeast if, as now appears to be the case, the private sector is unable to restore the viability of rail transportation in the northeast."

The report goes on to say:

If the Authority finds that the existing framework will not yield the necessary result, the Authority, or perhaps a quasi-public corporation, would be authorized to take over the operations of all bankrupt railroads in the Northeast. The Corporation could require the systems through the issuance of bonds or debentures to the trustees of the bankrupt roads. The trustees in turn would issue the debentures of the various claimants in accordance with an appropriate order by the bankruptcy court. The debentures should equal the liquidation value of the railroad involved. The debentures would be satisfied from rail operations, hopefully keeping the cost to the Federal government at a minimum. It might prove necessary for the Federal government to guarantee the debentures in order to make them more marketable.

The Authority (or Corporation) could at the same time place the stock, which it acquires in exchange for the bonds, in escrow until such time as it is determined by the Corporation, the Department of Transportation, and the Interstate Commerce Commission that the railroad is viable or that portions are sufficiently self-sustaining to release the stock from escrow for public sale. This would insure an eventual return to private ownership provided viability is restored.

The bill I am introducing today is a variation on that same theme.

I continue to believe that the leasing arrangements I have outlined, and which I proposed in the previous Congress, have advantages. Also, I believe that the purchase of the roadbeds I have described has merit when compared to the acquisition of an entire railroad system. In my view the roadbeds of railroads have been unfairly treated for many years, and, as I have said earlier, this is at the root of the problem.

In conclusion, let me acknowledge the assistance given to me in the preparation of this proposal by a nationally known businessman from my own State, Mr. Royal Little. His financial wisdom should give us confidence that this proposal is indeed economically sound and viable.

Mr. President, I ask that the bill be printed in full following these remarks.

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

S. 1354

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 "Regional Railroad Rights-of-Way Authority Act".

DEFINITIONS

SEC. 2. For the purposes of this Act the term—

(1) "Authority" means the Regional Railroad Rights-of-Way Authority established pursuant to section 3 of this Act;

(2) "railroad" means a common carrier by railroad, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3));

(3) "railroad right-of-way" means real property which is owned by a railroad and is within three hundred feet on either side of a track, the roadbed for such track, and such structures and devices as are permanently installed on such real property, and may include such additional realty adjoining such real property as the Authority deems necessary for the purposes of this Act.

STATEMENT OF PURPOSE

SEC. 2. The purpose of this Act is to assist railroads, which because of financial problems are having difficulty providing adequate transportation services, by purchasing from such railroads their rights-of-way and providing for the continued use of such rights-of-way by lease.

REGIONAL RAILROAD RIGHTS-OF-WAY AUTHORITY

SEC. 3. (a) There is established in the executive branch of the Government an independent agency to be known as the Regional Railroad Right-of-Way Authority. The Authority shall be subject to the supervision and direction of a Board of Trustees which shall consist of five members to be appointed by the President, by and with the advice and consent of the Senate, for terms of five years, except that the terms of four of the trustees first taking office after the enactment of this Act shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, one at the end of three years, and one at the end of four years. A vacancy shall be filled only for the unexpired portion of any term and trustees shall hold office until their successors are appointed. Trustees shall serve on a full-time basis and shall be compensated at the rate provided for level III of the Federal Executive salary schedule.

(b) The President shall designate the trustee to serve as Chairman and as Vice Chairman. Three trustees shall constitute a quorum.

FUNCTIONS OF THE AUTHORITY

SEC. 4. (a) The Authority—

(1) shall, after obtaining two independent appraisals of value, acquire by purchase or condemnation all right, title, and interest to the rights-of-way of any railroad in the United States which is undergoing reorganization under section 77 of the Bankruptcy Act, and provide compensation therefor with obligations issued pursuant to clause (2);

(2) shall issue, after consultation with the Secretary of the Treasury, and have outstanding in such amounts as are necessary for the purposes of carrying out its functions pursuant to and for redeeming obligations issued pursuant to this clause, clause (1) negotiable obligations which (A) are not obligations of the United States but are secured by the assets of the Authority, (B) are in denominations of $200,000 each, (C) bear interest, which shall be exempt from Federal, State, or local income taxes, at a rate of at least 5 per centum, determined by the Authority, (D) have maturities of at least thirty years but not to exceed fifty years, determined by the Authority and are not redeemable before maturity, and (E) shall be redeemed at maturity by the Authority;

(3) shall enter into a lease or leases with each railroad from which right-of-way is so acquired providing (A) for the use of all or part thereof by such railroad at a rate determined by the Authority on a per car or other equitable basis but amounting on a per annum basis to not less than 5 per centum of the amount paid for such right-of-way, and (B) for maintenance in accordance with standards established by the Authority to be carried out by such railroad, except that in any case approved by the Secretary of Transportation the Authority may lease the use of such right-of-way to one or more additional railroads at such rate and in such event the minimum provided in this clause shall apply to the total received from all such railroads; and

(4) may enter into such arrangements as may be appropriate for the use or disposition of property acquired pursuant to this Act which is not thereafter leased to a railroad or otherwise necessary for rail transportation purposes.

(b) Amounts received by the Authority in carrying out its functions pursuant to this Act may be deposited in a special fund in the Treasury which shall be available to the Authority, without appropriation, for carryout the purposes of this Act or may be used to purchase interest bearing obligations of the United States.

(c) Property owned by the Authority shall not be subject to State or local taxes.

TAX FREE EXCHANGES

SEC. 5. For the purpose of the Internal Revenue Code of 1954 the receipt by a railroad of bonds pursuant to section 4(1) of this Act and the receipt of any such bonds from a railroad in payment of any part of its capital indebtedness shall be treated as an exchange to which section 1031 (relating to tax free exchanges) applies.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) In addition to any authority vested in it by other provisions of this Act, the Authority, in carrying out its functions, is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) appoint employees, subject to the civil service laws, as necessary to carry out its functions, define their duties, and supervise and direct their activities;

(3) utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized in title 5 of the United States Code;

(4) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized in title 5 of the United States Code for persons in the Government service employed without compensation;

(5) rent office space in the District of Columbia or outside thereof; and

(6) make other necessary expenditures.

(b) The Authority shall submit an annual report to the President for transmittal to the Congress on or before the 15th day of January of each year. Such report shall summarize the activities of the Authority for the preceding year, and may include such recommendations as the Authority deems appropriate.

APPROPRIATIONS AUTHORIZED

SEC. 7. There is authorized to be appropriated not to exceed $——— to the Authority for administrative expenses only during the initial two years pursuant to this Act.

By Mr. HOLLINGS:

S.J. Res. 83. A joint resolution proposing an amendment to the Constitution of the United States to require that States providing public education provide it equally on a statewide basis to citizens residing therein. Referred to the Committee on the Judiciary.

Mr. HOLLINGS. Mr. President, today I propose an amendment to the Constitution of the United States to require that States providing public education provide it equally on a statewide basis to all its citizens.

Public education has been provided by the several States since the beginning of the Union. Private and parochial education has also subsisted within the States and the right of the private school to subsist was enunciated in Pierce against the Society of Sisters. In the landmark decision of Brown against Board of Education of Topeka, Kans., the Supreme Court in 1954 guaranteed the right of equality of education on a district basis to all the citizens of that district. This equality within the district was reaffirmed on yesterday by the court in San Antonio Independent School District against Rodriguez.

The inherent difficulty encountered by the court in its attempt to provide equal protection of the laws to all the citizens within a public school system is that the public school systems within the States have been compartmentalized into districts.

In Texas, the complaint was not that the schoolchildren were being treated unequally within the district but rather, since the district in which they resided was a poor district, they were being given a poor education in comparison to that provided the schoolchildren in a more affluent district. That such a decision should stand would do violence to the goal of equal education as envisioned by the State school authorities over the land for many years.

In 1951, my own State of South Carolina instituted the sales tax to equalize educational opportunity, to equalize the rural schoolchild with the urban schoolchild. Countywide millages have been adopted covering both the city and rural areas of a county so that comparable school facilities could be constructed and operated in the sparsely and poorly populated rural sections. In most of these rural sections, there was no practical increase in millage that would alone provide a school.

Attempts to further equalize have been made by trying to institute tax equalization programs from district to district, county to county in a State. However, this is slow. Modern America has moved forward to the point where we cannot further indulge a system of half of an education for citizens from the poor districts.

Herein I must emphasize that it is not the intent by the constitutional amendment that I submit today to command the States to provide a public education for its citizens. The States before and since the institution of our Constitution and Federal Government have provided this opportunity on their own.

Inherently, our Constitution was not chartered to create rights, but wherein our citizens enjoyed rights in the several States the Constitution endeavored to make certain that these rights were provided equally. I should emphasize further that it is not my intent to disturb the permissibility of private or parochial schools. Rather, I hope to knock down compartmentization by district as a basis for the measure of equality for the schoolchild and erect in its stead a statewide basis or approach.

Local and State control of public education would persist. Federal aid programs would be uninhibited. But the equal protection of the laws in public education would be statewide rather than district. This is the goal of public educators everywhere, and their efforts should not be diminished. The Texas decision should not be allowed to thwart their aim.

On the contrary, a constitutional amendment would hasten equalization of educational opportunity between poor and rich districts within a State. It would also provide a quicker adjustment to an emerging but sound Federal-State-local pattern of tax burden. Before long the Federal Government will assume from the States and locales the welfare burden. It is fitting that, as this adjustment is made, the States assume in fact what they have in substantia, the burden of public education, and with revenue sharing the local communities can address the traffic, environmental, and police problems more adequately.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 34

At the request of Mr. HOLLINGS, the Senator from Minnesota (Mr. MONDALE) 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. 80

At the request of Mr. HOLLINGS, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 80, to insure the environmental soundness of the site selection, construction, and operation of offshore artificial structures.

S. 355

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 355, to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes.

S. 589

At the request of Mr. AIKEN, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 589, making an urgent supplemental appropriation for the National Industrial Reserve under the Independent Agencies Appropriation Act for the fiscal year ending June 30, 1973.

S. 909

At the request of Mr. HOLLINGS, the Senator from Nevada (Mr. BIBLE), the Senator from Nevada (Mr. CANNON), the Senator from Kansas (Mr. DOLE), the Senator from Alaska (Mr. GRAVEL), the Senator from Wyoming (Mr. HANSEN), the Senator from Iowa (Mr. HUGHES), the Senator from New York (Mr. JAVITS), and the Senator from Utah (Mr. MOSS), were added as cosponsors of S. 909, to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus Federal property to State and local public recreation agencies.

S. 942

At the request of Mr. RIBICOFF, the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Nevada (Mr. BIBLE), the Senator from Oregon (Mr. HATFIELD), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Rhode Island (Mr. PELL), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 942, the Narcotics and Drug Abuse Law Enforcement Reorganization Act of 1973.

S. 1004

At the request of Mr. MCGOVERN, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1004, to restore the emergency water and sewer loan and grant program.

S. 1076

At the request of Mr. HARTKE, the Senator from Hawaii, (Mr. INOUYE), was added as a cosponsor of S. 1076, a bill relating to the authority of the Administrator of Veterans' Affairs to readjust the schedule of rating for the disabilities of veterans; to the construction, alteration, and acquisition of hospitals and domiciliary facilities; to the closing of hospital and domiciliary facilities and regional offices; and to the transfer of real property under the jurisdiction or control of the Administration of Veterans' Affairs.

S. 1094, S. 1095, S. 1096, AND S. 1097

At the request of Mr. SCOTT of Pennsylvania, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1094 to improve the regulation of Federal election campaign activities, S. 1095, to amend the Communications Act of 1934 with respect to the applications of the equal time provisions of section 315 to candidates for Federal elective office, and for other purposes, S. 1096, to provide for a campaign mail privilege for qualified candidates for Federal office, and S. 1097, to amend the Internal Revenue Code of 1954 to provide that political contributions are not subject to the gift tax.

S. 1142

At the request of Mr. MANSFIELD (for Mr. MUSKIE), the Senator from North Carolina (Mr. ERVIN), the Senator from Indiana (Mr. BAYH), the Senator from

Utah (Mr. Moss), the Senator from Wisconsin (Mr. NELSON), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 1142, to amend the Freedom of Information Act of 1967.

S. 1199

At the request of Mr. HOLLINGS, the Senator from Maryland (Mr. BEALL), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1199, amending the Internal Revenue Code 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.

S. 1271

At the request of the Senator from Minnesota (Mr. HUMPHREY), the Senator from Missouri (Mr. EAGLETON), was added as a cosponsor of S. 1271, to amend the Higher Education Act of 1965 to establish a student internship program to offer students practical political involvement with elected officials on the local and State levels of government.

S. 1285

At the request of Mr. MCGOVERN, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 1285, to prohibit the Department of Agriculture from inspecting farmers' income tax returns.

S. 1299

Mr. SYMINGTON. Mr. President, the names of the cosponsors of a bill I introduced on Tuesday, March 20, to amend the Housing Act were inadvertently left off the entry, although my introductory statement announced their names. At the next printing of the bill, S. 1299, or if possible in the original printing, I request that the names of Senators EAGLETON, BAYH, and HARTKE be recorded as cosponsors.

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

SENATE JOINT RESOLUTION 39

Mr. ROBERT C. BYRD. Mr. President, at the request of the Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that, at the next printing, his name be added as a cosponsor of Senate Joint Resolution 39. This joint resolution was introduced on January 26, to redesignate Washington National Airport as the Lyndon B. Johnson Airport.

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

SENATE CONCURRENT RESOLUTION 17—SUBMISSION OF A CONCURRENT RESOLUTION DESIGNATING DE PERE, WIS., AS "AMERICA'S VOTINGEST SMALL CITY"

(Referred to the Committee on the Judiciary.)

Mr. NELSON (for himself and Mr. PROXMIRE) submitted the following concurrent resolution:

S. CON. RES. 17

Whereas, in the general election held on November 7, 1972, the voters of De Pere, Wisconsin, attained a 98.05 percent turnout rate when 6,353 of the city's 6,479 registered voters went to the polls to exercise their right to vote; and

Whereas, the city of De Pere, for six consecutive presidential elections, has produced voter turnouts ranging from 95.9 percent to 99.7 percent, thereby earning a designation from the Wisconsin Legislature, by joint resolution, as "America's Number One Small City," and

Whereas, the city's 1972 achievement of a 98.05 percent turnout, together with its long history of high voter participation, demonstrates De Pere's continuing keen awareness of the responsibilities of citizenship; and

Whereas, it is fitting and proper that such extraordinary civic responsibility be recognized by the Nation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That, because of the outstanding and exemplary display of citizenship by De Pere, Wisconsin, the Congress of the United States of America—

(1) extends its congratulations and commendations to the people of that city, and in addition

(2) designates that city as "America's Votingest Small City."

AMENDMENT OF PAR VALUE MODIFICATION ACT—AMENDMENTS

AMENDMENT NO. 52

(Ordered to be printed, and to lie on the table.)

Mr. BELLMON. Mr. President, my distinguished colleague from Ohio, Senator TAFT, and myself are today introducing an amendment to S. 929, the Par Value Modification Act. It would provide a 1-year emergency mechanism in order to hold the line on Federal spending for fiscal year 1974.

There are three basic provisions to this amendment:

First, it establishes a spending ceiling for fiscal year 1974 of $268.7 billion.

Second, in the event that expenditures would otherwise exceed the spending ceiling, the President is authorized to reduce spending proportionately for fiscal year 1974 in all but the following "uncontrollable" budget items: Interest, veterans' benefits and services, payments from social insurance trust fund, medicaid, public assistance maintenance grants, social services grants under title IV of the Social Security Act, food stamps, military retirement pay, and judicial salaries.

This is the same approach as the Jordan amendment passed by the Senate to the debt ceiling bill on October 13, 1972.

Third, if the President makes spending cuts which are not proportionate in nature, he must notify Congress of his justifications. Congress then has 30 days to nullify the President's action by concurrent resolution. In addition, this portion of the amendment contains procedural safeguards in order to insure that Congress can act within 30 days if it so desires.

In my view, it makes good commonsense for the Senate to enact this proposal now for the following reasons:

First, extensive budgetary reforms cannot be enacted in time to affect spending levels for fiscal year 1974. A 1-year interim measure for fiscal year 1974 is absolutely essential in order to control Federal spending and reassert Congress' role in the appropriations process.

Second, the President in his economic report, the interim report of the Joint Committee on Budget, and many Senators advocate a spending ceiling to control spending.

Third, the provision on "proportionate reduction" is the same approach as the Jordan amendment to the debt ceiling bill, which was passed by the Senate last October as the best approach to limit spending.

Fourth, the Congress and not the Executive will dictate in what manner cuts will be made if necessary. Executive discretion to take unilateral action to impound funds and to discontinue programs without being subjected to congressional approval will be removed. Congress should determine spending priorities and not the President.

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

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

AMENDMENT NO. 52

At the end of the bill insert the following new section:

LIMITATION OF EXPENDITURES AND NET LENDING FOR FISCAL 1974

SEC. 2. (a) Expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government shall not exceed $268,700,000,000.

(b) (1) In order to effectuate the provisions of subsection (a), the President shall not make reservations from expenditure and net lending, from appropriations or other obligational authority, heretofore or hereafter made available for—

(A) interest;

(B) veterans' benefits and services;

(C) payments from social insurance trust funds;

(D) medicaid;

(E) public assistance maintenance grants;

(F) social services grants under title IV of the Social Security Act, as amended;

(G) food stamps;

(H) military retirement pay; and

(I) judicial salaries.

(2) If, in order to effectuate the provisions of subsection (a), the President reserves amounts proportionately from all budget accounts except those budget accounts for which reservations are prohibited pursuant to paragraph (1), the provisions of subsection (c) shall not apply.

(c) (1) If the President determines that in order to effectuate the provisions of subsection (a), it is necessary to make reservations from expenditure and net lending, from appropriations of other obligational authority, heretofore or hereafter made available, he shall make such reservations subject to the provisions of this subsection. The President shall report to the Congress, by special message, each such reservation so made with respect to any single budget account. Each such special message shall be transmitted to the Senate and the House of Representatives within ten days after such reservation has been made, and shall be delivered to the Secretary of the Senate, if the Senate is not in session, and to the Clerk of the House of Representatives, if the House is not in session. Each such special message shall be printed as a document of both Houses.

(2) Any reservation from expenditures made under paragraph (1) shall cease to be effective if the Senate and the House of Representatives agree to a concurrent resolution disapproving such reservation during the first period of thirty days of continuous

session of the Congress after the day on which the special message reporting such reservation is transmitted to the Senate and the House of Representatives. For purposes of the preceding sentence, (A) continuity of session is broken only by an adjournment of the Congress sine die, and (B) days in which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the thirty-day period.

(d) During the fiscal year ending June 30, 1974, nothing contained in any law (other than this section) shall be construed to authorize or empower the President to reserve any amount of obligation or other budget authority or any amount of authority to make outlays, unless (1) the amount so reserved is not necessary for the efficient operation of the activity, program, or project for which such amount was made available at the level intended by the Congress in enacting the laws which authorize such activity, program, or project, and provide such budget authority, and (2) the activity, program, or project can and will be fully carried out at such level without the amount so reserved.

(e) In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this section; 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 obligation (after the application of this section) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

(f) The following subsections of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in subsection (g)); 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.

(g) As used in the following subsections of this section, the term "resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows (the blank spaces being appropriately filled): "That the Congress disapproves the reservation(s) of expenditures reported in the special message of the President dated _____, 19__ (Senate Document Numbered __, House Document Numbered __)."

(h) A resolution with respect to a special message shall be referred to a committee (and all resolutions with respect to the same special message shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(i)(1) If the committee to which has been referred a resolution with respect to a special message has not reported it before the expiration of ten calendar days after its introduction (or, in the case of a resolution received from the other House, ten calendar days after its receipt), it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such special message which has been referred to the committee.

(2) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same special message), and debate thereon shall be limited to not to exceed one hour, and to be equally divided between, those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same special message.

(j)(1) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a special message, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall 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.

(k)(1) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a special message, and all motions to proceed to the consideration of other business, shall be decided without debate.

(2) All 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 a resolution with respect to a special message shall be decided without debate.

(l) If, prior to the passage by one House of a resolution of that House with respect to a special message, such House receives from the other House a resolution with respect to the same special message, then—

(1) If no resolution of the first House with respect to such special message has been referred to committee, no other resolution with respect to the same special message may be reported or (despite the provisions of subsection (l)(1)) be made the subject of a motion to discharge.

(2) If a resolution of the first House with respect to such special message has been referred to committee—

(A) the procedure with respect to that or other resolutions of such House with respect to such special message which have been referred to committee shall be the same as if no resolution from the other House with respect to such special message had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such special message the resolution from the other House with respect to such special message shall be automatically substituted for the resolution of the first House.

(m) For the purposes of this section the term "budget account" means any appropriation account or other account granting obligational authority including, but not limited to, contract authority, authority to spend public debt receipts, and authority to spend agency debt receipts.

(n) The President shall not establish separate ceilings on expenditures or net lending for any budget account which will prevent the obligation of all funds made available for obligation pursuant to this section.

AMENDMENT NO. 53

(Ordered to be printed, and to lie on the table.)

Mr. HUMPHREY submitted an amendment, intended to be proposed by him, to Senate bill 929, supra.

DESIGNATION OF THE TUESDAY NEXT AFTER THE FIRST MONDAY IN OCTOBER AS THE DAY FOR FEDERAL ELECTIONS—AMENDMENT

AMENDMENT NO. 54

(Ordered to be printed, and referred to the Committee on Rules and Administration.)

Mr. PELL submitted an amendment, intended to be proposed by him, to the bill (S. 343) to designate the Tuesday next after the first Monday in October as the day for Federal elections.

SUBCOMMITTEE ON OCEANS AND INTERNATIONAL ENVIRONMENT—NOTICE OF HEARING ON EXECUTIVE N

Mr. PELL. Mr. President, I wish to announce that on March 30, the Subcommittee on Oceans and International Environment of the Committee on Foreign Relations will conduct public hearings on the International Convention on Tonnage Measurements of Ships—Executive N, 92d Congress, second session. The hearings will be held in room 4221 of the Dirksen Senate Office Building, beginning at 10 a.m. At that time, the committee expects to hear executive branch witnesses and other interested individuals. Persons wishing to testify should communicate with the chief clerk of the committee.

NOTICE OF HEARING ON NOMINATIONS

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, March 29, 1973, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nominations:

Donald E. Santarelli, of Virginia, to be Administrator of Law Enforcement Assistance, vice Jerris Leonard, resigned.

Wallace H. Johnson, Jr., of Virginia, to be an Assistant Attorney General, vice Dale Kent Frizzell.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

NOTICE OF HEARING ON RECOMMENDED JUDGESHIPS

Mr. BURDICK. Mr. President, I wish to announce continuation of the public hearings before the Subcommittee on Improvements in Judicial Machinery relating to the recommendations of the Judicial Conference of the United States

for creation of an additional 51 judgeships.

The hearing will be held on March 28, 1973, in room 2228, Dirksen Office Building, commencing at 10 a.m., at which time Chief Judge Richard H. Chambers, of the Ninth Circuit, will give testimony.

Communications relative to this hearing should be directed to the subcommittee staff, 6306 Dirksen Office Building, extension 5-3618.

ADDITIONAL STATEMENTS

SWEDEN SEEKING WARMER U.S. TIE

Mr. FULBRIGHT. Mr. President, in the March 22 issue of the New York Times there appears an article entitled "Sweden Seeking Warmer U.S. Tie." I ask unanimous consent that the article be included as a part of my remarks.

Mr. President, I hope that the Government of this Nation does not continue to rebuff the Government of Sweden. I believe our Government misinterprets the true attitude and feeling of the people of Sweden for the United States.

There are several million American citizens of Swedish ancestry. The Swedish people have felt very keenly the great tragedy of the American involvement in Indochina.

The Swedish people looked to the United States for friendship and a sense of security flowing from that friendship and as they witnessed their great friend exhausting its resources and undermining its moral and political strength, they were prompted to advise us to change our policies, advice which time and experience has validated.

The Swedes—unlike so many other false friends who rather enjoyed seeing the great and rich United States discomfited and embarrassed, and who applauded and encouraged us in our misguided course—tried, like a true friend, to help us return to our senses, even though at the time we resented their advice.

In due course, I am sure we will recognize that the advice of the Swedes was motivated by a desire to help us, that we will in time reestablish normal relations with them.

I wish to urge our President at this time to receive an ambassador from Sweden and to send one from this country to Stockholm.

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

SWEDEN SEEKING WARMER U.S. TIE—RIFT OVER WAR IS BROUGHT UP BUT WASHINGTON IS CHILLY

STOCKHOLM, March 21.—Foreign Minister Krister Wickman said today that it was important to improve Sweden's relations with the United States, frozen since Christmas time when Premier Olof Palme criticized the United States bombing of North Vietnam.

"It is especially important to preserve the means of high-level dialogue," Mr. Wickman said, opening a foreign policy debate in Parliament.

"We believe Swedish-American relations are better served in the long run by making our basic principles clear instead of seeking to hide our feelings," he declared.

The Government is known to be anxious to restore friendly relations with President Nixon, who has refused to welcome Sweden's new Ambassador or to allow the United States Ambassador to take up his post. But leaders here have said that they do not know what reasonable political gesture they can make to propitiate him.

The President is understood to believe that Mr. Palme, by likening the intensive bombing of Hanoi in December to Nazi atrocities, was in effect labeling him a mass murderer.

TWO LEADERS GIVE VIEWS

Thorbjorn Falldin, leader of the Opposition Center party, supported the Foreign Minister's view, saying that criticism of the bombing of North Vietnam "does not imply any inimical attitude toward America."

Gosta Bohman, leader of the small but significant Conservative party, criticized the Government, saying that the majority Social Democrats had damaged relations with Washington.

"It is a dangerous situation," he said. "It affects our interest."

Mr. Palme, who received a bachelor's degree from Kenyon College in Gambier, Ohio, is known to be disappointed by the chill in relations. He told a reporter recently:

"The period I went to school in the States was the most important period of my life. For me and for most of my generation, American democracy—with its shortcomings, but also its great vitality—has been a great inspiration.

"Partly, at least, this explains our disappointment and distress over the Vietnam war, which for me stands as a contradiction to the basic tenets of American democracy."

"NO COMMENT" FROM UNITED STATES

(Special to The New York Times)

WASHINGTON, March 21.—Asked whether Mr. Wickman's remarks would contribute to the normalization of relations between Sweden and the United States, a State Department spokesman replied today, "we have a frosty 'no comment.'"

BYELORUSSIAN INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, March 25 marks the 55th anniversary of Byelorussian independence. With the declaration of freedom on that day in 1918, the determined people of Byelorussia enjoyed for a brief period, the long-awaited right of self-government.

Prior to World War I, the Byelorussian State bravely withstood the military pressure of the powerful Russian forces and secretly began the establishing of a firm foundation for democracy. Through the developing of a culture and language of their own, these people became well organized and thoroughly prepared for the opportune moment to break from their oppressors. That long-awaited moment finally prevailed when the Russians became involved in the Bolshevik Revolution in 1917, and on March 25, 1918, the Byelorussian Congress declared its nation a free and sovereign state.

Although the life of the free nation of Byelorussia was just a brief moment in history, the brave people of this nation demonstrated to the world their determination and capability for self-government. Within only a few short months there were significant advancements in the arts and literature, and rapid improvements in the area of education.

However, by December of that year, the Red Army again invaded and seized the Byelorussian territory, putting an end to their treasured independence.

Therefore, Mr. President, on the anniversary of Byelorussian Independence Day, it is fitting that we, in the United States and all the free world, pause and pay tribute to the courage and determination of the people of Byelorussia.

TRADE, POWER PRESTIGE

Mr. GOLDWATER. Mr. President, every Member of Congress is constantly being questioned about the increasing danger to our dollar and the corresponding increase in the cost of living. The Arizona Republic on March 21 ran a short and concise, to the point editorial that will provide an answer to all of us. There are some startling facts and figures in this editorial that all of us can well ponder because our actions have had a great bearing on some of them. I ask unanimous consent that the editorial be placed in the RECORD.

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

POWER, PRESTIGE—PFFFFT!

Comforted by the increasing amenities of the good life, the American household feels a certain reassurance that all is well.

Paychecks are higher. There's usually at least one car one TV around, paid vacations, a home which Granddad would have considered luxurious.

But all is not well.

The three benchmarks which had always made the United States a standout nation—prestige, power and productivity—are shrinking in the world.

Indices are everywhere to bear out this gloomy fact.

For example, in a nation whose historic rise to manufacturing pre-eminence was rooted in the so-called work ethic, welfare has become an increasing way of life. In the 10-year period from 1963 to 1973, the number of Americans on welfare has jumped from 7.4 million to 16 million—or a 116 per cent increase.

The cost for this new society of nonworkers has jumped 376 per cent—from $5 billion to $23.8 billion.

Our heavy dependence on petroleum to run the mobile American society, coupled with obstacles to tapping our own reserves, has forced our dependence on foreign sources for oil.

In six years between 1967 and 1973, the United States has increased its imports of oil by 15 per cent. We now receive 35 per cent of our own oil needs from overseas, while lobbyists block exploration and development of known now domestic reserves.

But the most telling indices of America's gradual slide to mediocrity lie in the financial and production ledgers.

In the 10 years between 1960 and 1970, the United States ranked a poor sixth among the world's Top Seven nations in industrial output—ours increased 74 per cent, while Japan led with 322 per cent, Russia followed with 166 per cent, France was next with 110 per cent, and Italy and Germany had 98 and 90 per cent.

America's gross national product increased 109 per cent in the 20 years ending in 1971, while the rest of the world jumped 216 per cent.

The U.S. share of world steel production fell from 47 per cent in 1950, to 19 per cent in 1971.

Where once the U.S. accounted for 46 per cent of auto production, it now is 30 per cent.

Total U.S. exports as a share of world trade have slid from 18 per cent to 13 per cent in 20 years.

Gold reserves in the United States were 42 per cent of the world's total in 1950, but accounted for only 8 per cent in 1972.

Twenty years ago, seven out of every 10 workers were in manufacturing, while three were in service jobs. The opposite is true today.

The net sum of these declines is that the United States, like Britain which once dominated world trade, is becoming a second-rate world power.

ELEVEN BILLION DOLLARS FOR FOREIGN AID IN FISCAL YEAR 1972

Mr. CASE. Mr. President, 2 weeks ago Senator PROXMIRE and I commented on the more than $11 billion the U.S. Government spent on foreign aid in fiscal year 1972 and the nearly $5 billion in loans and investments that various Government agencies guaranteed that same fiscal year.

James McCartney of the Philadelphia Inquirer wrote a recent article on our statement and the Government report. He quotes an administration official involved in compiling the report as saying:

I personally tried to make this the single least read document of the year.

I hope that this official does not get his wish because I believe that the American people should know exactly how much we are spending on foreign aid. This was exactly the reason that Senator PROXMIRE and I introduced our amendment 2 years ago requiring the Government report the figures in one document for all to see.

Mr. President, I ask unanimous consent that the statement issued on March 6 by Senator PROXMIRE and myself on this subject, the article by Mr. McCartney, and the report itself be printed in the RECORD.

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

TEXT OF JOINT STATEMENT BY SENATORS CLIFFORD CASE AND WILLIAM PROXMIRE, MARCH 6, 1973

Two years ago we introduced an amendment to the foreign aid act which required that the Administration list in one place all the funds that our country is paying out for foreign aid through a multitude of programs. We said in a joint statement at the time, "The American taxpayer who is footing the bill for foreign aid should at least know what he's paying for."

Our amendment was passed into law in 1972, and we have just received the first report from the Administration on what the bill actually was for FY 1972. In that fiscal year, our government paid out $11,343,900,000 in grants and loans for military and economic aid to foreign governments ($5,274,800,000 military and $6,069,100,000 economic). In addition, various agencies of our government guaranteed and insured $4,910,200,000 worth of loans and investments to foreign countries, contributed $163,400,000 to international organizations, and turned over military facilities to foreign governments worth $631,200,000.

These figures are staggering, and they should be carefully scrutinized in light of our pressing domestic priorities.

Our intention in originally introducing our amendment was to bring some order out of the chaos of various foreign assistance programs being run by at least six different government agencies. Admittedly, as with the problem of adding apples and oranges and getting fruit salad, all the figures cannot be brought together into a grand total.

Few of us will forget the spectacle two years ago, in an appearance before the Joint Economic Committee, of several high government officials frantically trying to add up all the foreign aid totals in order to give the Committee an idea of how much the country was spending overseas. Then, we noted that "the most alarming fact is that nobody seems to know for sure exactly how much is being spent."

Now we know, and the figures are not reassuring.

WHAT DOES FOREIGN AID COST: $4.5 BILLION OR $11.3 BILLION?

(By James McCartney)

WASHINGTON.—Congress, after a tough fight has gotten its first complete figures on the annual price tag for foreign aid—and at least some senators are stunned.

The official budget of the U.S. government lists about $4.5 billion in foreign aid spending for 1972.

The real total, according to an official government report, was closer to $11.3 billion.

That is the figure the report gives for "grants and loans"—including both economic and military aid from six different government departments.

But the report gives a substantially higher figure for the total U.S. government economic involvement overseas.

If such categories as guarantees, insurance, property transfers and military sales for cash are included—categories that don't cost the taxpayers directly—the grand total figure in the report amounted to almost $20 billion.

The $20 billion represents U.S. political involvement whether all the money comes from the taxpayers directly or not.

"These figures are staggering," said Sen. William Proxmire (D., Wis.) and Clifford Case (R., N.J.) in a joint statement.

Proxmire added: "The effect of the report is to make clear for the first time that the real spending figure for foreign aid is not the $4.5 billion in the budget—but more than $10 billion."

The report is a result of a two-year battle that started when senators learned in public hearings that no one in the Nixon administration seemed to know how much was actually being spent on foreign aid.

Case and Proxmire decided to do something about it. They sponsored legislation requiring the administration to list—in one place—all the aid funds the United States is paying out.

The first report, just received, is the most complete summary of foreign aid spending and U.S. economic involvement abroad ever put together in a single document, according to congressional experts.

It lists "grants and loans" to no fewer than 115 countries—including Zaire, Seychelles, Rwanda, Lesotho, Brunei, Botswana, Burundi and Sri Lanka.

Also on the list—largely for loans—are such prosperous countries as Germany, Japan, the United Kingdom and France.

One of the big problems in the project was exactly how to define "foreign aid."

The senators and the Nixon Administration do not agree.

The senators demanded a listing of everything the U.S. government was doing abroad to help any country—even if it isn't costing U.S. taxpayers directly.

They asked for grants, loans, property transfers, cash sales, guarantees and insurance programs.

Put all together, the figure comes to about $20 billion.

The senators agree that not all this can be properly described as "foreign aid." They say a legitimate figure for "foreign aid" as it is commonly understood would be about $10 billion.

The administration does not dispute this figure.

But it didn't really want to cooperate in the project at all. So it delivered the report in what amounted to a plain wrapper, labeled only: "Report Required by Section 657, Foreign Assistance Act."

It was a 24-page pamphlet with a list of tables—and no clear explanation of what it was all about.

Said one administration offical; "I personally tried to make this the single least-read document of the year."

The report lists $6.1 billion for "economic" assistance around the world and $5.2 billion for "security" assistance—which includes vast amounts of military aid.

The country getting the largest amount of economic aid according to the report, is totalitarian Spain—$448 million. Spain is also getting $68 million in "security" aid, for a total of $516 million.

The State Department officially lists Spain as a "less developed country."

Other countries receiving more than $100 million in economic air were: Bangladesh—$268; India—$137; Pakistan—$165; Turkey—$104; Brazil—$327; Colombia—$134; Nationalist China—$188; Indonesia—$249; Korea—$266; and Japan—$272.

REPORT REQUIRED BY SECTION 657, FOREIGN ASSISTANCE ACT

FISCAL YEAR 1972—GENERAL NOTES

The material prepared in this report is in response to the requirements of Section 657, Foreign Assistance Act. It shows:

(1) The aggregate dollar value of all grants, credits, transfers, sales guaranties, and insurance provided by the U.S., in two tables—Table 1A for Grants and Loans,—Table 1B for Other transactions. Of the total loans and grants, some $3.6 billion qualify as Official Development Assistance to less-developed countries in accordance with internationally agreed concepts of assistance.

(2) Foreign currency transactions in two tables—2A for receipts for the United States and 2B for payments returned to recipient countries.

Reporting concepts

The basic data for economic programs are on a commitment basis, that, is loans authorized and obligations incurred. For military programs, the data basically represent annual program levels.

1A—Grants and loans

Economic programs

A.I.D. (excluding Security Supporting Assistance)—Development loans authorized and obligations of other A.I.D. funds, including contributions to international organizations financed from the Foreign Assistance Act.

Food for peace

Includes the following:

Title I—Sales for dollars or convertible currencies, on credit terms, inital down payment in dollars excluded.

Title I—Sales for foreign currency—amounts planned for country use.

Title II—Donations for emergency relief and economic development—transfer authorizations including transfers to the World Food Program, and programs administered by UNROD (Bangladesh), UNICEF and UNRWA.

Title II—Voluntary Relief Programs include authorization of donations through voluntary relief agencies.

Data exclude short-term credits under the C.C.C. Export Sales Program.

Peace Corps

Includes obligations incurred for the operation of the overseas volunteer program of Action.

Export-Import Bank Loans

New credit authorizations issued as reflected in the FY 1972 Annual Report to the Congress, including the Regular Loan Program, Cooperative Financing Facility, Relending Facility and the Discount Loan Facility.

Other economic grants and credits

Includes the following:

Capital subscriptions to international financial institutions;

Migration and Refugee Assistance;

Inter-American Highway and Darien Gap;

Trust Territories of the Pacific Islands;

Other grants and credits, e.g., Inter-American Foundation, OPIC direct loans, etc.

Security Programs

Security supporting assistance

Amounts obligated to finance imports of commodities, capital, or technical assistance, on a grant or loan basis, financed from the A.I.D. Security Supporting Assistance appropriation, including the use of Contingency Funds for similar purposes.

Military Assistance Program (MAP) Grants

Annual program of grants of military equipment, supplies and services purchased with Foreign Assistance Act funds.

Military Assistance Service-Funded (MASF)

All defense articles and services programmed for transfer to foreign countries or international organizations under authority contained in the Department of Defense Appropriation Act, including International Military Headquarters and MAAGs, Missions and Military Groups.

Foreign Military Sales (FMS)—Credit

Credit sales directly financed by the U.S. Government under provisions of the Foreign Military Sales Act.

Excess defense articles and other transfers

Represents the "legal" value of equipment and supplies excess to the requirements of the U.S. military departments granted to countries without charge to MAP-appropriated funds "Legal" value represent 33⅓ percent of the original acquisition value. Other military transfers include the following:

Transfers of Material (not under MASF);

Ships Loaned and Leased; and

Transfer Program (Korea PL 91-652)

Export-Import Bank Military Loans

New Credit authorizations as reflected in the FY 1972 Annual Report to the Congress, for the purchase of military equipment. The sale may be made by DOD or by U.S. industry directly to the foreign buyer.

1B—Other transactions

Economic Programs

Export-Import Bank guarantees and insurance

Guarantees include contracts for all financial guarantees issued by the Bank.

Insurance contracts through the Foreign Credit Insurance Association (FCIA) cover the Export Insurance Programs for both short and medium-term transactions.

OPIC guarantees

Includes contracts under the investment insurance program for political risks under inconvertibility, expropriation, and war, revolution and insurrection, as well as those contracts issued under the extended risk program.

A.I.D. housing guarantees

Represents contracts for projects under the Extended Risk World-Wide Housing Guaranty, and Latin American Housing Guaranty programs.

Assessed Budgets International Organization

Represents the U.S. contributions to help finance the regular activities of the United Nations, its specialized agencies, etc.

Security and other transactions

Foreign military sales (FMS)—cash

Involves sales for cash under provisions of the Foreign Military Sales Act.

Foreign military sales (FMS)—guaranty

Guaranty of private credit by the United States Government under provisions of the Foreign Military Sales Act.

Facilities transfers

The direct transfer by the Department of Defense of U.S. military buildings, fixtures, and other facilities to a foreign government.

FISCAL YEAR 1972 U.S. GOVERNMENT GRANTS, LOANS, TRANSFERS, SALES, GUARANTEES, AND INSURANCE

PT. 1A.—GRANTS AND LOANS

[In millions of dollars]

Region and country	Economic						Security						
	Total economic	AID (excluding securities supporting assistance)	Food for peace	Peace Corps	Export-Import Bank loans	Other economic	Total security	Security supporting assistance	MAP grants	Military assistance service funded	FMS loans	Excess stocks and other transfers	Export-Import Bank military loans
Total, all countries	6,069.1	1,451.6	1,220.7	75.1	3,032.5	289.2	5,274.8	619.8	549.9	2,825.5	329.5	698.1	252.0
Less developed countries	5,503.3	1,451.6	1,191.4	75.1	2,498.6	286.6	4,844.7	619.8	527.2	2,571.7	329.5	691.6	104.9
Developed countries	565.8		29.3		533.9	2.6	430.1		22.7	253.8		6.5	147.1
Less developed countries:													
Near East and South Asia	917.2	345.8	456.6	6.3	94.6	13.9	643.2	105.0	110.6		220.0	102.7	104.9
Afghanistan	35.6	9.6	24.7	1.3			.2		.2				
Bangladesh	286.3	199.1	87.2										
Cyprus	4.3		4.3										
Egypt	9.8	1.5			8.3								
Greece	1.9				1.9		57.2		9.9		35.0	12.3	
India	137.4	5.6	100.3	2.6	15.0	13.9	(1)		(1)				
Iran	2.4		1.1	1.3			118.5		.9			12.7	104.9
Iraq	.2		.2										
Israel	75.2		54.2		21.0		200.0	50.0			150.0		
Jordan	4.4	.6	3.8				104.3	55.0	38.0		10.0	1.3	
Lebanon	16.8		16.8				10.2		.2		10.0		
Nepal	11.2	2.0	8.2	1.0			(1)		(1)				
Pakistan	165.1	62.4	102.7				.1		.1				
Saudi Arabia	13.4				13.4		.5		.5				
Sri Lanka (Ceylon)	17.1		17.1										
Syrian Arab Republic	.3		.3										
Turkey	101.4	59.0	7.5	(1)	34.9		152.1		60.7		15.0	76.4	
Yemen, Democratic Republic of	.1		.1	(1)									
CENTO	.4	.4											
Regional	34.0	5.7	28.2	.1									
Latin America	1,139.3	336.0	101.6	17.2	556.6	127.9	73.1	2.0	15.0		42.2	13.9	
Argentina	44.8				44.8		12.8		.8		7.5	4.5	
Bermuda	34.0				34.0								
Bolivia	57.8	53.6	4.2	*			6.8	2.0	3.7			1.1	
Brazil	327.3	12.1	5.7	2.9	304.8	1.8	8.8		.8		8.0		
British Honduras	.4		.2	.2									
Chile	7.4	1.0	5.9	.5			12.3		.9		10.0	1.4	
Colombia	134.4	92.6	20.7	1.7	18.7	.7	8.6		.6		7.2	.8	
Costa Rica	3.9	1.7	1.1	.7	.1	.3							
Dominican Republic	29.9	6.9	19.1	.5	2.9	.5	1.9		.9			1.0	
Ecuador	10.4	4.9	3.1	1.3	1.0	.1							
El Salvador	8.9	6.1	1.4	.4	.4	.6	.4		.3			.1	
Guatemala	17.2	12.5	3.4	.7	.6		1.8		1.6			.2	
Guyana	17.8	15.6	1.1	(1)	1.1								
Haiti	5.3	3.2	1.7			.4							
Honduras	6.7	3.6	1.2	.8	1.0	.1	.5		.5				
Jamaica	23.6	1.2	3.9	1.0	16.8	.7							
Mexico	54.5				54.0	.5	2.0		.1			1.9	

Footnotes at end of table.

FISCAL YEAR 1972 U.S. GOVERNMENT GRANTS, LOANS, TRANSFERS, SALES, GUARANTEES, AND INSURANCE—Continued

PT. 1A.—GRANTS AND LOANS—Continued

[In millions of dollars]

Region and country	Economic						Security					
	Total economic	AID (excluding securities supporting assistance)	Food for peace	Peace Corps	Export-Import Bank loans	Other economic	Total security	Security supporting assistance	MAP grants	Military assistance service funded	FMS loans	Excess stocks and other transfers	Export-Import Bank military loans
Less developed countries—Continued													
Latin America—Continued													
Nicaragua	4.8	2.5	1.7	0.5	0.1		0.9		0.8			0.1	
Panama	.9	22.8	1.2	(1)	30.1	9.8	.5		.5			(1)	
Paraguay	4.9	2.8	1.7	.4			.9		.8			.1	
Peru	44.2	31.7	11.1	1.3		.1	1.0		1.0				
Trinidad and Tobago	6.6		.1		6.5								
Uruguay	9.4	1.4	7.9	.1			4.2		.8		2.0	1.4	
Venezuela	44.4	.8	4.7	1.4	37.5		9.7		.8		7.5	1.4	
West Indies (all other)	1.5		.5	1.0									
West Indies, British (Bahamas)	2.1				2.1								
ROCAP	13.2	13.2											
Regional	160.0	46.1		1.6		112.3	.3		.3				
Contributions to international organizations	119.0	14.7				104.3							
Other	41.0	31.4		1.6		8.0	.3		.3				
East Asia and Vietnam:	953.4	191.0	481.4	8.4	257.3	15.3	3,993.7	484.8	375.7	2,571.7	45.6	515.9	
Brunei	2.2				2.2								
Burma	1.3		.7		.6								
China, Republic of (Taiwan)	188.0				187.8	.2	62.1		11.0		20.0	31.1	
Hong Kong	3.6				3.6								
Indonesia	249.0	114.7	124.6		8.7	1.0	22.9		18.0			4.9	
Khmer Republic (Cambodia)	20.1		20.1				224.0	37.1	180.0			6.9	
Korea	266.7	30.0	211.7	2.0	9.9	13.1	561.5		152.5	167.9	17.0	224.1	
Laos	4.9	1.6	3.3				266.2	47.3		212.9		6.0	
Malaysia	25.0		.6	2.4	22.0		10.6		.1		8.6	1.9	
Philippines	77.1	30.5	37.6	1.7	7.3		18.4		14.0			4.4	
Ryukyu Islands	1.0					1.0							
Singapore	13.1		.1		13.0		1.9					1.9	
Thailand	21.4	2.6	14.8	1.7	2.3		70.0	14.8		43.6		11.6	
Vietnam	69.5	1.7	67.8				2,755.7	385.2		2,147.3		223.2	
Western Samoa	.5			.5									
Regional	10.2	10.0	.1	.1			.4	.3	.1				
Africa	399.2	171.5	103.7	19.4	104.6		40.4	3.7	14.6		21.7	.4	
Algeria	21.1			.1	21.0								
Botswana	10.5	.1	9.8	.6									
Burundi	.7		.7										
Cameroon	11.4	.1	.2	.7	10.4								
Central African Republic	2.3	.2	.2		1.9								
Chad	.5	.1		.4									
Dahomey	.7	.1	.2	.4									
Ethiopia	33.0	31.1	.8	1.1			11.2		10.9			.3	
Gabon	.1	.1											
Gambia	.5	(1)	.2	.3									
Ghana	15.1	2.6	10.7	1.8			(1)		(1)				
Guinea	.7		.7	(1)									
Ivory Coast	21.6	(1)		.8	20.8								
Kenya	5.2	2.1	.5	1.8	.8								
Lesotho	1.4	.1	1.0	.3									
Liberia	20.7	12.3	2.9	2.1	3.4		2.4		.4		2.0		
Libya	(1)			(1)									
Malagasy Republic	.4		.4										
Malawi	3.7	2.6	.8	.3									
Mali	1.8	.1	1.5	.2			.5				.5		
Mauritania	1.4	(1)	1.4	(1)									
Mauritius	.7	(1)	.6	.1									
Morocco	40.7	1.6	35.7	1.1	2.3		15.9		.9		15.0		
Niger	1.6	.1	.9	.6									
Nigeria	36.4	21.5	.2	(1)	14.7		3.5	3.4	.1				
Rwanda	.5	(1)	.5										
Senegal	3.4	.1	1.1	.6	1.6		(1)		(1)				
Seychelles	.1	(1)	.1										
Sierra Leone	3.5	.1	2.1	1.3									
Sudan	1.4		.1		1.3								
Swaziland	.6	.1		.5									
Tanzania	3.1	1.9	1.2										
Togo	1.1	.1	.4	.6									
Tunisia	41.1	17.1	23.4	.6			4.1		1.8		2.2	.1	
Uganda	5.7	5.3		.4									
Upper Volta	3.3	.1	2.8	.4									
Zaire	5.9	2.0	2.3	1.2	.4		2.4		.4		2.0		
Zambia	23.5	(1)	.3		23.2								
East African Regional	1.3	1.3											
Central and West African Regional	32.4	32.4											
Southern African regional	14.7	14.7					.3	.3					
African regional	25.4	21.6	.1	1.0	2.7		(1)		(1)				
Europe	497.6	.5	.2	(1)	496.9		79.3	9.5	11.2			58.6	
Malta	.2		.2				9.5	9.5					
Spain	447.9				447.9		69.8		11.2			58.6	
Yugoslavia	49.3	.4			48.9								
Oceania	72.1			2.8		69.3							
Fiji	.7			.7									
Trust, Territory Pacific	69.3					69.3							
Other	2.2			2.2									
Nonregional	1,524.2	406.9	47.6	20.9	988.6	60.2	14.7	14.7					

Footnotes at end of table.

FISCAL YEAR 1972 U.S. GOVERNMENT GRANTS, LOANS, TRANSFERS, SALES, GUARANTEES, AND INSURANCE—Continued

PT. 1A.—GRANTS AND LOANS—Continued

[In millions of dollars]

Region and country	Economic						Security						
	Total economic	AID (excluding securities supporting assistance)	Food for peace	Peace Corps	Export-Import Bank loans	Other economic	Total security	Security supporting assistance	MAP grants	Military assistance service funded	FMS loans	Excess stocks and other transfers	Export-Import Bank military loans
Less developed countries—Continued													
Capital subscriptions and contributions to international organizations (see supplement).	225.2	181.9	5.3			38.0	2.4	2.4					
Other nonregional	1,299.0	225.0	42.3	20.9	988.6	22.2	12.3	12.3					
AID administrative expenses	63.1	63.1											
Ocean frt. volunteer agencies	46.8	4.5	42.3										
AID interreg. program expenses	44.9	44.9					11.6	11.6					
General technical services	50.1	50.1											
Disaster relief	1.6	1.6											
Research and evaluation	17.8	17.8											
American schools and hospitals abroad	20.0	20.0											
Private enterprise development	8.5	8.5											
Institutional grants	5.2	5.2											
Participants services	3.1	3.1											
Other	1,037.9	6.2		20.9	[1] 988.6	22.2	.7	.7					
Developed countries	565.8		29.3		533.9	2.6	430.1		22.7	253.8		6.5	147.1
East Asia: Japan	272.4				272.4								
Europe	272.5		29.3		240.6	2.6	7.7		1.2			6.5	
Austria	2.0				2.0								
Belgium	13.9				13.9								
Denmark	20.4				20.4								
Finland							[2]		[2]				
France	19.2				19.2								
Germany, Federal Republic	3.0				3.0								
Iceland	.8		.8										
Italy	22.3				22.3								
Netherlands	43.7				43.7								
Norway	36.9				36.9								
Portugal	30.4		28.5		1.9		7.5		1.0			6.5	
Romania	1.2				1.2								
Sweden	24.7				24.7								
United Kingdom	51.4				51.4		[2]					[2]	
Regional	2.6					2.6	.1		.1				
Canada	20.1				20.1								
Oceania: Australia							147.1						147.1
Nonregional	.9				.9		275.3		21.5	253.8			
Private export funding corporation	.9				.9								
Other							275.3		21.5	253.8			

[1] Discount loan program to stimulate private bank export credits.
[2] Less than $50,000.

Note: Totals may not add due to rounding. See explanation of various programs in general notes.

PT. 1 B.—OTHER TRANSACTIONS

[In millions of dollars]

Region and country	Economic					Security and other transactions			
		Guarantees and insurance							
	Total economic	Export-Import bank	O.P.I.C.	AID housing	Assessed budgets international organizations	Total security and other transactions	FMS cash sales	FMS guarantees	Facilities transfers
Total all countries	4,853.1	3,945.8	651.4	92.5	163.4	3,764.2	2,912.5	220.5	631.2
Less developed countries	3,589.9	2,682.6	651.4	92.5	163.4	2,253.3	1,447.1	220.5	585.7
Developed countries	1,263.2	1,263.2				1,510.9	1,465.4		45.5
Less developed countries:									
Near East and South Asia	405.2	285.9	69.3	50.0		1,452.9	1,277.8	175.0	.1
Afghanistan	.1	.1							
Cyprus	.4	.4							
Greece	46.3	43.7	2.6			171.3	146.3	25.0	
India	27.0	2.4	24.6			.3	.3		
Iran	137.6	129.6	8.0			499.2	499.2		
Iraq	[1]	[1]							
Israel	116.2	36.6	29.6	50.0		467.9	317.9	150.0	
Jordan	.8	.8				1.4	1.4		
Kuwait	14.0	14.0							
Lebanon	10.0	10.0							
Nepal	[1]	[1]				.3	.3		
Pakistan	4.7	.2	4.5			[1]	[1]		
Saudi Arabia	5.7	5.7				306.8	306.8		
Sri Lanka (Ceylon)	.2	.2				[1]			
Turkey	40.4	40.4				5.6	5.5		.1
Regional	1.5	1.5							
Latin America	1,502.0	1,298.5	161.0	42.5		107.9	81.9	19.5	6.5
Argentina	155.4	149.4		6.0		18.8	11.3	7.5	
Barbados	2.6	2.6							
Bermuda	19.4	19.4							
Bolivia	6.5	6.5				[1]	[1]		
Brazil	465.4	332.1	133.3			33.3	21.3	12.0	

Footnotes at end of table.

PT. 1B.—OTHER TRANSACTIONS—Continued

[In millions of dollars]

Region and country	Economic					Security and other transactions			
		Guarantees and insurance							
	Total economic	Export-Import bank	O.P.I.C.	AID housing	Assessed budgets international organizations	Total security and other transactions	FMS cash sales	FMS guarantees	Facilities transfers
Less developed countries—Continued									
Latin America—Continued									
British Honduras	1.1	1.1	(1)						
Chile	5.6	5.6				2.7	2.7		
Colombia	127.4	127.4				.7	.7		
Costa Rica	26.6	25.2	1.4			(1)	(1)		
Dominican Republic	15.5	14.3	1.2			(1)	(1)		
Ecuador	36.8	36.7	.1			(1)	(1)		
El Salvador	13.5	11.3	2.2			(1)	(1)		
Guatemala	17.7	17.7				1.5	1.5		
Guyana	5.1	4.0	1.1						
Haiti	.6	.1	.5						
Honduras	13.4	9.9	1.3	2.2		(1)	(1)		
Jamaica	38.7	36.5	2.2			(1)	(1)		
Mexico	189.1	189.1				.4	.2		0.2
Nicaragua	21.0	9.1	11.9			.1	.1		
Panama	54.7	51.1	3.6			(1)	(1)		
Paraguay	1.7	1.7							
Peru	81.8	53.5		28.3		1.2	1.2		
Surinam	1.6	1.6							
Trinidad and Tobago	13.9	13.9				5.5			5.5
Uruguay	2.9	2.9				(1)	(1)		
Venezuela	168.5	160.3	2.2	6.0		42.8	42.8		
West Indies (all other)	11.1	11.1							
West Indies-British (Bahamas)	4.1	4.1				.8			.8
Regional	(1)	(1)							
East Asia and Vietnam	585.2	301.8	283.4			661.9	57.0	26.0	578.9
Brunei	2.2	2.2							
Burma	2.2	2.2				.2	.2		
China, Republic of (Taiwan)	264.5	197.4	67.1			55.2	28.8	26.0	.4
Hong Kong	10.6	10.6							
Indonesia	107.2	8.9	98.3			(1)	(1)		
Korea	51.8	10.9	40.9			7.2	2.0		5.2
Malaysia	21.3	20.4	.9			1.1	1.1		
Philippines	39.2	22.2	17.0			28.0	.6		27.4
Ryukyu Islands	1.8	1.8							
Singapore	54.6	12.6	42.0			6.0	6.0		
Thailand	29.6	12.3	17.3			26.0	18.2		7.8
Vietnam	.2	.2				538.1	(1)		538.1
Western Samoa	(1)	(1)				(1)	(1)		
Africa	362.3	224.6	137.7			5.6	5.6		(1)
Algeria	59.2	59.2							
Botswana	101.5	(1)	101.5						
Burundi	(1)	(1)							
Cameroon	11.2	11.2							
Central African Republic	2.5	2.5							
Chad	(1)	(1)							
Dahomey	.6	.6							
Ethiopia	.6	.6				(1)	(1)		(1)
Gabon	5.4	5.2	.2						
Gambia, The	(1)	(1)							
Ghana	1.8	1.6	.2						
Guinea	.7	.7							
Ivory Coast	32.6	29.9	2.7						
Kenya	11.5	7.8	3.7						
Lesotho	(1)	(1)							
Liberia	6.2	6.2							
Libya	1.2	1.2				3.4	3.4		
Malagasy Republic	2.1	2.1							
Malawi	.1	.1							
Mali	.7	.7							
Mauritania	.1	.1							
Mauritius	.2	.2							
Morocco	6.1	3.4	2.7			.9	.9		
Niger	(1)	(1)							
Nigeria	28.6	28.6				1.0	1.0		
Rwanda	.2	.2							
Senegal	2.1	2.1				(1)	(1)		
Seychelles	(1)	(1)							
Sierra Leone	.5	(1)	.5						
Somali Republic	.2	.2							
Sudan	2.6	2.6							
Swaziland	.1	.1							
Tanzania	.6	.6							
Togo	.9	.9							
Tunisia	.8	.6	.2						
Uganda	.2	.2							
Upper Volta	.2	.2							
Zaire	27.9	1.7	26.2			.3	.3		
Zambia	37.3	37.3							
Regional	15.8	15.8							
Europe	244.6	244.6				25.1	24.9		.2
Malta	.3	.3							
Spain	139.8	139.8				24.6	24.4		.2
Yugoslavia	104.1	104.1				.4	.4		
Regional	.4	.4							
Oceania	1.2	1.2							
Fiji	.2	.2							
Trust Territory, Pacific	(1)	(1)							
Other	1.0	1.0							

Footnotes at end of table.

PT. 1B.—OTHER TRANSACTIONS—Continued

[In millions of dollars]

Region and country	Economic					Security and other transactions			
		Guarantees and insurance							
	Total economic	Export-Import bank	O.P.I.C.	AID housing	Assessed budgets international organizations	Total security and other transactions	FMS cash sales	FMS guarantees	Facilities transfers
Less developed countries—Continued									
Nonregional	489.3	325.9			163.4				
Capital subscriptions and contributions to international organizations (See supplement)	163.4				163.4				
Other nonregional	325.9	325.9							
Developed countries	1,263.2	1,263.2				1,510.9	1,465.4		45.5
East Asia: Japan	259.3	259.3				94.4	61.9		32.5
Africa: South Africa Republic	143.3	143.3				(1)	(1)		
Europe	696.9	696.9				1,248.1	1,237.1		11.0
Austria	7.0	7.0				2.4	2.4		
Belgium	47.0	47.0				4.9	4.9		
Denmark	7.8	7.8				17.1	17.1		
Finland	13.6	13.6				.1	.1		
France	109.3	109.3				7.5	7.5		
Germany, Federal Republic	132.4	132.4				958.0	949.5		8.5
Iceland	1.0	1.0				1.9	.4		1.5
Ireland	2.2	2.2				.2	.2		
Italy	97.4	97.4				77.2	77.2		(1)
Liechtenstein	(1)	(1)							
Luxembourg	.4	.4				(1)	(1)		
Monaco	(1)	(1)							
Netherlands	104.9	104.9				29.2	29.2		
Norway	10.3	10.3				23.6	23.6		
Portugal	5.2	5.2				3.6	3.6		
Romania	9.8	9.8							
Sweden	27.6	27.6				1.1	1.1		
Switzerland	22.8	22.8				11.4	11.4		
United Kingdom	96.7	96.7				109.8	108.8		1.0
Vatican City	(1)	(1)							
Regional	1.1	1.1							
Canada	84.9	84.9				28.4	26.5		1.9
Oceania	78.8	78.8				100.1	100.1		(1)
Australia	66.3	66.3				96.7	96.7		(1)
New Zealand	12.5	12.5				3.4	3.4		
Nonregional: Other						39.8	39.8		

[1] Less than $50,000.

Note: Totals may not add due to rounding. See explanation for description of various programs in general notes.

SUPPLEMENT—FISCAL YEAR 1972 CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

[In millions of dollars]

International organization	Total	AID	Food for peace	Other
Total	679.5	224.1	145.5	309.9
Regional or country programs	288.5	39.8	140.2	108.5
Nonregional programs	227.6	184.3	5.3	38.0
Assessed budgets	163.4			163.4
Regional or country programs	288.5	39.8	140.2	108.5
Capital subscription to Inter-American Development Bank	104.3			104.3
U.N. Children's Fund	2.8		2.8	
U.N./FAO world food program	55.9		55.9	
U.N. Relief and Works Agency	8.9		8.9	
U.N. relief operations—Dacca (UNROD) (Bangladesh)	112.0	39.4	72.6	
Intergovernmental Committee for European Migration	3.2			3.2
U.N. High Commissioner for Refugees Program	1.0			1.0
Central Treaty Organization (CENTO)	.4	.4		
Nonregional programs	227.6	184.3	5.3	38.0
Capital subscription to International Development Association	38.0			38.0
Special voluntary programs:				
United Nations development program	89.0	86.0	3.0	
United Nations Children's Fund	15.0	15.0		
United Nations population program	29.0	29.0		
United Nations Fund for Drug Abuse Control	2.0	2.0		
International Atomic Energy Agency, operational program	1.7	1.6	.1	
WMO voluntary assistance program	1.5	1.5		
U.N./FAO world food program	1.5	1.5		
U.N. Institute for Training and Research	.4	.4		
WHO medical research (IARC)	.3	.3		
U.N. Relief and Works Agency	16.4	14.3	2.1	
U.N. Environment Fund	.1	.1		
Indus Basin and Tarbela Development Fund	30.3	30.3		
International Secretariat for Volunteer Service	0.2	0.1	0.1	
U.N peacekeeping force in Cyprus	2.4	2.4		
Assessed budgets	163.4			163.4
United Nations specialized agencies and the International Atomic Energy Agency:				
United Nations	52.4			52.4
United Nations Educational, Scientific, and Cultural Organization	12.3			12.3
International Civil Aviation Organization	4.3			4.3
World Health Organization	24.6			24.6
Food and Agriculture Organization	10.5			10.5
International Labor Organization	7.7			7.7
International Telecommunication Union	.8			.8
World Meteorological Organization	.3			.8
Intergovernmental Maritime Consultative Organization	.1			.1
International Atomic Energy Agency	4.1			4.1
Inter-American organizations:				
Inter-American Institute of Agricultural Sciences	3.0			3.0
Pan American Health Organization	10.4			10.4
Organization of American States	18.8			18.8
Other	.7			.7
Regional organizations:				
South Pacific Commission	.2			.2
North Atlantic Treaty Organization	5.4			5.4
Southeast Asia Treaty Organization	.4			.4
Organization for Economic Cooperation and Development	5.1			5.1
Other	.2			.2
Other international organizations:				
International Coffee Organization	.3			.3
Customs Cooperation Council	.4			.4
General Agreement on Tariffs and Trade (GATT)	.7			.7
Other	.4			.4

Note: Totals shown above are included in tables 1A and 1B, as appropriate. Details by organization are shown for informational purposes only. Totals may not add due to rounding.

PART 2A.—RECEIPTS OF FOREIGN CURRENCY BY THE UNITED STATES IN FISCAL YEAR 1972

[In thousands of dollars equivalent]

Region and country	Total	Public Law 480 sales of agricultural commodities	Interest on depositary balances	Receipts from loans		Advances for technical assistance	Other
				Public Law 480	AID Foreign Assistance Act		
Total, all countries	624,402	194,154	16,450	165,275	135,724	73,608	39,191
Less developed countries	606,608	194,004	15,854	164,161	135,724	73,608	23,257
Developed countries	17,794	150	596	1,114			15,934
Less developed countries:							
Near East and South Asia	283,151	34,569	14,450	126,172	92,118	14,425	1,417
Afghanistan	1,985	1,212		161		612	
Cyprus	36			36			
Egypt	10,988		940	8,872	1,176		
Greece	7,871		4	3,723	3,942		202
India	146,007	11,333	10,013	68,769	47,266	8,468	158
Iran	1,805			1,712			93
Israel	22,444		53	17,064	5,321		6
Jordan	264		1	263			
Lebanon	394	388	6				
Nepal	214			187	27		
Pakistan	56,460	16,733	3,245	16,645	16,638	3,171	28
Sri Lanka	283		70	212			1
Syrian Arab Republic	190				190		
Turkey	34.210	4,903	118	8,528	17,558	2,174	929
Latin America	20.709	1,477	14	5.803	3,767	8,956	692
Argentina	46			24			22
Barbados	13						13
Bolivia	2,732	44		1,600		927	161
Brazil	8,533	869		1,275		6,389	
Chile	1,893		12	985	709		187
Colombia	1,334	368		963			3
Costa Rica	49					41	8
Dominican Republic	1,374		1			1,372	1
Ecuador	591	193		−141	536		3
El Salvador	128				57		71
Guatemala	551				551		
Guyana	3	3					
Haiti	264				210		54
Honduras	578				574		4
Jamaica	3						3
Nicaragua	419				410		9
Paraguay	1,063			366	684	12	1
Peru	939			722		213	4
Uruguay	139			9	36	2	92
Venezuela	57		1				56
East Asia and Vietnam	242,593	156,592	229	11,542	15,321	47,722	11,187
Burma	2,162		43	597	1,522		
China	18,042	8,560	60	4,458	4,746	37	181
Indonesia	6,513		39	4,163	1,511	791	9
Khmer Republic	8,207	7,922	31			254	
Korea	44,781	39,212	56	1,499	751	1,791	1,471
Laos	7,333					833	6,500
Malaysia	5						5
Philippines	6,457	1,881		825	1,067	1,030	1,654
Thailand	6,139				2,471	3,091	577
Vietnam	142,954	99,017			3,253	39,895	789
Africa	29,692	1,366	1,082	9,725	14,634	2,505	380
Cameroon	1		1				
Ethiopia	2,389			17	2,339	33	
Ghana	2,292	739	152	1,107		294	
Guinea	−101			9		−110	
Kenya	42					42	
Malagasy	1		1				
Mali	−19					−19	
Morocco	13,833		500	3,378	9,643	312	
Nigeria	435					179	256
Rwanda	14						14
Senegal	82		10	69			3
Sudan	1,190		168	1,022			
Tanzania	1						1
Tunisia	7,872		250	3,680	2,652	1,187	103
Uganda	29					29	
Upper Volta	5						5
Zaire	1,577	627		443		509	−2
Zambia	49					49	
Europe	21,313		79	10,919	9,884		431
Spain	5,746		3	4,507	805		431
Yugoslavia	15,567		76	6,412	9,079		
Nonregional (various)	9,150						9,150
Developed:							
East Asia: Japan	3,308		522				2,786
Africa: South African Republic	65						65
Europe	14,421	150	74	1,114			13,083
Austria	3		3				
Belgium	487		1				486
Denmark	318		3				315
Finland	688			688			
France	2,236			68			2,168
Germany, Federal Republic of	5,315		2				5.313
Hungary	428						428
Iceland	510	150	2	358			
Italy	547		32				515
Netherlands	138		7				131
Norway	200						200
Portugal	157		1				156
Sweden	47						47
Switzerland	1		1				
United Kingdom	3,346		22				3.324

PT. 2B.—FOREIGN CURRENCY PAYMENTS RETURNED BY THE UNITED STATES TO RECIPIENT COUNTRIES IN FISCAL YEAR 1972

[In thousands of dollars equivalent]

Region and country	Total	Common defense	Cooley loans	Economic development		Advance for technical assistance	Other
				Loans	Grants		
Total all countries	30,281	105,878	40,117	15,828	99,616	67,950	892
Less developed countries	329,069	105,814	40,117	15,828	99,176	67,946	188
Developed countries	1,212	64			440	4	704
Less developed countries:							
Near East and South Asia	144,142	15	34,905	7,412	86,231	15,511	68
Afghanistan	894					894	(1)
Cyprus	(1)						(1)
Egypt	2,505				2,501		4
Greece	3						3
India	98,218		32,026		57,420	8,735	37
Iran	11					26	−15
Israel	6,813		425	5,338	1,017	1	32
Jordan	1,273			1,271			2
Lebanon	1						1
Nepal	6,231				6,231		
Pakistan	25,625	15	1,864	803	19,062	3,879	2
Sri Lanka	590		590				(1)
Turkey	1,978					1,976	2
Latin America	10,449		−7	871	−1	9,532	54
Argentina	1						
Barbados	5						2
Bermuda	2						
Bolivia	2,128		−7	852		1,283	
Brazil	6,380			19	−1	6,359	3
Chile	2						2
Colombia	294					289	5
Costa Rica	47					47	
Dominican Republic	1,334					1,333	1
Ecuador	1						1
Guatemala	1						1
Haiti	1						1
Honduras	3						3
Jamaica	(1)						(1)
Martinique	(1)						(1)
Mexico	2						2
Netherlands Antilles	(1)						(1)
Nicaragua	2						2
Paraguay	33					33	
Peru	174					172	2
Trinidad and Tobago	(1)						(1)
Uruguay	16					16	
Venezuela	23						23
East Asia and Vietnam	159,868	105,799	3,351		12,210	38,378	130
Burma	22				21		1
China	5,313				5,283	22	8
Hong Kong	20						20
Indonesia	810				15	794	1
Khmer Republic (Cambodia)	1,207	937				268	2
Korea	25,511	20,510	3,351			1,639	11
Laos	7,898				6,856	1,042	
Malaysia	4						4
Philippines	1,203	149			35	1,006	13
Thailand	3,329					3,271	58
Vietnam	114,551	84,203				30,336	12
Africa	14,117		1,791	7,545	337	4,525	−81
Algeria	1						1
Cameroon	25					9	16
Chad	(1)						(1)
Dahomey	7				7		
Ethiopia	87					74	13
Gabon	(1)						(1)
Gambia, The	−3						−3
Ghana	1,195		245	675	28	251	−4
Guinea	5,916			5,480		436	
Ivory Coast	53			53			
Kenya	−76					12	−88
Malagasy	2						2
Malawi	1						1
Mali	79					79	
Mauritania	(1)						(1)
Morocco	2,037		1,546	160	19	319	−7
Nigeria	162				2	160	
Senegal	299			35		263	1
Sudan	1						1
Tanzania	5						5
Togo	(1)						(1)
Tunisia	2,786			1,142	281	1,343	20
Uganda	−12					30	−42
Upper Volta	3					3	
Zaire	1,547					1,543	4
Zambia	2					3	−1
Europe	493		77		399		17
Spain	91		77				14
Yugoslavia	402				399		3

Footnote at end of table.

PT. 2B.—FOREIGN CURRENCY PAYMENTS RETURNED BY THE UNITED STATES TO RECIPIENT COUNTRIES IN FISCAL YEAR 1972—Continued

[In thousands of dollars equivalent]

Region and country	Total	Common defense	Cooley loans	Economic development		Advance for technical assistance	Other
				Loans	Grants		
Developed countries:							
Europe	1,185	64			440	3	678
Austria	20						20
Belgium	20						20
Denmark	5						5
Finland	16						16
France	61					3	58
Germany (Federal Republic)	260						260
Hungary	(1)						(1)
Iceland	2						2
Ireland	2						2
Italy	100	64			11		25
Netherlands	123						123
Norway	3						3
Poland	465				428		37
Portugal	8						8
Sweden	27						27
Switzerland	21						21
United Kingdom	52				1		51
East Asia: Japan	13						13
Africa: South African Republic	8						8
Oceania	6						6
Australia	5						5
New Zealand	1						1

[1] Less than $500.

NORTH CAROLINA GENERAL ASSEMBLY IS OPPOSED TO AMNESTY

Mr. HELMS. Mr. President, the General Assembly of North Carolina recently adopted a resolution which I believe clearly represents the feelings of the vast majority of the citizens of North Carolina.

The resolution expresses unalterable opposition to any grant of amnesty to those who have illegally avoided induction into, or have deserted from, the armed services of the United States.

I ask unanimous consent that the resolution be printed in the RECORD.

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

HOUSE JOINT RESOLUTION 385

A Joint Resolution in opposition to a grant of amnesty to those who illegally avoided induction into the United States Armed Services or who deserted

Whereas, there has been much discussion of a grant of amnesty or freedom from prosecution to those who through desertion and otherwise willfully failed to fulfill their military obligations to the United States; and

Whereas, any such wholesale grant of amnesty to those who illegally avoided service in the United States Armed Forces or deserted therefrom would make a mockery of the sacrifices of the millions of Americans who did their duty, assumed their responsibilities in time of conflict, and suffered or died in time of conflict; and

Whereas, cases involving desertion or illegal flight to avoid induction into the Armed Forces may presently be tried in the courts of this country where each particular case may be heard on its merits and be dealt with appropriately and based upon the facts of the particular case;

Now therefore, be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly of North Carolina expresses its strong opposition to the grant of amnesty or freedom from prosecution to those who have in our recent time of conflict either illegally avoided induction into the United States Armed Forces or who have deserted therefrom.

SEC. 2. The Secretary of State is hereby directed to prepare and deliver certified copies of this resolution to the President of the United States and to all Congressmen and the Governor and United States Senators of the State of North Carolina.

SEC. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

CONGRESS' RIGHT TO KNOW

Mr. ERVIN. Mr. President, as many of my colleagues in the Senate know, the Federation of American Scientists contains not only natural and social scientists but lawyers, as well, in its efforts to assess sound public policy on matters involving natural and social science.

The March 1972 issue of the federation's Newsletter was devoted to the "Legislative Right To Know." Many of the points made in it are relevant to the problem of executive privilege which is being discussed today.

In a statement endorsed by six experts and approved by the FAS Executive Committee, the federation concluded that "executive privilege" covers only "confidential communications" with the President and does not provide sweeping immunity from congressional inquiry for "individuals" or "job designations." Among the experts associated with this view were:

Raoul Berger, one of America's leading experts on executive privilege;

Bernard Schwartz, Webb professor of law, New York University, one of America's leading leading constitutional lawyers and author of the five-volume work, "A Commentary on the Constitution of the United States";

Lee C. White, who served in the White House as a legal adviser—deputy special counsel to President Kennedy and special counsel to President Johnson; and

Arthur S. Miller, professor of law at George Washington University and a consultant to my own Subcommittee on Separation of Powers.

The FAS Newsletter complains eloquently of the unconstrained power of the executive branch and its "ever more comprehensive claims to authority." It also contains a survey of the problem of executive privilege as presented to my Subcommittee on Separation of Powers by Professor Berger. I ask unanimous consent that these three short documents be printed in the RECORD.

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

THE LEGISLATIVE RIGHT TO KNOW

Increasingly, the power of the Executive Branch is unconstrained. Thirty years of world crisis have provided the Executive with the popular support required to usurp powers of the legislative branch. And the individual legislators themselves have not been last in their willingness to let the Constitutional authority of the legislature slip away. In the control of foreign policy generally; in the war powers in particular; and in rights to information especially; Congress has steadily lost ground. The Executive Branch has made ever more comprehensive claims to authority.

The seriousness of this problem, indeed the existence of it, is too little understood—for many reasons. The legislative branch trains far fewer persons in the perspective of its institution than does the Executive Branch. Whole generations of American officialdom function for years in the unchallenged belief that their function is, and ought to be, simply facilitating the exercise of Presidential power—and hence, necessarily, blunting, circumventing, and placating the power of the legislature.

Nor is the secular loss of legislative power an isolated American phenomenon. Parliaments throughout the world are losing power to their executive counterparts. The advantages of monolithic structure; the power to be won by operational authority; and the ever greater staff needed to cope with the complexities of modern problems—all give the Executive a great and lasting advantage.

But these indications that the problem has permanent features only highlight com-

ing dangers. How long would American freedoms last after the three branches of government ceased to be an effective check upon each other? Both theory, and recent experience, reveal all too clearly how little confidence ought to be placed in the unchallenged common sense of a future chief executive.

TO FACILITATE CONGRESSIONAL TESTIMONY FAS PROPOSES SECOND "HAT" FOR HENRY KISSINGER

We do not question the right of the President to assert Executive Privilege over confidential communications between himself and his immediate counselors such as Cabinet Members and his immediate aides in the Office of the White House (White House Staff). Recent Administrations have suggested, however, that members of the White House Staff ought to be immune from Congressional inquiry of any kind. The implicit justification for this sweeping immunity is that these persons do nothing else but engage in confidential communications with the President. We note, for the record, that we do not believe that immunity from Congressional inquiry ought to be provided to "individuals" or to "job designations" but only to privileged information. Thus, for example, even persons who do nothing else but provide confidential advice to the President ought to be willing to testify on matters in which they were involved before they took up their present responsibilities. (Thus Averell Harriman, the first "Assistant to the President," provided the Congressional investigation of General MacArthur's dismissal with such testimony based on prior knowledge.)

While White House Staff members have sometimes been considered altogether immune from Congressional inquiry, the right of Congress to call other Executive Branch witnesses has not been challenged.

In particular, blanket immunity from testifying has not been claimed for officials in the Executive Office of the President other than to those on the White House Staff.

It has also become commonplace for members of the White House Staff to direct, chair, or supervise an entity inside the Executive Office of the President under a different "hat." There are seven such cases at present. And in several of the cases, it has become accepted procedure that the White House Staff Member testify under this second "hat."

ASSISTANT FOR NATIONAL SECURITY AFFAIRS OUGHT TO BE NSC EXECUTIVE SECRETARY

We believe that this tradition ought to be strengthened. Specifically, we recommend that the Assistant to the President for National Security Affairs be given a second job designation: "Executive Secretary" of the National Security Council (NSC). According to the National Security Act of 1947 and 1949, the Executive Secretary of the NSC is to be filled by a civilian appointed by the President, Under the Nixon Administration, the position has been vacant. However, the officers of the National Security Council staff report directly to Dr. Kissinger.[1] The budget justification prepared by the National Security Council states that "An Assistant to the President is the principal supervisory officer of the Council."[2] Dr. Kissinger is listed in the United States Government Organization Manual, along with the NSC "staff secretary," as one of two "officials" of the National Security Council. He answers questions on its method of functioning in response to Congressional inquiry. In short he really is, already, the chief of staff of the NSC.

The proposal we make is analogous to the dual roles played by the "Science Adviser to the President"—a member of the White House Staff. He is also Director of the Office of Science and Technology (OST) in the Executive Office of the President.

When President Kennedy began the present procedure of appointing his science adviser to the job "Director: Office of Science and Technology," he wanted to make it possible for this person to testify before Congress on occasion without disrupting the current Executive Branch policy against permitting testimony by White House Aides. Obviously, he did not give up, by this dual appointment, the right to insist that the science adviser decline to testify on matters on which he simply provided confidential advice to the President.

NSC DOES MORE THAN PROVIDE COFIDENTIAL ADVICE

Title I of the National Security Act of 1946 setting up the National Security Council says that the "function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. . ." so that the different agencies might cooperate more effectively. But the totality of work and advice provided the President is certainly not to be construed as "confidential communications." Indeed, the National Security Council has under it the Central Intelligence Agency, whose Director does testify before Congress. Furthermore, the National Security Council itself has as a statutory duty "to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power. . . ." The facts it unearths should certainly be open to inquiry by the Congress, just as are the facts unearthed by its subordinate body—the Central Intelligence Agency.

Today, Dr. Kissinger presides over a staff of 54 substantive officers and a total of 140 employees. He is chairman of six interagency committees dealing with the entire range of foreign policy and national security. In Fiscal 1971, the budget for the NSC staff was $2.2 million. This job is not the job of a personal aid providing confidential advice only.

Furthermore, on past occasions, the President's Assistant for National Security Affairs has held open press conferences. The contrast between his access to the (public and foreign) press for open questioning and his inability, even on the same subjects, to give his views to authorized committees of Congress is striking.

Our proposal to give the Assistant for National Security Affairs a second "hat" avoids challenge to the new (and questionable) doctrine that White House aides have blanket immunity. It provides a way for the President to permit testimony by White House staff, on certain issues, without giving up claims to blanket immunity over immediate aides. Ever greater concentration of power in the White House without any possibility of review by the Congress can only produce great constitutional pressures.

Our proposal provides a way to vent these pressures in the interests of both Branches of Government.

CREDENTIALS OF FAS CONSULTANTS

Raoul Berger, esq.: retired Professor of Law, probably America's leading expert on Executive Privilege.

Alton Fyre: Joint Fellow of the Woodrow Wilson International Center and of the Council on Foreign Relations; author of a forthcoming study "A Responsible Congress: Security, Science and Foreign Policy."

Arthur S. Miller: Professor of Law, George Washington University; Consultant, Senate Subcommittee on Separation of Powers.

Bernard Schwartz: Webb Professor of Law, New York University; Author of the five volume work "A Commentary on the Constitution of the United States."

Eugene Skolnikoff: Chairman, Department of Political Science, MIT; formerly special Assistant to three successive Science Advisers to the President.

Lee C. White: Law firm of Semer, White and Jacobsen; White House legal adviser (deputy special counsel) to President Kennedy and (special counsel) to President Johnson.

Approved by the Federation Executive Committee, the above proposal was reviewed and endorsed by the following FAS members or consultants whose experience and expertise bear on various aspects of this problem.

Raoul Berger, Alton Frye, Arthur S. Miller, Bernard Schwartz, Eugene Skolnikoff, and Lee C. White.

EXECUTIVE PRIVILEGE

Executive Privilege is the power asserted by the President to be "inherent" in the executive to withhold information from the public, from the legislature or from the judiciary. It is in direct opposition to an inherent right of the legislature to make inquiry into the administration of the laws it makes and to be properly informed in order to draft legislation. The Supreme Court has never ruled specifically on this conflict between the branches although the privilege has been asserted since the time of President Washington by about 20 different Presidents.

Presidents Johnson and Nixon have followed a precedent set by President Kennedy that executive privilege could be invoked only by the President and not delegated to lower-ranking executive branch officials. This has, however, led to gamesmanship in which the Defense Department has justified refusals with executive-privilege-like phrases and the Justice Department has explained them as simply "preliminary" refusals. Evidently, Committees must address their letters to the President and insist on his signing the replies! But often there is simply an Executive Branch flat refusal or no answer. As Senator Fulbright has testified, the commitment that only the President could invoke executive privilege "has been reduced to a nullity by the simple device of withholding information without formal invocation of executive privilege."

TWO APPROACHES TO THE CONFLICT

There are two approaches to the on-going conflict between the Branches. One approach suggests that these interbranch conflicts are essentially power struggles about which nothing can be done. Some observers consider it unsophisticated to say that an executive branch (or legislative branch) act is unconstitutional. They believe that the balance of power between the branches is something the Constitution either cannot regulate, or something intended to be left to a continuing conflict in the name of checks and balances.

A second approach argues for submitting the controversy to the third branch of Government, that is, to the courts. De Tocqueville observed about America: "scarcely any political question arises . . . that is not resolved sooner or later, into a judicial question." In this view, only the Supreme Court can devise ground rules for rights to information that would fairly adjudicate this quite complicated dispute.

Recently, the Ervin subcommittee of Senate Judiciary (Separation of Powers) released 600 pages of hearings on Executive Privilege. The testimony was dominated by the careful and thorough research of Professor Raoul Berger. Professor Berger is among those who argue for a court test. He notes at the outset of a lengthy study: "There is little if any historical warrant, I proposed to show, for the notion that executive privilege was ever

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[1] See, for example, testimony of the NCS Staff Secretary Mrs. Jeanne Wilson Davis, May 19, 1971 before the House Subcommittee of Appropriations on Treasury, Post Office, and General Government Appropriations, p. 662.

[2] Ibid., p. 673.

intended to be among the checks on the legislative power of inquiry."[8] He argues persuasively that the Constitution was meant to be interpreted in the sense in which it was adopted. And he argues that an unrestrained right of investigation was meant to be provided to the legislative branch.

Unfortunately the abuse of legislative investigatory prerogatives by the late Senator Joseph McCarthy induced the Executive Branch to commit itself to correspondingly rigid claims in order to protect itself. The Attorney General of that period (Attorney General Rogers, now Secretary of State) claimed the right to "uncontrolled discretion" to withhold information. In particular, the Executive claimed that administrative efficiency required secrecy. Unfortunately Senator McCarthy was not censured by the Senate for abusing his investigatory rights but for obstructing the Senate from investigating him.

HISTORY SUPPORTS LEGISLATURE

Professor Berger shows that the British House of Commons in the seventeen hundreds was not put off from investigating executive mismanagement despite apprehensions about disrupted alliances and the specter of a civil war that might flow from the revelations. Colonial Assemblies followed the lead of the House of Commons in expecting full disclosure. The Continental Congress, in creating a Department of Foreign Affairs, provided that any member of Congress would have access to all papers in the Department provided that no copy were taken of secret matters without leave of Congress. About a hundred years later, in 1854, Attorney General Cushing advised the President that it was the duty of the heads of departments to communicate information on matters of official duty to either House of Congress when desired.

The Executive Branch argument for an Executive Privilege to withhold information must claim some "inherent" right of executive branch power; no such right being mentioned in the Constitution. Attorney General Rogers saw this right as stemming somehow from the President's duty to enforce the laws. But the duty to enforce the laws ought not be so construed as to permit the Executive to hinder Congress's duty to make new laws and oversee the operation of old ones.

The Courts have never supported the use of Executive Privilege when invoked against the legislature. They have only considered cases involving citizen or judicial inquiries.

EXECUTIVE BRANCH CLAIMS "UNCONTROLLED DISCRETION"

The "uncontrolled discretion" to withhold information from the legislative branch claimed by the Executive Branch is much broader than the rights the courts have supported in cases involving both executive branch military secrets and *private* parties. Thus it is unlikely that the Courts would sustain such an absolute claim against the legislature. In the trial of Aaron Burr, for example. Chief Justice Marshall ruled that the President and Department heads could be subpoenaed. He further made it clear that the President would have to produce requested papers or persuade the *court* that their production should not be insisted upon, by showing the paper in question to the court.

No doubt there are, and will be, sound reasons to resist certain Congressional inquiries. But it seems evident that no one branch of Government should be permitted, by itself, to determine the boundaries of a fundamental conflict between the branches. Not only would this be inappropriate, it would obviously lead to efforts by the Executive Branch to maintain much greater control over information it generates than less involved observers would sanction. The claim to "unlimited" discretion is obviously a case in point.

[8] This excellent study appears in 12 UCLA Law Review 1044 (1965) and is reprinted in full (150 pages) in the Ervin hearings.

THE ENERGY CRISIS

Mr. GOLDWATER. Mr. President, with every passing day, the specter of an energy crisis in this country looms larger and larger. The privately owned sector of this country's energy industry states flatly that there is a problem, that it is continuing to worsen and the Nation will soon be on a collision course with a major energy shortage.

Despite claims by some environmentalists that the industry sources are overemphasizing the problem there is now general agreement that the domestic supplies of natural gas will begin running out in 10 years, oil in 30 years, and uranium 235, the basic fuel for nuclear power, in 30 years.

Mr. President, when this happens, the United States will become totally dependent upon foreign sources for these fuels. We would be at the mercy of foreign powers who would be in a position to jeopardize our way of life, our industries, and our national security.

This being the case, I suggest that it is long past the time when this country should begin improving its relations with nations of the Western Hemisphere. Nations like Canada and Venezuela, both producers of oil, will become vitally important to the United States should anything happen to our sources of supply in the Middle East. And I am sure everyone in the Congress understands how explosive and tenuous relations always are in that section of the world.

The handwriting is already on the wall as far as I can determine. Only recently, Canada moved to control its petroleum exports and in Venezuela there is now an open debate over whether that country should sell its oil today or wait until a shortage develops and a higher price can be obtained.

It is well for us to remember that Venezuela is presently the world's fourth largest oil exporting nation after Saudi Arabia, Iran and Kuwait. Currently that nation ships about half of its 3-million-barrel-per-day exports to the American east coast.

But what becomes important about Venezuela, in light of the developing world energy crisis, is the enormous deposits of heavy oil in the Orinoco belt which have been by-passed until now for economic reasons. The 375 mile-long Orinoco belt holds an estimated 700,000 million barrels of what is largely heavy oil. If ways can be found to develop this reserve it could be the answer to the entire energy problem in the Western Hemisphere. And if we are to benefit adequately from such a development we will have to look to our good neighbor attitude in that part of the world. And we cannot get to this too quickly. Latin America is still smarting from the high promise and lousy performance of what the Kennedy administration labeled the alliance for progress. And, of course, since that time we have been paying so much attention to Indochina that many hemispheric problems went largely unattended.

Mr. President, because of the vast importance of Venezuela in the energy picture, I ask that three articles from the English language publication Business Venezuela to be printed in the RECORD. The articles, published in the November-December 1972 edition of the magazine, are entitled "Hoard Now, Pay Later" and "The Orinoco Challenge" and "Oil—Time for Decision."

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

HOARD NOW, PAY LATER?

(By Frank J. Amador)

"Oil is where you find it", but how long should it remain there? Venezuela must decide that very soon.

Opposite views hold that the nation should either "Sell it now and enjoy the benefits", or "Wait for better prices". The question is generally put, "Should Venezuela limit its oil production in hopes of getting higher prices later?" In essence this involves dealing in futures.

To make a wise decision, one must consider: 1) Effect of compound interest if sale is purposely delayed; 2) Effect of inflation; and 3) Risk of obsolescence. (See "Petróleo, Especulación y Desarrollo" by Dr. Joaquín Sánchez-Covisa, Orientación Económica, No. 38, Agosto, 1972).

The specific problem then is, how much would Venezuela get in the future for oil worth say, $1 million today?

To evaluate the effect of compound interest, we must determine a realistic interest rate and a period of time for which the sale is delayed.

The going rate of interest is 10–12% per year for sound investments. Another way to evaluate interest is to compare it with the value of money used by governments for socio-economic development. In that connection the Shoup Report estimates that money invested in higher education yields about 23%, in secondary education 17%, and in primary education 82–130%. To use a conservative figure, we will employ the low end of the scale, that is, 10% per year.

To establish the period the oil will be held off the market, we must consider the slowness of government decisions. For example 15 years have passed since the last concessions were granted, and no acceptable substitute has been found yet. Thus, a time period of perhaps 25 years would appear reasonable. Applying a rate of interest of 10% compounded annually over a period of 25 years, we find that $1 million today would be worth $11 million at that time. This means that the price of this oil would have to exceed $11 million 25 years hence, just to cover the effect of compound interest.

A conservative inflation rate would be 3% per year, low by today's standards. Over 25 years then, inflation would have the oil's value, so to cover the effects of compound interest plus inflation the oil would have to be sold for at least $22 million.

The risk of obsolescence is difficult to evaluate accurately. Sometime in the future, atomic energy, shale oil, solar energy, etc., will undoubtedly replace oil as our major energy source. It might be argued that there is a 50–50 chance that obsolescence will reduce our markets and, thus, a 50% risk factor should be used. However, we shall assume a conservative risk factor of 25%.

The total combined impact of compound interest, inflation, and risk factor, therefore, means that oil with a present value of $1 million would have to bring at a minimum $29 million, 25 years from now.

Although other factors are involved, these calculations definitely show that a decision

to voluntarily reduce production is a grave one. Certainly, such a decision should not be based on emotional impulses or preconceived ideas, but only on economic realities.

THE ORINOCO CHALLENGE

(By Kim Fuad)

Venezuela's aging oil industry, cornerstone of the nation's economy, may have a new lease on life in a huge deposit of heavy oil previously bypassed as uneconomic, but now looking better as the nation's petroleum reserves dwindle.

The 375-mile-long Orinoco Heavy Oil Belt, holding an estimated 700,000 million barrels of what is largely heavy oil, has been the focus of U.S. government attention in recent months.

Both the U.S. and Venezuelan governments have avoided making specific public statements on the Belt, but authoritative sources report that prolonged inter-governmental talks on its development are now taking on a new urgency in light of the world energy crisis and the steady descent in Venezuela's proven reserves.

Venezuela is presently the world's fourth largest oil exporting nation after Saudi Arabia, Iran and Kuwait. Currently the nation ships about half of its three million barrel per day (b/d) exports to the U.S. East Coast.

Following over 50 years of intense exploitation of its mineral wealth, Venezuela now has around 13,000 million barrels of proven oil reserves, according to official calculations—enough to maintain output at current levels for a theoretical 10 years more.

Oil experts, however, predict that unless major investments are made to step up the search for oil in new areas and increase the percentage of oil recovered from existing oil fields, production is due for a sharp decline in the near future. They explain that while Venezuela has a theoretical 10 years of reserves, the year-to-year potential tends to fall as reserves are depleted.

Some sources foresee output levels falling below the three million barrel per day mark after 1975.

The Orinoco Heavy Oil Belt, discovered in the mid-1930's, is seen by many as Venezuela's new—and perhaps last—oil frontier. Stretching east to west along the northern bank of the Orinoco River, the 30-to-40-mile wide Belt is largely composed of heavy crude ranging from eight to 12 degrees in A.P.I. gravity.

Until recently, it was called the Orinoco Tar Belt, but the Mines Ministry re-baptized it as the Orinoco Heavy Oil Belt when first steps in a five-year assessment of the area found the Belt also contained medium and lighter, as well as the predominantly heavy oils.

The bulk of the oil in the Belt, however, is so heavy that costly extraction methods will have to be employed to get it out of the ground. An additional disadvantage is that the oil, which contains large amounts of sulfur and metals, requires extensive refining and upgrading, adding to its cost per barrel.

FIVE TIMES OVER

By way of comparison, an investment of around $5,000 would be required to achieve one b/d production in the Belt against an average of between $400 and $500 for Middle Eastern oil. One industry source has estimated that in order to reach production of 500,000 b/d in the Belt, an initial investment of approximately $1,000-million dollars would be necessary.

The present high production costs and current slow world market for heavy oils do indeed militate against immediate development of the Belt. Nevertheless, it is noteworthy that even if a modest 10 per cent (70,000 million barrels) should prove to be economically recuperable, this would represent more than five times the volume of Venezuela's current proven reserves.

Under normal circumstances, the Belt might have gone another three decades largely undisturbed, but the world energy crisis and U.S. concern over securing geographically advantageous and politically stable oil supply has sparked interest in the 74-million acre area.

Over the past years, only around 100 wells have been drilled in the area which is larger than the total extension of concessions now held by foreign oil companies. Although some production has been achieved on fringe areas, the Belt has had little impact on the nation's over-all picture to date.

Two-thirds of Venezuela's three million-plus barrels per day output comes from the Maracaibo Basin, one of the world's major oil deposits. The Bolivar Coastal Field ranks as the third largest deposit ever discovered.

However, the traditional producing areas—held under 40-year concessions by international giants such as Esso, Shell, Mobil, Gulf and Texaco—have been almost completely explored and their oil is being depleted. Venezuela is nearing the 30,000-million barrel mark in its total exports since commercial shipments were begun in 1971.

The current efforts to reverse the unabated decline in reserves recorded over the past six years have yet to make any contribution. In the southern end of Lake Maracaibo, the three companies that won blocks under the new service contract system have run up a drilling bill well over $15 million without finding commercial amounts of oil. Two of the companies, Mobil and Shell, have halted drilling pending new assessments of the area, while the third, Occidental, continues doggedly in its efforts. Original estimates of the field's potential ranged as high as 3,000-million recoverable barrels, but with the initial failures, sights have been lowered considerably.

In another unexplored area, the Golfo de La Vela along the Caribbean coastline east of the Paraguaná Peninsula, the state oil company, CVP, has reported finding oil in the second of the programmed dozen offshore wildcat wells it has started drilling. No solid assessment of the area's potential, however, will be avaliable until the drilling program is completed in the second half of 1973.

Other potential unexplored areas exist, but they are all high-risk. In effect, the Orinoco Heavy Oil Belt is the only area where major amounts of oil are concretely known to exist. Whereas the other areas pose an exploratory risk, the Belt is an economic risk, depending upon the future heavy oil market, and the terms under which the government will allow its development. The pressure to add new reserves to the nation's mineral bank account is aggravated by the fact that two-thirds of government revenue is oil-based. Despite efforts to diversify the economy, lessened dependence on oil income still remains distant.

PRICE HIKES

The problem of the negative impact on state income due to a decline in production has been modified in recent years as the government has taken steps to put teeth into its goal of selling oil at higher prices. The government has decreed three successive hikes in the tax reference values used to collect income taxes from oil exporters. The hikes have been about 60 U.S. cents for 1971, over 30 for 1972 and an estimated 12 to 17 cents for 1973. According to Mines Minister Hugo Pérez La Salvia, from 1969 to 1972, the government's share of oil profits—now probably about 85 percent—has risen by 75 U.S. cents. Finance Minister Luis Enrique Oberto estimates oil income for the government in 1973 will be in excess of $2,000-million.

Venezuela's battle to win fair prices for its main export has been relatively successful, but the impact on the industry has been largely negative. The country's two major producers, Esso and Shell, have reported 1972 economic results ranging from Shell's net loss to an almost 50 per cent cutback in Esso's profits.

The tax burden has been such that this year Venezuelan oil in some cases was literally priced out of the market in competing with Middle Eastern and African crudes on the U.S. East Coast at a time when tanker rate reductions largely erased Venezuela's goegraphical advantage.

In setting 1973 prices, Venezuela decreed moderate hikes in order to meet the challenge of Eastern Hemisphere oil, but stiffened demands on the companies to keep export levels up on pain of scaled punitive taxes on firms violating minimum and maximum parameters for exports of about 3.2 to 3.6-million b/d.

This difficult economic situation for the oil industry is further aggravated by the 12-year countdown now running on the return of concessions to the state, with no clear indication yet as to what the companies may expect when some 75 per cent of concessions expire in 1983–85.

At present, the average recovery of oil from a deposit in Venezuela is 22 per cent. The recovery factor may go as high as 40 per cent for light oils or drop to below 10 per cent when it is heavy.

Over the lifetime of every oil well, a curve in the decline in output establishes itself with the gradual loss of pressure as the oil and gas are taken out. There is normally an initial period called "natural drive" when the oil flows to the surface on its own. Thereafter, a second phase, called "artificial lift," adds to the well's working lifetime. These first two phases are termed "primary recovery." Then, unless "secondary recovery" systems are applied—largely through injection of gas, water or steam—the well declines to a "stripper" status, exhausting its last few barrels per day.

Secondary recovery systems are being used in many areas in the nation, but the required investment for maintaining or increasing potential through these systems is large. Hence, under the current tax burden and reversion law requirements, most firms consider a major expansion in secondary recovery to be uneconomic. Moreover, with the passage of time—again considering that the bulk of concessions are due to expire in 1983–85—this judgment is likely to harden.

NO CURE-ALL

The combination of these factors—lack of success in new areas, obstacles to increasing potential in old fields now in decline, plus U.S. interest in seeing Venezuela maintain its status as a steady and secure source of supply—has served to draw attention to the Orinoco Heavy Oil Belt.

The Belt, however, is no instant cure-all to Venezuela's oil problems, according to most experts who believe that it could be a decade before the area begins to make any major contribution to production.

Almost in chorus, oil companies, when questioned on the possibility of developing the Belt, reply that the government must devise a more favorable formula if private industry is expected to supply the huge investments required for getting the area into production.

The magnitude of the area alone is a major challenge. Exploration of the 7.4-million acres could take as long as five years, since it is believed that conventional seismographic surveys would probably have to be supplemented, or even replaced, by actual drilling. There appear to be no shortcuts in the process unless the government and the companies are willing to run the risks involved in eliminating some of the steps.

"Prudence", one industry expert said, "is the key word here". He explained that due to the enormous development costs involved,

exploitation of the Belt would have to be carefully calculated, with little or no margin for error.

While optimistic experts from the Venezuelan Mines Ministry have reported finding lighter oil in the western part of the Belt, it is generally agreed that the heavy oil will require special extraction methods. Steam injection of one variety or another will probably be used to extract the oil, some of which is heavier than water.

One U.S. oil firm, Phillips Petroleum Co., has capacity for 88,000 b/d output from a fringe area of the Belt, in Monagas State, using injection of lighter oil to dilute the eight degree gravity oil to increase its flow, thereby allowing extraction. The system being used by Phillips on a large scale would require huge amounts of diluent. In order to extract between 500,000 and 600,000 barrels per day, around 100,000 barrels of diluent would have to be injected.

Amoco, whose nearby Jobo Field is operated by Phillips, is shipping approximately 33,000 b/d of heavy oil via a 65-km. pipeline to Puerto Ordaz, where it is loaded on 130,000-barrel tankers, largest that regularly travel up the Orinoco this far. The Amoco product consists of some less than nine gravity oil mixed with some that is over 13 gravity. It moves through a pipeline heated at two points enroute to keep the heavy oil flowing.

Both Phillips' and Amoco's concessions were granted in 1957 and will expire in 1996.

CVP has drilled 10 wells in an area between Phillips and Amoco, but has no production to date. In neighboring Jobo and Pilon Fields, Creole has a capacity of some 50,000 b/d of 15 gravity oil and a pipeline to their Caripito refinery and terminal.

$5 A BARREL?

In addition to the high extraction cost, future producers in the Belt would also face the expense of refining out the high sulfur and metal content in order to meet the strict requirements of pollution-conscious consumers in the United States.

Mines Ministry expert Arévalo Reyes recently commented on the problem of heavy crudes in Venezuela before a group of fellow petroleum engineers.

He said that the production of heavy crudes—which make up about 30 per cent of Venezuelan output—normally costs from 55 to 60 U.S. cents per barrel as opposed to 30 cents for light crude. Adding other costs, Reyes calculated that the production cost for a very heavy crude could range from $1 to $1.30 per barrel, including royalties. The high sulfur content of heavy crudes and the need for upgrading could expand production costs to as high as $5 a barrel before they are marketed, according to Reyes.

Five dollars as opposed to a price in the range of $2.50 to $3 per barrel for the average Venezuelan crude at present is a wide gap—and prices for the heavy crudes are, of course, much lower than this average. The gap, however, is becoming narrower as Middle Eastern producers insist on better prices and demand grows on a world scale. The U.S. government is now looking closely at development of oil shale in the Rocky Mountains and tar sands in Canada where extraction costs are about $4 a barrel.

In October, Alirio Parra, a former high-ranking official in the Mines Ministry who is now a private consultant, presented a study to a world oil symposium in Quito, Ecuador, assessing prices and taxes vis a vis world oil supplies.

"The factors which ushered in the 1970's," he said, "had already been set in motion some years earlier. They reflected the greater dependence of the world on oil as a source of energy, the recognition that the rate of discovery of 'low cost' reserves was slowing and the failure of alternative complementary sources of energy to live up to the expectations promoted during the previous decade. It was within this context that market prices and taxes increased in the years 1970 to 1972. To size up the rest of the present decade is not an easy or enviable task, nor is it one that can be avoided for long. Surely the outlook will be influenced by 'chunks' of demand moving away from traditional centers of supply toward higher cost alternative sources of energy. All the facts seem to point in the direction of higher energy and oil prices over a time span of 10 to 15 years".

Parra foresees U.S. net oil imports rising from 3.4-million b/d in 1970, to 10.9-million in 1980 and 14.8-million in 1985.

UNCLE SAM'S INTEREST

It was learned recently that the U.S. government is keen on promoting development of the Orinoco Heavy Oil Belt and, in order to assure the necessary major capital investments, has posed the possibility of a country-to-country treaty to be approved by Congress. The treaty would be a simple statement of commitment to guarantee U.S., and other foreign oil companies, amortization of their investment as well as repatriation of reasonable profits.

The treaty would open the way for individual negotiations between the companies and the state over development of the Belt.

When U.S. State Department oil expert James Aikens was in Caracas recently he met with government oil experts to discuss the Belt. Enthused over recent findings by the Mines Ministry, which has been carrying out an assessment of the area since 1969, Aikens suggested an accelerated 18-month joint investigation of the Belt by both CVP and private companies. The Ministry study of the Belt is expected to be completed in 1975.

The state-owned CVP, seen in many political circles as the heir to private oil companies when concessions revert, is also doing some drilling in the Belt.

While almost all these factors would appear to lead to action on the Belt, immediate action seems unlikely because of political considerations. With Venezuela scheduled to hold presidential elections in 1973, the present administration may not be able to make any long-term commitments.

It has been insistently reported that the ruling Social Christian "Copei" party, as well as the nation's largest opposition party, "Acción Democrática", have agreed to discuss minimum conditions for future oil policy, regardless of the outcome of the 1973 elections. This first step could pave the way toward development of the Belt.

It is a matter of speculation as to what sort of agreement or arrangement may finally be worked out between Venezuela and the oil companies. In 1959, the government announced that no further concessions would be granted. Yet it was only last year that the new system of service contracts went into operation. Although service contracts have been frequently billed as a substitute to concessions, their application, at least from experience to date in South Lake Maracaibo, may be limited.

Another alternative, posed by President Rafael Caldera as far back as his 1968 presidential campaign, but still not spelled out in detail, is the often mentioned "mixed company" joint venture.

It is assumed that any new agreements would give the state a more integrated role in developing and marketing Venezuela's oil. CVP, which has been rather slow in building up its sale of oil on world markets since its establishment 12 years ago, is keen on gaining expertise in marketing and enhancing its over-all role.

NEW FORMULAS

The oil companies are vitally interested in any new formulas that may clear up doubts as to the future of their operations following the 1983–85 reversion of concessions they hold. In the fast-changing world oil situation, the companies have had to face a diminishing role in company-government relations, with the producing nation now holding the upper hand. Nonetheless, capital and knowhow weighs heavily in the favor of private industry and makes its disappearance unthinkable in the foreseeable future.

Close to the heart of the mounting interest in the Belt is the fact that it underscores the need for a reformulation of present government oil policy. It is inconceivable that a "new deal" for companies operating here would be limited exclusively to the Belt; in fact, such a deal would probably be unacceptable.

No major Venezuelan concession holder could be enticed by an offer to develop the Orinoco Heavy Oil Belt if still faced with an economically untenable position in present production of traditional fields. Thus, the Belt could provide the additional leverage needed to lift the weight of indecision from the policy makers' shoulders, stimulating them to chart a feasible route toward continuing development of the nation's oil resources.

Some kind of partnership between the state and the various companies that would be called upon to develop the Orinoco Heavy Oil Belt would appear to be most likely. As partners, however, the companies point out that government attitudes must become more pragmatic and flexible, especially when the firms are called upon to foot the huge investment bill in capital sensitive projects such as the Belt, where literally a penny more or a penny less in the tax burden can signal profits or losses.

As one observer recently pointed out, "The Orinoco Heavy Oil Belt not only offers a new frontier in developing an area that in the past would have been an uneconomic proposition, but is also a new frontier in government, and company relationships."

OIL—A TIME FOR DECISION

(By Clement Cohen)

Down the road for Venezuela, and not too distant, lies the imperative need to make some hard decisions governing the future development and use of the nation's oil resources.

The decisions are not by any means simple ones. They involve political, economic, and foreign relations considerations so complex that—apart from the so far unproductive Service Contracts—no long-range policy has been formulated by any government since Rómulo Betancourt enunciated the "No More Concessions" policy in the late 1950's.

But lack of decision is, in itself, a kind of conservationist decision. It has meant a policy of letting things take their course, with periodic adjustments to the tax mechanisms bringing increases in the government's participation in oil company profits.

Now proven oil reserves have slipped to a level equivalent to some 10–13 years' production at current rates. And production has declined from the all-time peak achieved in 1970.

Unquestionably, a considerable amount of intellectual energy is being spent in reviewing this transcendental national problems.

Proposed solutions abound. Selective Nationalization (as employed by Libya) Ownership Participation (now being concluded by Persian Gulf countries), Legal Reversion to the State as concessions expire (the Venezuelan plan) are all concepts through which oil-producing countries expect to gain greater operational control of their oil from the major international companies, which have dominated the world's oil business since its founding.

Service Contracts, Mixed Company Participation, Nation-to-Nation agreements, Joint Ventures, Tripartite Companies—are all names of proposed formulas through which Venezuela, by utilizing one or more, might hope to encourage foreign investment for exploration and development, while maintaining control over its oil resources.

CHANGING OIL PICTURE

Because of the present political and economic outlook worldwide, oilmen seem to feel that by 1975 conflicting interests will converge to force a decision on oil firms and the Venezuelan government alike.

A total restructuring of the world oil picture is definitely underway. This is admitted by oil company officials, proclaimed by government leaders and underlined by the man who perhaps was the single individual most responsible for originally setting these changes in motion, Dr. Juan Pablo Pérez Alfonzo, Co-founder of OPEC.

In Venezuela, perhaps the most important development has been the sudden discovery by Venezuelans that the nation's oil reserves are going down and that production cannot be maintained at current levels much longer.

This observation leads to the question: What is the future in Venezuela for the private foreign oil companies?

Mines Minister Hugo Pérez La Salvia has stated that even though the producing countries will become increasingly involved in the production aspect of the industry, "there will be sun enough for everybody," if the oil companies concentrate on the marketing end of the business. This, possibly, is even recognized by private oil industry leaders.

Dr. Pérez La Salvia believes that the nation can handle the cost and that "technology can be bought." But industry leaders and others wonder out loud if the hundreds of millions of dollars required for exploration and other oil investment in the immediate future can be attracted.

Dr. Pérez Alfonza, whom no one could ever consider a defender of foreign oil companies, also believes that the exploration cost will increase in the future, and that the era of cheap oil in Venezuela is over.

Pérez La Salvia says that the search for oil can be divided in two parts: one, the discovery of an area and two, the delineation of that area. He has estimated—for statistical analysis—that the cost of these two phases is roughly Bs. 0.59 per barrel, with some 20 of the cents going for the first aspect.

"Thus, to carry out the first phase of exploration, that is, the discovery of oil," says Pérez La Salvia, "the investment needed from a statistical-historical point of view, to discover 1,300 million barrels a year is, within reasonable bounds, an annual investment of about 300 million bolivars a year."

Once the oil is found, he argues, "it becomes possible to find the money in the international markets to finance the second phase," exactly the way, he says, foreign companies are increasingly obtaining their financing.

However, some oil company leaders agree with Dr. Pérez Alfonzo that exploration costs will be substantially greater in the future and hence the "historical-statistical approach may not be at all valid."

One oilman specifically questioned whether "Bs. 300 million a year will be enough. If not," he asked, "will it be politically feasible to allow CVP additional funds for exploration, when other national priorities will be crying for money?"

MUCH HIGHER COST

The well-known oil expert, Dr. Aníbal Martinez, who just published a book, "Hydrocarbon Resources of Venezuela", feels that the cost may run much higher.

However, "allocation by Congress for exploration is not a guarantee that oil will be found" asserts Pérez Alfonzo.

These discussions do not mention the Orinco Tar Belt which is known to have large deposits. However, the high cost of extracting heavy oil from this field makes production commercially non-viable at present.

Looking at the future, therefore, there are factors in the Venezuelan oil picture that seem to indicate "a role" for the private oil companies in the near and intermediate future, regardless of what happens with reversion in 1983–5.

But it is not only a question of whether the country is interested in the oil companies, there may be some question as to whether the oil companies are interested in the country.

Given present conditions, the question is valid. The oil companies for example are still confused by the diffuse "power structure" of oil decisions. Specifically, they are sincerely concerned at the situation created by a powerful Congress encroaching upon the executive branch.

"Of course, we realize that Congress represents the people," said one oilman. "But frankly, if we have to deal with people, it is much easier to establish a dialogue with the men directly responsible for a policy than it is to establish a dialogue among some 300 persons."

This same thought was reflected by numerous other industry men who argued simply that it was not a question of coming to agreements "behind the back" of the Venezuelan people "but a question of determining who are the persons we have to deal with."

"As we see it," said another oilman, "the role of Congress is that of advise and consent—a role which we certainly recognize. But when we make plans we must know that these plans have some sort of validity in our immediate relationship with the state."

Obviously akin to the foregoing lies another problem, to date virtually unstated: political consensus.

"Politics increasingly is playing an important role in oil affairs. And this comes precisely at a time when the country had seemingly arrived at some sort of political consensus regarding her conservationist oil policy," said a top oil company figure.

Left still unstated are the attitudes of the two top political parties in the country. Nationalization, for example, is an alternative voiced only by two minority political groups.

But the two major parties echo the words of Pérez Alfonso on nationalization; "an alternative only if we are forced into it."

This could lead to the creation of a bipartisan policy—at least in its broad outlines—between the ruling Social Christians and the opposition Acción Democrática.

But such an agreement—unless under orders from the top—is hard to achieve.

FRAGILE MODUS VIVENDI

And in this respect the current debate between Mines Minister Hugo Pérez La Salvia and ex-Minister Juan Palbo Pérez Alfonzo over the real size of the export values has not helped matters.

The fragile modus vivendi between the two major parties has been severely threatened. Everybody knows that Pérez Alfonzo, though highly controversial in his statements, does not play "party politics"—mainly because he will not accept any party's discipline. However, his strong attacks forced the Mines Minister to answer that "Pérez Alfonzo talks much but does little."

Quite apart from the issue of whether the hike in tax prices for 1973 is 17 cents or 10 cents, the debate has placed Acción Democrática in the clear position of backing Pérez Alfonzo 100 per cent—something that has not really happened since this controversial figure left the Betancourt cabinet.

Copei has reversed the nation's traditional conservationist policy by forcing Venezuela to "compete" with the Middle East oil prices, AD argues, and this naturally places oil in the front line of the electoral debate.

The only optimistic thing that can be said is that whichever party wins the election will require help from the other in order to restore some Congressional modus vivendi for the government that emerges after the ballots are counted. But until then it will be a nervewracking time for the oil companies which are stuck in the middle.

"Pérez Alfonzo has given AD a complex," says one observer. "If it does as he says, AD will be alienating the private oil industry, probably to a point of no return and, if it doesn't, Adecos feel they are betraying their own cause."

The oil companies are not as much aware of these problems as they are of the direct ones they have to deal with: operational controls that affect their business planning and general political crossfire, of which the basic thrust is—let the oil companies pay.

"The question, really, is very simple," said one company president. "Oil production and reserves are really going down but the budget increases every year. Three things can happen: the government will cut its budgets. Unlikely! The government can raise personal income taxes. Even more unlikely! They can make us pay even more. Most probable."

However, the oilman then noted, "there will come a moment, and that moment is not too far away, when limited reserves will literally impose a reduction in production. And the drop in production will, in turn, cause a drop in oil revenue."

In part, this assertion was confirmed by the announcement made in early September by Finance Minister Luis Enrique Oberto that the 1973 budget estimate would have to be reevaluated because the oil income estimates would be some Bs. 900 million lower than originally projected.

But international factors also play a significant role in determining domestic policy. Not long ago, Jesús Angel Paz Galarraga was asked why he wanted to nationalize the petroleum industry should he become president, when somebody like Pérez Alfonzo opposes it, unless Venezuela is forced into taking such a step.

Paz Galarraga replied that—"in OPEC the international conditions are now such that for Venezuela this step is necessary."

OIL CONSUMERISM

Pérez Alfonzo still does not go along with this idea but he does favor "participation", more or less as outlined by OPEC. His chief concern is one of "balance" between consumer and producer.

He asserts it is "clear that the giant oil companies can no longer exercise their will." Their strength was curtailed by OPEC because the governments of industrialized nations were unwilling to establish justice for the producer nations and "even now seem reluctant" to intervene to establish justice for the consumer. But the Persian Gulf price crisis in early 1971 wrought a new order due to the intervention for the first time of a top U.S. official, James Irwin, Under-Secretary of State, in the price agreement. Irwin sought to prevent a negotiating impasse from causing any cutback in U.S. oil supply.

"It is clear that in the not too distant future," according to Pérez Alfonzo, "there will have to be a balance between consumer nations and producer nations. If OPEC begins to become abusive in its demands making it onerous not only for the underdeveloped nations, it is obvious that the long needed balance will have to be the creation of some form of OPEC of consumer nations."

However, despite his "balance" theory, Pérez Alfonzo sincerely believes that the future role of the international oil companies lies outside the production area. But he also insists it is "essential that other sources of energy be developed fast," arguing that it is "inexcusable" that we keep burning oil. And it is precisely because he sees no future for international oil companies at the producer end that he argues so vehemently in favor of the OPEC-sponsored participation formula. He feels (1) participation is good

business (despite oncoming reversion in 1983–5) and (2) it is good experience.

Venezuelan Mines Minister Pérez La Salvia, however, is not so sure about the participation formula. He contends that reversion in 1983–5 guarantees the return to Venezuela of all the company assets in 10 years' time so, he asks, why is participation necessary? He argues that under the Venezuelan legal system the nation participates very thoroughly in the oil industry, thereby fulfilling the aspirations which inspired the OPEC resolution.

In Venezuela, the problem is not a question of obtaining the assets, since these will revert—but the question is how participation would work. There can be no compensation for oil still underground even though discovered by the oil companies because, under the Venezuelan constitution, everything in the subsoil is unquestionably the nation's. Creole's oil becomes Creole's oil only from the minute it hits the surface. The only "issue" as far as Venezuela is concerned, if it decides to enter into participation, will be its right to purchase 20% ownership of total facilities. The companies, on the other hand, might be willing to consider sale of 20% of company stock, or 20% of facilities at current market value.

THE PARTICIPATION ISSUE

Despite the Minister's assertions about participation not being "applicable" to Venezuela because of reversion, this issue could be raised by Acción Democrática if it wins the 1973 elections. If AD loses the elections, participation is even more likely to become a politically convenient issue.

Service Contracts, under which 250,000 hectares were granted last year in South Lake Maracaibo—the first new grants since 1956—may have been stillborn.

The original sponsor of Service Contracts (to replace concessions) was Pérez Alfonzo who later turned against his own formula, arguing that it was an incentive to "waste our non-renewable resources".

And as one oil company executive put it, "there are three reasons to believe that they will not come up again. There is no political climate for them, and because of their inherent conditions, no economic climate for them, and they are a relative failure (8 dry holes to date)."

However, Mines Minister Pérez La Salvia mentions them as a valid formula, among many other possibilities:

"The new paths being considered for the future are, for example, service contracts, mixed enterprises, association with other national oil companies and, above all, direct exploitation by the Venezuelan Petroleum Corporation".

But more realistically, it is clear that the problem lies not in what formula will be applied to existing fields but rather what formula will be applied in the future for new possibilities and new fields.

Once again Pérez Alfonzo has come up with a shocker, arguing that he is not in favor of having the entire nation's future potential oil wealth in the hands of the CVP.

He claims that the CVP is basically well run and quite efficient. But it is noteworthy that Pérez Alfonzo recognizes that Venezuela "should not tamper with the oil company structures as they exist. This is one of the reasons I favor participation in order to gain experience. There is no substitute for efficiency as oil becomes more and more difficult and costly to extract".

He is now considering a "tripartite" formula to include government, public, and private participation (not necessarily foreign) "which would serve to guarantee efficiency".

What he has in mind is something akin to Venezuela's Central Bank where the government has the largest interest, and public and private participation is limited; nevertheless, government cannot impose its will as its power is limited; government cannot own more than an "X" number of shares of stock and the same holds true for the individual person and individual enterprise.

Pérez Alfonzo believes that such a tripartite entity would be able to obtain its own funding for exploration and other costs, guarantee administrative honesty and efficiency, and long-range planning.

The CVP has handled some important exploratory work but its success lies mainly in the exploration of areas near proven reserves.

CVP FUNDING

One private oil company official predicted "the CVP may not be able to obtain all the funding it will need for exploratory activity so we cannot envisage it taking over all activity in the future. However, they are now embarked in very heavy activity in the Gulf of La Vela. The law of averages is that it's very hard to hit a big one but also there is nothing like success. If CVP proves out a major new field, then who knows how much funding the government might give it, or how expansive CVP plans might grow . . ." But to date, the state company is still evaluating the La Vela area. No one knows its significance yet.

The CVP is also busily embarked upon trying to reach some sort of arrangement with West Germany's Deminex. It is working on a formula whereby Deminex will finance exploration and development, to be executed by CVP, and in exchange the West German firm will receive oil on long-range terms at prices interesting to Deminex. The deal would provide Deminex with oil supply "insurance".

CVP is also pondering government-to-government negotiations with companies such as Petrobras of Brazil, but obviously one pitfall here is nationalism.

This is where the private company normally plays an important role in the industry view. A private company is a neutral operator, minimizing international politics, and serving as a buffer to insure continued commerce, despite conflicting ideologies. Algeria is an example of the important role private companies can play, oilmen note.

Another observer commented: "If they want to deal with other countries—be it country-to-country or through national companies—they should keep in mind that countries have power, money, foreign services and armies. We think it will be much more difficult."

It seems also unlikely that Venezuela can bypass the majors in any foreseeable future because over half its exports are to the United States, Puerto Rico and Canada.

As another industry spokesman put it: "Venezuela is basically restricted to one market: the U.S., the Caribbean and Canada". Nevertheless, some exports to Europe will be carried out through national company to national company accords.

There seems to be national consensus on selling less oil at higher prices.

Venezuela, therefore, is planning for a long period of a production "plateau" of roughly 3.5 to 4 million b/d averages and intends to finance its development needs through increases in the oil prices.

But oilmen think this policy a mistake because the thesis of cutting production and raising prices involves Venezuela's least competitive product—heavy crude.

Venezuela's "production plateau" thesis is backed by the recent volume control decree which is an effort to insulate Venezuela from the demand-supply battle by punishing oil companies for deviating from a predetermined production level.

HEMISPHERIC PREFERENCE

One oil executive notes that "Venezuela as a supplier to the U.S. is in a different position from other oil exporters. This is recognized in principle by all. The only question being "how much is this difference worth?"

This reflects the Pérez Alfonzo's main higher price argument that consumers should pay a "secure source premium". In turn, Pérez La Salvia argues for "hemispheric treatment" in his discussions with U.S. officials.

Some people believe that before too long "hemispheric preference" will be a fact of life regardless of whether it is announced as such by the U.S.

It is possible that the United States may just try to win diplomatic points in accepting the inevitable—the intrinsic strategic value of hemispheric oil. In so doing, it may tacitly accept the "premium thesis" of Juan Pablo Pérez Alfonzo.

Venezuela claims it will benefit from the search for diversified sources of energy.

"When they talk about nuclear, solar, coal and gas energy, they are talking about relatively high cost products. When that happens they will also have to include in the list, the Orinoco Tar Belt or the Athabasca Tar Sands of Canada. When that time comes, our Tar Belt will become commercially viable", insists a Venezuelan oil expert.

There is also purportedly oil in the South Lake. But it is clear that there is less oil "factors of optimism". There is oil out in the probably oil in the Gulf of La Vela but CVP exploration work there has only come up with "factors of optimism". There is oil out in the Gulf of Paria, but no major push in that area has yet been made.

And, of course, the most optimistic spot to many is the Gulf of Venezuela but that area is checkmated due to the problems between Colombia and Venezuela in the delineation of the submarine platform.

So, despite the assurances that "there is oil out there somewhere", time is beginning to push hard on government decisions and the immediate realities are dwindling reserves and declining production. This is one of the factors that tend to push for "a realistic major decision about the oil future by 1975".

The oil companies in Venezuela are more than worried about the future—they are even saying so publicly. Recently outgoing Shell President J. J. de Liefde cited the Bs. 20 million ($4.5-million) loss sustained by Shell for the first half of 1972 (since then, Shell has announced a Bs. 29-million net profit for the first 9 months of 1972, down from the Bs. 256-million net profits recorded during the comparable period of 1971.) and clearly indicated his concern for the health of the industry in the future.

Although he accepted the objective of maintaining operations in a viable manner with the hope that "sooner or later we will be in a position to evaluate clearly the future of our operations in Venezuela," nevertheless he pointed out that the latter "will of course, depend on the final structure of our association with the Venezuelan nation."

De Liefde stated that the great challenge confronting producing countries and the industry is the feasibility of establishing between them, and as soon as possible, "a rational, fair and stable association in order to maintain the needed economic structures which will allow an optimum utilization of the economic opportunities which the future may have in store."

On the positive side, he described the association that now exists between government and oil company in the service contract areas of south Lake Maracaibo as "total and excellent."

A FUTURE THERE IS

This sentiment is one reason for optimism. A spokesman for Mobil, Vice-President Romulo Quintero, feels that the CVP-company

relations "are so good that they are a basis for optimism regarding the future."

"How is business?" a reporter asked Creole President Robert Dolph recently.

"We have our problems but production has increased from February's low. We are producing 1.4 million b/d and I believe we can maintain that level for the next few months", said Dolph. "And taking into account the market situation, that amount is quite satisfactory."

Earlier in the year when Dolph reported first quarter earnings to stock holders, he explained that Creole profits were down by 44 per cent. Venezuelan officials pointed out that the Creole announcement was "alarmist" because the 1971 first quarter happened to have been a record in Venezuela and that the market began to change during the second and third quarters so that "Creole was comparing a reasonably poor quarter against a record quarter." Creole, however, answers that all they wanted to do was demonstrate the "trend."

What lies in the future?

One top oilman comments: "There has to be a future, that is why we entered into the Service Contract formula." Moreover, he added, his company is prepared to examine new formulas, new approaches "provided, of course, that they are commercially viable."

This same industry spokesman admitted the Reversion Law is very much a consideration "when new investments are analyzed," but also remarked hopefully, that some formula should be found in the immediate future for what will not be affected by reversion.

A spokesman for Creole, asked if his company was going into a holding pattern from here on in, said:

"The production and selling of Venezuelan oil will continue to require a substantial flow of new investment in drilling of new wells to offset decline, in existing wells and, down the road, to convert a growing proportion of heavy and relatively heavy high-sulphur-content crude oil into salable products.

"The question mark is Venezuelan oil policy. Can we look at the future with confidence?

"We believe there is an interest on our part to invest because it will increase our business and we believe Venezuela is also interested in further bettering what is in the best interests of the nation".

As if to prove this point Creole just expanded its Amuay refinery, making it the largest in the world, capable of processing from 450,000 to 630,000 b/d. It is also just expanding desulphurization capacity from 160,000 b/d up to 200,000 b/d by sheer efficiency, and now once more at 300,000 b/d capacity.

"There is more than just a holding operation, more than just talk. They are facts and represent a good deal of money. Very obviously these decisions were made taking everything into account. Yes, you can say it is a demonstration of our confidence in the future", said the Creole spokesman.

WOULD LIKE TO STAY

Other industry spokesmen on the future obviously did not want to be quoted by company, but they pointed out that "it is true that we no longer monopolize what are still our strongest points: capital, technology and administrative efficiency.

"Still, as far as we see, all these factors will still count at the end of the decade and it will be true that we still combine the best of all these".

He then explained that even in the better oil areas companies can produce only from 20 to 40 per cent of what is really down there, so technology for secondary and tertiary recovery methods "may still be one of the valid reasons why we may still have a valuable function to perform for some time in the future".

Mobil's vice-president puts is more simply:

"In defending the private industry's role we can say that we know the business, we know how to take advantage of situations, looking years ahead as to how best to earn a profit".

Other top company officials feel the same way:

"We would like to stay if we can contribute in a meaningful way," says Mene Grande President Lewis A. Ramsey. "We have been here nearly 50 years, we have been good corporate citizens and we welcome the opportunity to find some way to continue this connection".

Everybody seems to point to 1975 as a target date. It is not only a time when the next government will have settled into office but also a date when the negative effects of the present situation will begin to be felt most heavily.

"Venezuela is arriving at the point—and it is not 1983—when a decision must be taken", said one top official. "Private industry has all the down-stream operation and while we have this we are going to be the ones who sell the oil, and to do so we must sell it to those who can buy it".

This statement implies that oil companies here may be considering the possibility of relinquishing to a great extent the "producing" end but recognizing that they still will have a considerable say and that decisions, therefore, cannot possibly be unilateral.

Some ideas proposed are not necessarily unacceptable. For example, the Pérez Alfonzo idea of maintaining the structure of the oil companies could conceivably lead to some form of "consortium" for the "1983–5 affected" companies. The idea of producing nations investing some of their surplus oil revenues in the developed nations is accepted by some "as a way of obtaining some sense of balance". The idea of mixed companies is not discarded. "We are flexible", said the president of an important company.

Another oilman summed up the whole situation in much simpler terms:

"We are not giving up, we are living in crisis and we have to learn to live in crisis".

"We think it will require a large financial effort", said MGO's president, speaking of the future, "so the only way we go about it is through a meeting of minds".

PROPOSED VOTER REGISTRATION LEGISLATION

Mr. McGEE. Mr. President, I would like to bring to the attention of my colleagues the testimony of the distinguished Senator from Tennessee (Mr. BROCK) before the Senate Committee on Post Office and Civil Service concerning the voter registration legislation.

Senator BROCK is a cosponsor of S. 352, the voter registration bill. He feels that something must be done to enable our citizens to vote in respectable numbers. The obstacles in our voter registration process are in large part responsible for our poor voter turnout. These obstacles were enumerated in a comprehensive study of our Nation's registration process that was carried out by the highly regarded League of Women Voters last year.

In particular, I would like to draw attention to Senator BROCK's statement that S. 352 is people legislation and not a partisan measure. He believes that increased voter participation will most benefit the party which can best represent the will of the people.

Senator BROCK said that according to Gallup's research the unregistered Americans are not just the poor and the black. He presents a study which shows that 26 percent of our white citizens are unregistered; 26 percent of the college educated are unregistered; and, 29 percent of the white-collar workers are unregistered.

He also cites a study of the nonvoter which appeared in the book, "The American Voter." This survey showed that in 1948, the Republican Party would have received only 18-percent support of the nonvoters had they voted. In 1952, the nonvoter would have given the Republican Party 48 percent of their votes. And in 1956, 72 percent of the nonvoters would have voted for the Republican Party had they voted. Clearly, the unregistered and the nonvoter are not the property of either party.

Senator BROCK had a particular interest in the young, new voters in the last election. He referred to a Gallup poll of August 6, 1971, which showed President Nixon trailing Senator MUSKIE, Senator HUMPHREY and tied with Mayor Lindsay when only 42 percent of the new voters voted. The poll indicated, however, that if 100 percent of the new voters participated, Nixon led MUSKIE, HUMPHREY and Lindsay.

Another Gallup poll, taken just before our last general election, showed that among the 18 to 23-year-olds who had registered to vote, Senator MCGOVERN led President Nixon 57 percent to 41 percent. The same poll of those 18- to 23-year-olds who had not registered to vote reversed the decision and had President Nixon leading Senator MCGOVERN 46 percent to 43 percent.

My experience also supports the nonpartisan nature of increased voter participation. In 1968, while only 27 percent of the American population identified themselves as Republicans, 43 percent of the electorate cast their ballot for President Nixon.

The record indicates that increased voter participation is a nonpartisan issue that benefits both political parties. The party or candidate who cannot win in an open and free election does not deserve the victory.

In many countries, failure to vote is illegal, and those who do not exercise their franchise are subject to fines or other penalties. There are problems in such a law, and Senator BROCK and I would question its appropriateness in America.

But it is just as clear that we should not, by law, discourage people from voting. Our effort to reform laws which have that effect is an effort to open the doors to full voluntary participation in elections by all citizens. It is a step toward greater freedom, and a better democracy.

I commend Senator BROCK for his candor and farsighted leadership on the other side of the aisle. For those Senators who may have missed it, I would point out that Senator BROCK's statement appeared in the RECORD for March 19 at page 8443.

A COSTLY ARMY OF VOLUNTEERS

Mr SAXBE. Mr. President, Joseph A. Califano, Jr., who served as Special Assistant for Domestic Affairs under President Johnson, recently wrote an article

for New Republic magazine dealing with some of the serious questions raised by the Nation's dependence on an all-volunteer army.

Mr. Califano presents information showing the increased cost of maintaining an all-volunteer force, and also discusses the effect it will have in excusing youth from middle-class and upper-middle-class families from any requirement of service to the country.

History has shown that it is the middle and upper middle classes which can marshal public opinion and effect major change in regard to issues such as Vietnam. Mr. Califano argues that with the removal of a requirement for all youth to serve in the Armed Forces, there will be less need for future leaders of the country to be concerned with the attitudes of middle- and upper-class Americans, insofar as foreign ventures are concerned.

I have opposed the concept of the all-volunteer army from the beginning, and I believe that Mr. Califano's article effectively points up some of the strongest arguments against such an arrangement.

I ask for unanimous consent that Mr. Califano's article, as reprinted in the March 22, 1973, edition of the Washington Post, be included in the RECORD.

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

A COSTLY ARMY OF VOLUNTEERS

(By Joseph A. Califano, Jr.)

Lost in constitutional rhetoric and political bickering between the Hill and the White House may be the hope of any serious debate about some of the real choices that have quietly been made in the fiscal 1974 budget. Foremost among these is the decision to achieve an all-volunteer force through pay rates high enough to attract sufficient manpower.

An all-volunteer military is a very expensive proposition, since raising pay at the bottom requires increase in higher ranks and in retired pay as well. As in the case of so many weapons system, the Pentagon has already confronted a cost overrun.

Three years ago the President's Commission on an All-Volunteer Force, chaired by former Defense Secretary Thomas Gates, estimated that an all-volunteer force of 2 million men would cost the nation $1.5 billion per year more than it was then paying; 2.5 million men would cost $2.1 billion more.

The fiscal 1974 Nixon budget carefully avoids telling us precisely what the taxpayer will have to put out for the all-volunteer force; it nevertheless contains some interesting figures. The defense budget shows an increase of $5.4 billion over fiscal 1973—from $76.4 billion to $81.8 billion. This increase, the budget message tells us, is "primarily as the result of an additional $4.1 billion required to maintain military and civilian pay levels comparable to those in the private sector, to raise pay and benefit levels sufficient to achieve an all-volunteer force, to meet normal price increases, and to pay for higher military retirement annuities." The detailed manpower cost explanations are more revealing.

The proportion of the defense budget devoted to manpower costs in all-volunteer force fiscal 1974 will be 56 per cent; in fiscal 1968, the proportion for the combined draft and volunteer force was 42 per cent.

In 1968 manpower costs were $32.6 billion: in 1974 they will be $43.9 billion.

In 1968 the end strength of the armed forces was 3,547,000 men and women; in 1974 it will be 2,233,000.

Thus we will pay an additional $12.3 billion for a military manpower force reduced by 1,314,000 men and women. Put another way, an all-volunteer force 37 per cent smaller than a combined volunteer and draft force will cost over 30 per cent more. True, some of the $12.3 billion will go to higher retirement pay in line with new pay levels needed to attract the volunteers.

Thus even with a generous allotment for inflation, the nation will be spending some $6 billion more in fiscal 1974 for only two-thirds of the number of soldiers, sailors, marines and airmen that it had on active duty in 1968.

By design and incentive an all-volunteer army is structed to bring into the armed forces the poor and near poor and to free of even the danger of military service the middle- and upper-middle-class young. The draft never achieved perfect egalitarianism in distributing the burdens of military service, but at least it made the attempt. The all-volunteer concept—and the investment of billions to make it a reality—is consistent with the overall thrust of the administration's budget for fiscal 1974; a budget designed to appeal to the more affluent majority. It is appalling that so many antiwar congressmen have climbed and stayed on the volunteer army bandwagon. Many have done so because of their revulsion at the Vietnam war and because they can rationalize the concept as providing that only those who "volunteer" will have to go to war.

This is a gross misreading of one of the central historical lessons of the war in Southeast Asia. What turned this nation around on Vietnam was not demonstrations in the street nor the demagogic rhetoric of Dellinger, Hayden and Spock. It was, in quite readable political terms to the Presidents who agonized over Vietnam, the realization that the vast middle class of America would not permit *their* sons to die in a war which they considered meaningless. It was middle and upperclass Americans who know how to contact congressmen, influence their local communities—and most all of whom vote and know how to finance campaigns—who posed the sharp dilemma to Washington: get out of Vietnam or get out of office. An all-volunteer force that subjects only the ones at the bottom to military service will effectively reduce the needs for future leaders to be concerned about the more affluent majority of America and its judgments about foreign adventures, at least until those adventures are so far along that they will be virtually impossible to stop.

It is ironic that those who express such concern about the debilitating impact of welfare on the will to work can so enthusiastically accelerate the erosion of the American will to sacrifice and pander to the protective cocoons in which the affluent already live. But it is truly Kafkaesque thinking for public officials who call themselves liberals to support this $6 billion dollar investment of scarce public sector resources so the lower class can fight our wars.

THE PRESIDENT'S DRUG ENFORCEMENT REORGANIZATION PLAN

Mr. RIBICOFF. Mr. President, I commend the President on his decision to submit a reorganization plan that would centralize drug law enforcement in a single agency in the Justice Department.

For the past 3 months, the Government Operations Subcommittee on Reorganization, which I chair, has been investigating the present crazy-quilt of overlapping and disorganized drug enforcement efforts throughout the Federal bureaucracy. No less than nine Federal agencies are budgeted at more than a quarter billion dollars to perform drug law enforcement functions. Many more agencies have related functions. There is no overall coordination.

Our best efforts to stem the flow of heroin and other deadly and dangerous drugs have been most seriously undermined by intense rivalry and bitter feuding between the two primary drug enforcement agencies—the Bureau of Narcotics and Dangerous Drugs—BNDD—in the Justice Department and the narcotics unit of the Customs Bureau in the Treasury Department.

The findings of my subcommittee have been supported in studies by the General Accounting Office and a task force of the American Bar Association and the Drug Abuse Council.

In addition, the final report of the National Commission on Marihuana and Drug Abuse, established by the Congress and appointed by the President, released its final report this morning. The Commission report states:

> Interagency rivalry and lack of coordination . . . have seriously hampered prevention of illicit drug trafficking. A sometimes bitter dispute exists between the Bureau of Customs regarding which agency has primary authority to carry out investigations overseas and in cases where illegal drugs cross the border into the domestic market. This quarrel has persisted despite repeated efforts to resolve it by the President, by the Ash Council on Government Reorganization, by the Secretary of the Treasury, and by the Attorney General. It has often kept the two agencies from sharing intelligence and effectively coordinating investigative activities.
>
> . . . When responsibility is clearly defined and delegated, such bureaucratic difficulties are much less likely. There is also less opportunity for administrative buck-passing.

The time is long overdue for Federal narcotics agents to stop fighting each other and to unite in the fight against today's merchants of enslavement and death—the drug traffickers. The President deserves credit for recognizing this problem and proposing a solution to it.

I also agree with the President that the primary drug enforcement agency should reside in the Justice Department and that the Customs Department's drug enforcement functions should be transferred from Treasury to the Justice Department.

The legislation, I introduced 1 month ago, S. 942, cosponsored by eight other Senators, would accomplish the goal of unifying our drug enforcement efforts in the Justice Department by designating the FBI as the primary drug enforcement agency. The President apparently prefers establishing an all-new drug agency in the Justice Department. Whether the FBI is in charge of the Federal drug control effort is not the important question. Most important—and what must be done—is to have available the FBI's expertise and resources in this Nation's battle against drug traffickers. It is unjustifiable for the FBI—the Nation's No. 1 law enforcement agency—to be excluded from dealing with the Nation's No. 1 crime problem—drug trafficking. And yet, that is the situation today.

The final version of the President's plan will not be submitted to the Congress until next week. The plan will be referred to my Subcommittee on Reorganization and will have the prompt, close

attention of the subcommittee. I will pay particular attention to the role the President's plan specifically assigns to the FBI in the drug enforcement area, especially in view of its great expertise in combating organized crime.

My subcommittee will promptly hold hearings on the President's plan and I am confident that Congress will give this matter the priority it deserves. Included in the hearings will be the recommendations of the National Commission released today as well as the administration's own National Drug Abuse Strategy Report, if it is ready by that time. The annual report, mandated by the Drug Abuse Office and Treatment Act of 1971, is already more than 3 months overdue.

The vast dimensions of today's drug-abuse crisis deserves a far better law enforcement response than the present scrambling bureaucracy provides. The situation remains one of major heroin traffickers being identified by the hundreds but being apprehended only by the dozens; of heroin being smuggled into our Nation by the tons but being seized only by the pounds each year.

If we are to succeed, there must be a bipartisan approach to finding the solution. The President's reorganization plan is an important step in that direction.

THE LUMBER CRISIS

Mr. CURTIS. Mr. President, we are facing a real lumber crisis in the United States. We need to take all possible steps that will relieve the lumber shortage both in the short range and in the long range.

Many lumberyards in small communities are in serious financial difficulties and some may have to close. Reliable reports also indicate that builders of houses in many small- and medium-sized communities are likely to go out of business because of the supply and resulting price situation in lumber. They cannot determine what the cost of a house is going to be even by the time that they start, let alone when they finish it.

Mr. President, the answer to this is more production. More controls will make the problem worse.

The National Lumber and Building Material Dealers Association have prepared a brief on the lumber supply crisis. In my opinion it is a well written document and should be studied by every Member of Congress. Therefore, I ask unanimous consent that that document be printed at this point in the RECORD.

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

BRIEF ON THE LUMBER SUPPLY CRISIS

THE PROBLEM

Critical shortages of Soft Wood Lumber and Plywood.

How to Increase Supply To Meet Demand And To Reduce Rising Construction Costs.

Causes

(a) Conflicting Federal policies presently restricting the supply of raw materials.

(b) Federal policies allowing an increasing volume of log and lumber exports in spite of the growing domestic wood product shortages (exports up 40% from 1971 to 1972).

(c) All time high volume of U.S. housing starts required to meet the demand for two successive years now extending into the third year, plus growing lumber demands from other countries (U.S. housing volume up 61% from 1970 to 1972).

(d) Federal economic control policies which have hampered normal production and distribution of lumber and plywood.

(e) A growing shortage of freight cars further restricts lumber product availability in many areas.

The effect on construction and consumers

(a) Because of shortages and resulting high prices, customers cannot be assured when, at what price, or even whether lumber products can be delivered for home construction, commercial and industrial use.

(b) In many areas, certain lumber and wood items cannot be obtained at any price . . . yet the demand for lumber increases almost daily. Inventories are dangerously low from mills to final distributors.

(c) As a consequence, the building industry is in a turmoil of uncertainty as has been reported in the news media.

Further

(a) For Fiscal Year 1974, Forest Service budget proposals further will restrict raw material supplies:

(1) The timber sales offerings from Federal lands will be reduced.

(2) The Forest Service budget will be slashed by $105 million.

(3) Forest Service personnel will be reduced.

(b) Exports of logs and lumber are increasing appreciably with no action being taken to halt or even to restrict this drain on public and private domestic timber resources.

(c) To offset the drain by these exports and to meet growing domestic demands, U.S. imports of lumber (primarily from Canada) increased by 57% from 1970 to 1972. (25% of lumber usage now comes from Canada compared to 14%–16% previously.) Imports totaled 9.1 billion board feet in 1972 compared to 7.2 billion in 1971.

(d) With half of the nation's available soft wood timber in Federal hands, the harvest permitted and achieved becomes vital to lumber supply.

Examples:

In 1971, of the 11.5 billion planned, only 9.7 billion board feet were sold.

In 1972, of the 10.5 billion planned, 9.3 billion board feet were sold.

In 1973, of the 9.6 billion planned, only 8.8 billion board feet are expected to be sold.

(NOTE: In spite of the appreciable increase in housing starts in 1971 and 1972, the planned and actually sold timber harvest steadily declined. The harvest could be increased substantially if sound, accelerated forest management programs had been continued as recommended by a Department of Agriculture Task Force on Lumber in August 1969.)

(e) The prime reasons the Forest Service has not even achieved the allowable timber sales are (1) lack of adequate funding and (2) reduction in personnel. In spite of the shortage due to an inadequate supply of raw material, as noted, the fiscal 1974 budget proposes further to reduce the 1973 Forest Service budget by $105 million.

ACTION NEEDED

I. Export situation

(A) In view of the recent increase in log exports, the Department of Commerce, under the Export Control Act, should be required to limit log exports as necessary to protect the domestic economy and construction needs. (In 1972, log exports were 2.8 billion board feet compared to 1.9 billion feet in 1971.)

(B) Congress should consider the extension of the existing Morse Amendment to the Foreign Assistance Act of 1968 which expires in December 1973. (The Morse Amendment restricts exports from Federal lands to 350 million board feet of timber per year.) In addition Congress should:

(1) disallow the export of *any Federal timber* in the form of round logs until our domestic needs are met.

(2) enact a strong and enforceable anti-substitution provision which would make any party selling logs for export from either State or private sources, ineligible to purchase Federal timber for a period of 3 years from the last sale for export, except timber twice rejected at appraised value by at least two domestic bidders.

ACTION NEEDED

II. Uncut Federal timber

There are currently an estimated 24.9 billion board feet of contracted for and uncut Federal land timber inventory under control of the mills. Means must be found to accelerate the conversion of this purchased stumpage resource into needed lumber—and as soon as possible.

Necessary assurance to the mills of replacement of such inventories could be provided by an increase in the Federal timber harvest and its implementation by a Forest Service budget increase. Mills thus could be encouraged to produce more lumber immediately. Certainly, this strategy should be adopted before even considering the alternative of rigid, counter-productive price controls.

ACTION NEEDED

III. Forest Service programs

(A) An immediate re-evaluation and upward adjustment of the Federal Forest Service budget for Fiscal Year 1974 and beyond is essential. Only through an increase in that budget can appropriate forest management programs be provided to offer the harvest of timber from our Federal lands to relieve the immediate crisis.

(B) For the years ahead, additional funds should be made available to allow full and effective forest management on an intensified basis. Particular consideration should be given to:

(1) *Reforestation* of certain Federal forest lands. (It is estimated that there are currently 5 million acres of Federal lands on which timber should be replanted to meet the needs of the future.)

(2) *Salvaging* to the extent possible the dead and dying timber. (More timber is lost annually to diseases and pests than is harvested on federal lands.)

(3) *Accelerate access road construction* to reduce costs of maintenance and hauling, as well as provide proper conservation of the lands and timber involved.

(4) *Maximize the multiple use of timber*—our major renewable natural resources.

(5) *Provide assistance* to State and private land owners largely through State Forestry agencies for forest management planning and development, harvesting and processing of forest products and for necessary research.

(6) Consideration also should be given to:

a. Projecting the Forest Service budget over a 5-year period to allow advance planning and programming. Reforestation and related activities are continuing processes and monies for doing the job should be allocated well in advance.

b. Implementing the recommendations of the 1969 report of the Forest Service to the Cabinet Task Force on Lumber (now reactivated). The report outlines future lumber and wood product needs, future supply requirements, and the substantial revenues from timber sales that could be provided to the U.S. Government (nearly $400 million in 1972).

ACTION NEEDED

IV. Economic controls

(A) Rigid economic controls of lumber products have proved to be counter-produc-

tive due to the impact of the net profit margin test on all sectors of the industry. Net profit limitations have, in effect, imposed ceilings on lumber production. Congress is urged to give careful consideration to the need of maintaining and increasing lumber production, not limiting it through rigid net profit control mechanisms.

ACTION NEEDED

V. Freight car shortages

(A) Today, as in the past, and unquestionably in the future, *chronic freight car shortages* disrupt west-to-east lumber and wood product shipments. We recommend that Congress and the Interstate Commerce Commission take immediate steps to seek ways by which our Nation can increase freight car production to meet the demands of the future, and that ICC regulations be stiffened to improve the traffic flow of cars to and from timber producing areas.

CONCLUSION

Substitute materials for wood are all drawn from non-renewable resources. On the other hand, wood fiber constantly renews itself much like an agricultural crop but on a longer life cycle.

In this era of serious energy shortages, it is significant that wood substitutes require many times as much energy to manufacture as do wood products. Broad scale conversion to substitutes would disrupt, be costly, would pollute, and further deplete irreplaceable natural resources.

We support many of the efforts by the ecologists to improve and preserve our environment. However, the present demand for lumber will increase in the decades ahead. (The President's Council of Economic Advisers estimates 2.2 million housing units will be built in 1973 . . . very close to the last two record-high years.) Therefore, those efforts which would immobilize vast tracks of timber in museum-like isolation with no aesthetic or other use permitted, are clearly contrary to the public interest. Modern forest management including planting improved species, fertilization, thinning, insect and fire control, etc., if authorized and funded, would stimulate marked additional fiber growth, preserve game cover and food, and permit recreational use by the public as well as the harvesting of mature trees otherwise destined for death and decay. As a Nation we could, while serving ecological and recreational objectives, also provide needed lumber for residential and commercial use by our expanding population.

The recurring lumber supply crises will not fade away. Essential to the public interest are decisive, long-term Governmental policies and programs dedicated to the principle of more intensive multiple use of our forest resources.

The time for action is now!

THE TOWN MEETING IN MAINE

Mr. MUSKIE. Mr. President, the March 20, 1973, edition of the Evening Star and News carried an article, written by Mr. Day Thorpe, about true democracy in action: A town meeting in Blue Hill, Maine. As Mr. Thorpe noted in his article:

The town meeting is the purest and oldest form of democratic government we know, surviving from Colonial times before democratic principles were established in the Constitution.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

THE TOWN MEETING: ALIVE AND WELL IN MAINE

(By Day Thorpe)

To a man skeptical of the proposition that democracy—the government of the people by the people themselves—is the best road to enlightenment and happiness, a New England town meeting might seem an outworn tradition—in a class with therapeutic bloodletting or trial by fire-and-water. For the Town Meeting is the purest and oldest form of democratic government we know, surviving from Colonial times before democratic principles were established in the Constitution.

Edmund Wilson, in his book about Talcottville, N.Y., points out that the town meeting, at which every man is a peer among his peers, is essentially a product of our sea coast; that, as civilization moved inland in Colonial times, individuals acquired by purchase or grant vast areas the development of which, and the society of which, were effectively under their control.

I attended the 1973 town meeting of Blue Hill, Me., and discovered that democratic government in a small town is by no means a microcosmic replica of democratic government so uncritically and enthusiastically admired on a national scale. There has been a town meeting in Blue Hill on the first Monday in March for as long as the oldest inhabitant can remember—presumably since shortly after the place was settled in 1762. In the matter of town meetings, Blue Hill needs no guidelines; it knows how the thing is done.

A town of about 1,400 inhabitants, Blue Hill lies about three-quarters of the way up the Maine coast at the base of the 940-foot mountain which gives the place its name and which at certain times actually does appear to be blue. It was founded about the same time as Georgetown, but has not grown very much in population since the early 19th century.

During its early years its business was the building and sailing of ships, the exportation of granite and ice, and education. Its sea captains, who took their wives and children all over the world, make it a town remarkably cosmopolitan for its size and secluded location. It sent its granite to Washington, for the Treasury Building, to New Orleans and St. Louis, among other places, for their curbstones, and its ice to Baltimore and Singapore, among other places, for their gin-and-tonics. Early in the 19th century it founded its Academy, one of the first private schools in New England.

Sailing vessels, granite, and natural ice fell prey to their substitutes, each in its way, and about a century ago the town, consciously or otherwise, was on the lookout for a new occupation. It was born in 1882 when a lady from Bangor spent the summer in Blue Hill as a paying guest. Within a very few years a summer colony in Blue Hill was established with people from all over the country (but mainly from New York, Philadelphia and Cleveland) building houses which they passed on to their children, enjoying the water of the bay and the air of the hill.

A number of musicians settled in Blue Hill—notably Franz Kneisel, concert master of the Boston Symphony Orchestra and the father of American chamber music; Horatio Parker, and Henry Krehbiel. (It is amusing to find in several Maine guidebooks that Ethelbert Nevin lived and died in Blue Hill. The man never set foot in the town. Nevin was buried there posthumously by his loving and appreciative widow after royalties on "In Arcady," Nevin's once-popular piano suite, and "The Rosary" enabled her to build what still is one of the finest houses in town—appropriately named "Arcady.")

Today there are 11½ pages of resident taxpayers in the town report, 6½ pages of non-resident taxpayers. Of the $336,390.90 it cost to run the town last year, residents paid in taxes $173,000 and non-residents $162,000.

I use the prosaic words "resident" and "non-resident" as aids in pointing out that roughly half the cost of running the town is borne by people who are there only from July 1 through Labor Day, people who may have been coming to Blue Hill for half a century without ever seeing a flake of snow, even though the $20,000 for snow removal is the second largest item on the budget, surpassed only by education. In practice, the terms are "resident" and "summer resident."

A "resident" signifies in the vernacular, someone who was actually born in Blue Hill, or better yet someone whose parents and grandparents were born there also. About a dozen families reside in the town whose forebears settled there on the original land grants in 1762, with the result that names frequently fail to serve their basic purpose of identification.

For example, the town report lists 18 residents with the name of Candage, 27 by the name of Gray, and 19 by the name of Grinde. There are just two named Smith and two named Jones. A "summer resident" is a member of the community born elsewhere. There is an elderly lady who summered in Blue Hill as a girl and who for the past 15 years has lived there spring, summer, fall and winter. She is slightly miffed to hear herself spoken of as a "summer resident."

There are at least 16 Washingtonians now or formerly working for newspapers, television or radio who go to Blue Hill or to places within 35 miles of the town. I cannot explain this surprising concentration, for there is no evidence of a leader being followed, and I refrain from listing them for fear of overlooking somebody.

The active dean, unquestionably, is J. R. Wiggins who, with his son, a few years ago bought the weekly paper in Ellsworth, a suburb of Blue Hill. The skill acquired during his apprenticeship as editor of the Washington Post is evidenced by the rollicking writing that can be enjoyed every week, and by his exposes of the postal service. He has proved that inter-urban letters could be delivered more quickly than by the Post Office if they were dispatched on a cart drawn by a yoke of oxen, or expedited by E. B. White on a bicycle.

Two more bits of information preparatory to the understanding of Blue Hill's Town Meeting: In Blue Hill last year there were 91 births recorded—53 males and 38 females. Men who so conspicuously beat the odds must frequently draw two cards to an inside straight. In addition, the town clerk reports that 112 dogs were licensed last year—female dogs, 8; spayed dogs, 45; and male dogs, 59.

Throughout town-meeting day the polls are open for voters to elect town officials. This time, as usual, more than half the residents eligible to vote did so—a percentage far greater than the ever-decreasing figure for national elections throughout the country. Party was not a factor: While Blue Hill is strongly Republican and while candidates for county, state and national office rely on party power, in the town election—in which every candidate is personally known to virtually every voter—a label is of no importance. At least, I never heard affiliation mentioned throughout the day or night.

At 5:30 in the afternoon, the Baptist Sewing Circle Ladies served dinner in the hall of the International Order of Odd Fellows, and nobody was in danger of hunger for the rest of the night, if ever. (It had never occurred to me that Baptists are marvelous cooks.)

Then we went to the Town Hall, where Jerry Durnbaugh had been appointed moderator by the selectmen—a move, as he himself pointed out, to keep him from talking from the floor. Durnbaugh, the town news-

paper publisher, proved to be an excellent moderator, keeping the arguments remarkably relevant, firmly but inoffensively insisting that a proposal was not subject to discussion until it had been moved and seconded, and withal preserving a mein so interested but dispassionate that only a constant reader of his paper would know that he had very strong convictions on several of the subjects. The meeting lasted five hours, during which Durnbaugh declared one 30-second recess. The recess was, in fact, just 30 seconds.

The warrant—that is to say, the agenda—consisted of 61 articles, proposed for the most part by the selectmen, although residents can bring propositions before the meeting if they have the requisite backing. I could observe no logical order of the articles, some of the most important of which were near the end when the voters were tired and their nerves somewhat frazzled.

An "issue" at this town meeting was something new in my political experience—not at all something thought up by a candidate to harangue the public, yet never directly attacked nor debated, either. The Blue Hill voters for the most part were interested in the issues, were well informed about them, generally trusted the recommendations of the budget committee, and were not in the slightest awed by office or the image of their elected officials, who were several times during the night uncomfortably called on the carpet. The democracy of a town meeting is not an affront to a man's intelligence.

The first argument arose over $2,000 to defray the cost of the town police department. The sum was finally approved, but by no means unanimously. The article "to see, if the Town will vote to install a street light near Hester and Florence Moor's" was voted in the negative, while "to see if the Town will authorize the Selectmen to renew a lease to Ruth Stavola on Town Property on which her buildings now stand, and for how long" caused more than a little excitement.

It seems that 10 years ago the voters instructed the selectmen to arrange a lease with Mrs. Stavola, but they never got around to doing so. Thus Mrs. Stavola's two houses have been free of land rent for a decade. It was argued that the article itself was faultily constructed, since it is hard to renew a lease that doesn't exist.

A lawyer suggested that though a lease might not exist "in fact" it did "in will," and the article—amended to specify amount of money and length of term—finally won. "How do we know the selectmen will do what we tell them to this time?" someone asked earnestly. "They didn't before." (To own a house in Maine without the land on which it stands is not necessarily disastrous. Houses, even big ones, are shifted like checkers. The price of lumber today being what it is, you find your site and your house and consolidate them.)

One of the two most important considerations before the meeting was the use of federal revenue-sharing funds, which, for Blue Hill, amount to $20,000 a year for five years. The money can be spent for anything except education and matching-fund projects. (I was fascinated to find myself present at the decision, in one specific case out of thousands of how to use a minuscule part of those billions which to most of us have meant only newspaper headlines and comment by Eric Sevareid.)

It was proposed to use the money to make tax maps and to re-assess Blue Hill property, to resurface the town roads, to buy a new fire truck, less venerable than the present (1953) model. The first two proposals were tabled, $35,000 for maps and re-assessment seeming too expensive, and the resurfacing of roads seeming untimely just before Blue Hill's new and first sewer system is to be installed. But the fire department has its $8,000 for its truck, and the town has $12,000 in the bank.

The other important article concerned a new state law requiring communities to pass ordinances involving zoning of the 250 feet of all shorelands; otherwise the community would be required to police the state's own regulations. This article was debated at great length. It was finally decided to postpone a decision, since the usual dilatoriness of the state could be relied upon, and since in any event the state could not meet its own deadline.

By far the most interesting subject of the town meeting was brought to the floor because of a relatively trivial objection. More than 75 percent of this year's $364,853 budget is for education—$114,000 for the grade school and $130,000 for the high school, plus repairs and incidentals which bring the total to approximately $250,000.

A voter questioned an item in the budget of $1,500 tuition to St. Paul's School, elsewhere in New England.

The organization of Blue Hill schools is remarkable. The grade school is similar to the typical public school—entirely a department of the civic government. The Blue Hill high school—the Academy—is quite different. It is an autonomous private school which charges tuition. The tuition of children of residents of Blue Hill is paid by the town, which guarantees the Academy that the *majority* of Blue Hill high school students will attend that school. The Academy also accepts students from elsewhere.

However, this is the unusual aspect of the situation, if a parent in Blue Hill wants to send his child to another high school—St. Albans in Washington, say, or Exeter in New Hampshire—the Blue Hill school board says: "Fine. Go in peace. We will pay the cost up to the limit of the Academy's tuition." (The present tuition is $960.) But the matter does not end there. While the town will apply the Academy's tuition at any school the parent requests, it can, in its absolute discretion, pay a higher tuition. If it believes that a child will benefit by instruction not available in Blue Hill, and if it knows that the parent cannot afford the foreign school, it can pay the entire tuition. Or in the case of a blind, deaf or otherwise handicapped child, it can pay a higher tuition anywhere it chooses.

Thus Blue Hill buys its high school education as a commodity, like a snow plow or 12 gross of paper clips. The town can get on with its business of government, the school with the business of education. I am aware that my picture is far too simple and perhaps too rosy, but in theory the division of responsibility is admirable, and in practice it has worked for many years.

That a man who is childless pay a share of the education of his neighbor's children is proper; that a man who is a taxpayer in a town even though he lives elsewhere pay a share of that town's school bill is also proper. But in Blue Hill a parent who believes his child can do better elsewhere does not find himself caught in an inflexible system.

It is possible, even probable, that this separation of school and state would not work in a large city, but perhaps some aspects of the plan could be adapted in those cities where the school boards are more interested in politics than in education.

An unexpected and refreshing feature of the meeting was the total absence of "The Star-Spangled Banner," prayers, invocations, introductions and speeches. The only extraneous matter was the questions "Can you hear me?" and "Is the PA system working?"

SMALL BUSINESS TAX SIMPLIFICATION AND REFORM ACT

Mr. HUMPHREY. Mr. President, I am pleased to join again this year in sponsoring the Small Business Tax Simplification and Reform Act, S. 1098.

It is becoming increasingly clear that tax policy is a major public issue in this country—as it should be.

Senator BIBLE—the distinguished chairman of the Small Business Committee of which I was a long-time member—pointed out in introducing this bill that most smaller and medium-sized manufacturing businesses pay an effective tax rate of about 50 percent while the largest businesses pay taxes at about 25 percent.

The purpose of our bill goes beyond abstract questions of theoretical "tax reform." A tax system which discriminates against small business has direct effects in my own State of Minnesota and throughout our economy.

The present tax system means that a local pharmacy in Duluth, an independent baker in St. Cloud, and family hardware store in Mankato may be paying approximately twice the proportionate share of the cost of government that a giant corporation is paying. The present tax system undermines independent enterprise in the smaller towns and cities and funnels investment dollars to the big businesses in big cities—further unbalancing our population movements and intensifying our urban problems.

I have fought for rural development over the years. In 1972 we put some important legislation on the books—the Rural Development Act—which could aid in the creation and growth of small business in rural areas and small towns. However, under the current tax system, any such businesses will start with a double handicap of taxes and paperwork on their backs.

Mr. President, there are 12 million business firms in this country and 97½ percent of them are classified as "small business."

These small businesses provide about 44 percent of all employment and contribute 37 percent of the gross national product.

America needs small business enterprise and small business needs tax fairness. The Bible-Evins-Humphrey small business tax reform bill is a modest but critical step in that direction. This proposal has been developed over 6 years of study and consultation with more than three dozen national, regional, and State small business, tax, accounting, and trade organizations. It is not a perfect bill but it does provide a vehicle for the long-overdue systematic consideration of the tax needs of small business.

The House Ways and Means Committee, is now engaged in hearings on tax reform.

The bill that will emerge from this inquiry will provide an opportunity to undo some of the harm done to smaller and medium-sized businesses under the tax system in the past. It can make a fresh commitment to the enterprise and individual effort which literally built our economic system into the greatest in the world.

I commend the distinguished chairman of Ways and Means Committee (Mr. MILLS) for scheduling testimony on the small business problems, including the remedies proposed in the Bible-Ervin-

Humphrey bill, from three national small business organizations:

The National Committee on Small Business Tax Reform;

The National Small Business Association; and

The National Federation of Independent Business.

I strongly urge that the House Ways and Means Committee and the Finance Committee of the Senate to report legislation on tax reform that gives appropriate consideration to the full range of problems experienced by new, small, local, family, and independent enterprise. I will be doing all I can to bring about this kind of meaningful tax relief for the 12 million small businesses of our Nation.

FOOD PRICES

Mr. RIBICOFF. Mr. President, yesterday it was revealed that the Consumer Price Index for February had posted its largest 1-month increase in 22 years. Two-thirds of that rise was directly attributable to skyrocketing food prices. They increased 2.4 percent for the month—the largest 1-month rise since 1952.

Decisive and immediate action must be taken to control the runaway inflation in food costs. The consumers will not be satisfied by bland assurances that food prices will level off late this year or early next year.

My amendment to the Economic Stabilization Act, if it had been adopted, would have provided the controls necessary to hold down food costs. It would have placed controls at the level where they are most needed—at the farm level on raw agricultural food products and meat products. Government statistics show clearly that farmers received 83 percent of the benefits of the higher food prices in January. Prices to farmers in January rose 16.9 percent above the same month a year earlier. During this same period, prices to the others in the food distribution chain—processors, wholesalers and retailers—increased by only 2.2 percent.

The farmer during the same period of time increased his take of the shopper's food dollar from 39 cents to 42.7 cents—an increase of 9.5 percent. Cash payments to farmers rose by $1.2 billion in January compared with the same month a year ago—an increase of 25 percent. In January of 1973 the farmer received 82 cents for a pound of beef selling for $1.22 per pound. The processor received 7 cents and the retailer 32 cents.

The evidence is clear—the phase III controls on processors, wholesalers and retailers are not sufficient to halt prices. Controls must be extended to the farm level. I am pleased that the New York Times, in an editorial today, supports my proposal to control the price of raw agricultural and meat products.

In addition to my proposal to impose price controls on raw agricultural food and meat products, I have also proposed the elimination of the multi-billion-dollar farm subsidy program. This program, by paying farmers not to grow food, has resulted in a policy of scarcity which has raised prices artificially.

The farm business—made up mostly of large agribusiness has profited from this scarcity policy. Cash receipts from farm marketings have increased astronomically. In dollar terms 1972 cash receipts were $58.5 billion and they will rise to $73 billion in 1973. Farm operators' net income after all expenses, rose from $17.4 billion in 1971 to $19.8 billion in 1972, and is projected at $22.4 billion for 1973.

My two-part program—price controls on raw agricultural food and meat products and elimination of subsidy programs—would provide immediate relief to every American shopper. I will continue to do everything I can to put a stop to one of the most intolerable taxes of all—inflation in the cost of food.

I ask unanimous consent that the following editorials and news articles be inserted at this point in the RECORD:

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

[From the New York Times, Mar. 22, 1973]

JUMPY FOOD

A funny thing about the healthy family appetite: it is somehow never appeased by a steady diet of soothing syrup in place of solid nourishment. It is all very pleasant to be told over and over by Administration experts that, if everybody just waits long enough, food prices will be coming down. But that doesn't fill any refrigerators or any stomachs either. Nor does it make it any easier to stretch the worker's paycheck at the supermarket checkout counter, even in this period of free-floating money.

The steep new climb registered by food prices last month, with meat, fish and poultry again the fastest climbers, is bound to make vastly more difficult the holding of the wage line in rubber, electrical manufacture, trucking, the postal service and all the other activities involved in the heavy 1973 round of collective bargaining. The settlements registered thus far have reflected a considerable effort on the part of organized labor to hold back a resumption of the wage-price leapfrog that leaves everyone a loser. But even these settlements are placed in jeopardy by the mad uprush of prices in the most basic part of every wage-earner's budget.

It is past time for President Nixon to exhibit the same readiness to dump cherished shibboleths about what will or won't work in the economy that he showed when he unveiled his new economic policy more than a year and a half ago. Mandatory controls on food, starting at the farm level, will have the same profound and constructive effect that the initial freeze did in restoring confidence among workers and all other consumers and in helping to sustain the buying power of the domestic dollar.

[From the Washington Post, March 22, 1973]

NEEDED: A 90-DAY WAGE-PRICE FREEZE

(By Hobart Rowen)

Phase III has bombed out. It is a complete failure. The country faces not only a consumer revolution over soaring food prices, but a runaway inflation in industrial raw materials that has not yet been reflected in the retail costs of finished goods.

In this situation there is only one possible answer: an immediate 90-day freeze of all prices and wages, during which time Mr. Nixon can rectify some of the damage he did when he abandoned Phase II for a weaker Phase III.

And this time around, the President will have to extend controls to farm prices. That will be politically unpopular in the farm belt, cutting into farm income and profits which have risen sharply.

Farmers have had some lean years, to be sure. But there has been an increase in cash receipts from farm marketings this year that can be described only as huge. The current quarter is estimated at 25 per cent above a year ago. For the year as a whole, the estimate is 26 per cent above 1973. In dollar terms, 1972 cash receipts were $58.5 billion, a total which will rise to $73.8 billion this year.

Farm operators' net income, after all expenses, rose from $17.4 billion in 1971 to $19.8 billion in 1972, and is projected at $22.4 billion for 1973.

Agriculture Secretary Earl Butz, of course, sharply opposes any controls on prices at the farm, on the theory that such a step would only cause a reduction in food supplies. He claims there is an increase now in the making that should bring prices down by late 1973 or early 1974.

But it is doubtful if the country can wait that long. As Harvard Prof. Otto Eckstein says, the Department of Agriculture overstayed a policy of scarcity by at least two years, in an effort to be "nice to farmers," and we're all paying the bill for it now.

The policy of scarcity (which the Administration is now desperately trying to reverse over farmer objections), combined with the Russian wheat sale and a strong demand for food products has resulted in a spectacular 53.2 per cent jump in the annual rate of wholesale farm product prices over the past three months.

But as bad as the food price picture is (and it would naturally get the headlines), the real trouble is coming in the cost of finished goods in retail stores. Industrial commodities are soaring out of sight. Hardly a day goes by without an announcement by some major company of an increase in prices.

What has happened is very clear: Phase II, which required pre-notification of price increases and surveillance of misbehavior by the Internal Revenue Service, worked very well. But business and industry took the announcement of Phase III as the goahead to be more relaxed. Phase III constituted a major error in judgment by Mr. Nixon and his advisers.

So what we face now is a second bout of cost-push inflation, almost parallel to events of 1970–71, with the possible exxception that wage pressures aren't quite so strong. Additional inflationary pressures will result from the second devaluation of the dollar in 14 months.

All this makes for a "politically uncomfortable period" for Mr. Nixon, as one of his private business advisers concedes.

This week's sharp jump in the bank's prime loan rate to 6¾ per cent doesn't make the situation any easier: the ability of banks to raise loan charges is taken by many as a dramatic symbol of the inequity of controls.

But if Mr. Nixon can act as boldly as he did in the final stages of the Vietnam war, there's only one course of action: a quick freeze, followed by a restoration of something like Phase II that will put a lid on farm prices.

[From the Washington Post, Mar. 21, 1973]

FARMERS GET BULK OF FOOD PRICE RISE

(By Ronald Kessler)

More than 80 per cent of the recent sharp increases in food prices reflects higher prices paid to farmers and farming companies, government statistics indicate.

The reasons farmers have been able to get higher prices for their products is complex. Government and private analysts say a series of natural occurrences and government actions came together at the wrong times in the wrong places to decrease some supplies of food while greatly increasing the demand for food and for meat in particular.

Among these factors are the rising affluence of American consumers, increased issuance of government food stamps to the

poor, the wheat sale to Russia, and massive crop failures last year throughout the world.

The result hardly needs documenting. Sirloin steak selling for $1.45 a pound at Safeway Inc. stores in Washington a year ago brought $1.79 a pound last week—an increase of 23 per cent.

Giant Food Inc. lean ground beef selling for 99 cents a pound a year ago was up to $1.19 a pound last week—a rise of 20 per cent. Boneless chuck roast that was 99 cents a pound at Safeway a year ago was $1.49 a pound last week—an increase of 50 per cent.

These increases have far outstripped the increases in prices of other consumer goods and services. While all goods and services rose 3.7 percent throughout the country in January compared with the same month a year ago, food prices shot up by 7.6 per cent, Labor Department statistics indicate.

The price increases have sparked consumer boycotts and demonstrations, calls for congressional investigations, a slight decrease in demands for meat, and government pleas to avoid buying expensive cuts.

While the fact that prices have gone up is clearly discernible to the average shopper, the answer to who is benefiting from the increases has not been.

"I think nobody knows who's getting the money; we don't have the facts," says Erma Angevine, executive director of the Consumer Federation of America, which is participating in plans for a one-week boycott of meat beginning April 1.

Government statistics show clearly that farmers received 83 per cent of the benefits of the higher food prices in January. Prices to farmers in January rose 16.9 per cent above the same month a year earlier. During this same period, prices to the others in the food distribution chain—processors, wholesalers and retailers—increased by only 2.2 per cent.

This was less than the increase in all other consumer goods for the period.

The farmer during the same time frame also increased his take of the shopper's food dollar from 39 cents to 42.7 cents, an increase of 9.5 per cent. Cash payments to farmers rose by $1.2 billion in January compared with the same month a year ago, an increase of 25 per cent.

Although farmers had to pay higher prices for feed for their livestock and for other supplies and equipment, their increased costs have more than been offset by higher prices for farm products.

During 1972, farm profits rose by $2.4 billion, or 14 per cent, above 1971, Agriculture figures indicate. Farmers' profit margin on sales was 34 per cent.

While farmers' profits have reached record levels, the profit margins of the large retail food chains have steadily declined to 0.81 per cent last year, an analysis by Cornell University indicates.

Giant Food Inc., the Washington area's largest primarily local food chain, had an 18.3 per cent decline in profits in the 36 weeks ended Jan. 6, the company's financial statements indicate. Giant's profit margin on sales was 1.1 per cent.

Supermarkets have traditionally been able to operate on a small profit margin because of their quick turnover, and high volume of sales.

Despite the tremendous increase in farm earnings, government spokesmen and press releases have largely managed to avoid singling out farmers as the recipients of the benefits of the price increases.

"The (Nixon) administration doesn't intend to single out farmers," said Clarence G. Adamy, president of the National Association of Food Chains, a trade association of supermarkets.

"They're trying to encourage him to increase production. It would destroy his confidence," Adamy said. He said that if farmers feel the government will try to force their prices down, they will not expand production, because they will not have the incentive.

Adamy noted that two to three years elapse between the time a cattle farmer decides to raise more beef and the time the beef comes to the dinner table.

In addition, Adamy said, many experts feel farmers are only beginning to catch up with the rising affluence of their fellow Americans, and there also is a reluctance to criticize them because of the "mystique of the land and farms."

One administration official involved in the food price problem said there are "political reasons" for not singling out farmers. "The farm bloc has been voting Republican for a long time," the official, who asked not to be quoted by name, said.

The official said there has been a "tug of war" within the administration over what to do about rising farm prices. The Department of Agriculture, led by Secretary Earl L. Butz, has taken the position that "it's time for farmers to get theirs," the official said. "The President obviously would like to see food prices go down but it would also like the farmer to have a go at it," he said.

The official said that while Agriculture has taken some recent actions to reduce subsidies to farmers for not growing crops, the measures have not gone far enough and have come too late.

"It has been USDA against the rest (of the White House aides involved in farm problems)," the official said. A White House official said this version of the dispute within the administration is essentially correct.

Butz said yesterday the report of a dispute between himself and other administration officials is "not true."

"Of course, I stand on the side of the farmers. They've been going without sending their kids to college" and enjoying other benefits available to Americans too long, he said.

But Butz said that although he "wants my farmers to make money," he has also taken the initiative to encourage increased supplies of crops and livestock to bring down prices.

For example, he said, he lifted quotas on imports of meat as a way of bringing more supplies into the country.

Yesterday, the government's Cost of Living Council issued a statement listing a number of other actions the Administration has taken to bring down food prices.

President Nixon said last week he does not believe the answer to rising food prices would be mandatory controls on farm prices, a move that he said would reduce production and create a black market. Other links in the food distribution chain are under controls.

Among the factors cited by analysts for the unexpected demand for meat and other foods were a 5.9 per cent increase in disposable, or after-tax, income last year; a 17 per cent increase in the volume of food stamps issued to the poor; and a 3.3 per cent increase in the number of employed people.

These changes meant that more people had more money to spend on meat.

Per capita consumption of beef actually increased by 2.6 per cent last year, a rise that in previous years had been sufficient to satisfy demand. Per capita consumption of pork, on the other hand, declined by 7.7 per cent.

The reason for this, a number of analysts say, is that a corn blight in 1970 increased the price of feed for hogs, discouraging the farmers from raising more than they had the previous year. In addition, they say, prices for pork were low in 1971.

It takes more than a year for a hog to reach supermarkets after a farmer decides to breed it.

Also pushing up farm prices was a poor crop year last year in Russia, Eastern Europe, Australia, and India, said Dr. Don Paarlberg, director of agricultural economics of the Agriculture Department.

"We had good crops, but not enough; we sent large amounts out to help," he said.

Exports of wheat, for example, increased 40 per cent, most of it going to Russia.

"The Russians are the beneficiaries of low-price wheat, and we're paying higher prices as a result," says Frank L. Fernbach, a spokesman on food prices for the AFL–CIO.

A former under secretary of Agriculture in the Kennedy administration. John A. Schnittker, has criticized the government for reacting slowly to the problems caused by the wheat sale.

He has testified before the Joint Economic Committee of Congress that only days after Russia began its grain purchases in July, the Agriculture Department announced large subsidies to farmers for not growing wheat in 1973.

"Officials consistently refused to correct that error until January this year," he said.

The AFL–CIO has also criticized government subsidies. "Millions" of these federal payments are going to "profitable agribusiness type farms, often owned by big corporations and wealthy absentees," the labor group said in a position paper recently issued on food prices.

C. W. McMillan, executive vice president of the American National Cattlemen's Association, a trade group of cattle ranchers and feeders, estimated that 100,000 of the 1.5 million farms with cattle produce 70 per cent to 80 per cent of the nation's beef.

McMillan says the recent price increases have allowed cattle ranchers to "catch up" after some 20 years of insufficient profits. Asked how cattlemen were able to survive for 20 years if their returns were not adequate, McMillan said, "By going deeper in debt."

Professor Bernard F. Stanton, chairman of the Agricultural Economic Department of Cornell University, says the rising food prices are a "classic example" of the workings of supply and demand in the marketplace.

He says farming is a competitive business, and no one farm or group of farms can collude to get higher prices.

Dr. Gene A. Futrell, professor of economics at Iowa State University, predicts along with a number of other analysts that prices on pork and a number of other foods should start going down in the next several months as supplies increase.

Dr. Paarlberg of the Agriculture Department, however says beef prices will probably remain high throughout 1973.

He points out a hopeful statistic: Disposable income has been rising faster than the increase in food prices.

Agriculture statistics indicate that while consumers spent 15.8 per cent of their disposable income on food in 1971, they spent 15.7 per cent of it on food last year. In 1960, the department's reports indicate, the comparable figure was 20 per cent.

[From the Washington Post, March 21, 1973]

RENT RAISES, FOOD PRICES FACE ATTACK—WHITE HOUSE HINTS FREEZE ON GROCERIES

(By Peter Milius)

The Nixon administration said yesterday that supermarket prices will keep rising until the end of the year but at a declining rate, and may level off by December.

The administration also said for the first time that a food price freeze or farm price controls are possibilities if grocery store price increases do not slow down, as now predicted.

But Agriculture Secretary Earl L. Butz said those who want ceilings put on food prices are "damn fools."

Butz told reporters on Capitol Hill that he and President Nixon oppose such ceilings. Asked why some inside the administration say ceilings have not been ruled out, Butz

replied, "Because there are a few damn fools who don't agree with me. The Democratic Party has no monopoly on damn fools."

He also acknowledged that if food prices rise sharply again in March, he will "have to wear a suit of armor" to fend off proponents of controls.

The administration's view of the problem was set forth as the Senate acted on a bill authorizing another year of wage-price controls and as the Labor Department prepared to issue its monthly report on the cost of living.

The price report for February will be issued today, and Senate Minority Whip Robert P. Griffin (R–Mich.) emerged from a morning meeting at the White House with President Nixon to say that "it is not going to be encouraging news."

"Prices probably are going to get worse before they get better," he said, "but they're going to get better."

In a "white paper" it issued on food prices a few hours later, the Cost of Living Council said that "retail food prices should begin to level off after mid-year, and the rate of increase may be near zero by the end of the year."

In the same reassuring vein, Herbert Stein, chairman of the Council of Economic Advisers, said in a speech here that the current sharp increase in food prices "is near its end."

The special "white paper" on food prices was made public by Cost of Living Council deputy director James McLane.

The report said "The federal government is now doing everything within its power to bring this problem under control," and "acted even before inflation hit the supermarket shelf."

The administration's main attack on food prices has been an effort to increase food supplies. It has kept last year's "mandatory" price controls on food processors and distributors. But it has declined to impose controls on the raw agricultural products these wholesalers buy and has generally let the wholesalers pass along increases.

In response to questions, McLane said again that the White House has made the decision not to impose price controls on raw agricultural products. But he added, "at this time."

He said "it is fair to say that the Cost of Living Council will not close the door" on any approach that will let it reach the President's goal of reducing inflation to a 2.5 per cent rate by the last months of this year.

He was asked if that meant that the White House might turn to a freeze or controls if grocery store prices do not fulfill predictions of moderating later this year.

"Possibly," he answered.

Supermarket prices in January were 7.6 per cent higher than the same month in 1972, and wholesale farm product and food prices have gone up at an annual rate of 56 per cent in the last three months.

The council report blamed the price increases on a long list of impersonal market forces. One was the present robust rate of economic expansion, which has increased incomes and demand. "The food price problem has resulted, in part, from the basic health of our economy," the council said.

Demand was also up abroad last year, it noted, and exports rose, largely due to the purchase by the Soviet Union of about a fourth of the U.S. grain crop. That raised meat as well as bread and cereal prices, since a lot of grain goes to feed livestock.

But while demand everywhere was up, the council said, domestic production of foodstuffs was actually declining. Part of that, it said, was due to unseasonable weather, including the damage done by Hurricane Agnes.

The council listed steps the administration has taken to increase supplies this year, from "selling . . . grain stocks with the objective of literally emptying (government) grain bins," to suspending meat import quotas and relaxing grain acreage restrictions.

Yesterday, Agriculture Secretary Butz also asked cattlemen to send their herds to market faster.

McLane said "these . . . steps are not going to result in lower food prices tomorrow, or next week, or even next month. But they will result in lower food prices during the latter half of this year." Later, a council spokesman telephoned reporters to say he had meant "lower food price increases."

The government does think farm prices will start to fall about mid-year, and to be as low by December as they were in January. But "typically," the Cost of Living Council said, "there is a delay before drops in farm prices are reflected at retail."

The Agriculture Department has predicted that retail food prices will be about 6.5 per cent higher next December than they were last December.

BUTZ ASKS PHASEOUT OF GRAIN SUBSIDIES

Agriculture Secretary Earl Butz asked Congress yesterday to cut crop subsidies in half in one year and phase them out altogether over a three-year period.

Testifying before the House Agriculture Committee, Butz asked that income supplement payments or subsidies to wheat, cotton or feed grain growers be phased out.

At the same time Butz would keep "set aside" payments, so that when it became necessary, land could be idled to avoid surplus production.

If this Nixon Administration plan were in full effect this year, Butz estimated, federal subsidy payments might be half the estimated $2.5 billion to $2.7 billion his department will pay out.

Butz recommended that the limit on subsidies—$55,000 per year per farm—be applied to income supplement payments only and that it be reached over the three-year period as the supplement payments are reduced.

He also urged Congress to eliminate the present 75 per cent parity floor under milk prices, shift to a new cropland base once the subsidies are phased out, and make changes in support and control programs for crops such as peanuts, rice, extra long staple cotton and tobacco.

Current farm legislation expires this year. Butz said.

The new law should extend for four years, rather than two, to allow consideration after the 1976 presidential election when the atmosphere is "least political."

[From the Washington Post, Mar. 22, 1973]

FOOD SPURS 0.8 PERCENT PRICE RISE

(By Peter Milius)

The cost of living flew upward last month by another 0.8 per cent, the most in any month since the Korean war buildup in 1951, the Labor Department reported yesterday.

Two-thirds of the increase in the consumer price index came at the supermarket checkout counter, where prices rose 2.4 per cent for the month. That rise was the largest since the department started keeping separate track of them in 1952.

But prices for all goods other than food, which had been stable the four preceding months, also headed up sharply.

Heating and other utility bills rose 1.1 per cent, and rents, 0.5 per cent.

In a separate report, the Labor Department said that price increases last month outstripped hourly wage increase, with the result that the purchasing power of the average workingman's hourly earnings fell.

Judged by the department's hourly earnings index, that worker's purchasing power was no greater last month than it was last September, and was only 1.7 per cent above its level of February 1971.

The administration had sought to soften yesterday's bad news in advance, with assurances Tuesday that food prices will not keep going up as fast in the second half of this year as they have in the first and that they may level off by December.

The administration wants to keep unions from demanding big and lasting wage increases this year on the strength of food price rises it does not think will continue.

Speaking partly to those unions yesterday, Herbert Stein, chairman of the Council of Economic Advisers, said, "this latest price news provides additional warning of the diligence that must be exercised to prevent the revival of rapid inflation as the U.S. economy rises strongly in a world generally experiencing much more inflation than we have."

His remarks made small impression on AFL–CIO President George Meany, who warned once again that "without effective controls on food, the biggest item in the home budget, no (wage-price) stabilization program will work."

"Since the White House continues to insist that it will not take any substantive action such as freezing the prices of raw farm products," said Meany, "it is up to Congress to insist on food price controls" as a condition for extending wage-price controls another year.

On Tuesday, the Senate passed and sent to the House legislation authorizing the President to keep controls on pay and prices for another year beyond the present statutory expiration date of April 30.

The White House has controls now on the processing and distribution of farm products but not on the prices paid to farmers, which the processors and distributors generally are free to pass along.

Big labor contracts affecting some 4.7 million unionized workers in such key industries as autos, rubber, trucking, railroading and electrical appliances are coming up for renewal in the next few months.

The 0.8 per cent increase in the consumer price index in February was after seasonal adjustment, the allowance made for normal seasonal price fluctuations.

It raised the index to 128.6, meaning that it cost $128.60 last month to buy at retail that which cost $100 in 1967.

A 0.8 per cent monthly increase is the equivalent of a 9.6 per cent annual rate of inflation.

Consumer prices overall in February were 3.9 per cent higher than the year before. In the last six months, however, they have been rising at the seasonally adjusted annual rate of 5.2 per cent, and in the last three months, at 6.3 per cent.

The President's announced goal is to have the annual rate of inflation down to 2.5 per cent by the last months of this year.

In the last six months, however, grocery store prices have gone up at the annual rate of 14.8 percent, and in the last three months, 20.3 percent. In the same three months, moreover, wholesale prices of farm products, processed foods and feeds have risen at an annual rate of 56 percent—which will show up at the retail level in the months ahead.

Most of the food price increase last month, as in most other recent months, was due to meat. Meat prices went up 5.4 percent, and made up almost two-fifths of the total February price rise.

Prices of nonfood commodities rose 0.5 percent, seasonally adjusted, after having held even in January. Stein said the February flare-up "reflected at least in part erratic factors plus the opportunity that the transition to Phase III may have provided for speeding up price increases that would have occurred later."

Phase II of wage-price controls gave way to Phase III in January; the difference between them is that most companies and unions are now expected to abide by the government's anti-inflation standards on their own, with the White House intervening only

when it thinks that wage and price increases are excessive.

The cost of services rose 0.4 percent in February, with rents one major factor.

The Labor Department noted that while the purchasing power of average hourly earnings fell last month—by 0.9 percent—the purchasing power of weekly earnings rose. That was due to an increase in the average work week—longer part-time hours and more overtime.

FOOD PRICES RISE 0.8% IN D.C. AREA

The Consumer Price Index for the Washington area rose 0.8 percent in the three-month period ending in February but was 0.5 percent below the national average index, the Bureau of Labor Statistics reported yesterday.

The three-month food price index rose 3.9 percent here as supermarket prices rose 5.5 percent. Meat prices went up 13 percent, compared to 9.3 percent nationally, and accounted for two-thirds of the supermarket price rise.

The local food price index for February rose 1.9 percent, 0.2 percent less than the national increase. Although supermarket prices usually decline here in February, they rose 2.4 percent last month.

[From the New York Times, Mar. 22, 1973]

FOOD COSTS PUSH PRICE INDEX UP 0.8%; MEAT, POULTRY AND FISH INCREASE BY 5%—OVER-ALL CLIMB IN MONTH IS BIGGEST IN 22 YEARS

(By Edward Cowan)

WASHINGTON, March 21.—Led by sharply higher food prices, the Consumer Price Index for February posted its largest one-month increase in 22 years, the Labor Department reported today. Prices of many nonfood items, notably heating oil, also went up.

The department reported that the index climbed seven-tenths of 1 per cent last month, or eight-tenths after adjusting the statistics to account for the dip that usually occurs in February. The seasonally adjusted figure was the largest one-month rise since the Korean War inflation of February, 1951, when the index soared 1.8 per cent.

The cost of food bought in retails stores climbed 2.4 per cent, after seasonal adjustment, the largest one-month rise since the Bureau of Labor Statistics, which compiles the price index, began keeping figures on food in home consumption in January, 1952. The adjusted increase for meat, poultry and fish was 5 per cent and for meat alone, 5.4 per cent.

Congress and organized labor reacted angrily to the latest report of further inflation, particularly to the higher food prices. But Herbert Stein, chairman of the President's Council of Economic Advisers, continued the Nixon Administration's effort to soothe the public, the politicians and the trade unions.

"The daily news observable in the grocery stores should be improving," Mr. Stein said. He noted that food prices have climbed by 7.3 per cent in the last year.

The over-all price index, based on a national sample of 120,000 prices, was 128.6 in February, up 3.9 per cent from a year earlier. The index uses the 1967 price level as a base of 100. The February reading thus meant that goods and services bought by urban families for $10 in 1967 cost $12.86 last month.

President Nixon's goal is to shrink the annual rate of inflation to 2.5 per cent or less by the end of the year. The February performance contrasted unfavorably with that goal but did not mean that it could not be achieved.

RISE CALLED SHOCKING

The report appeared to portend more difficulties for the Administration in its drive for moderate wage settlements in major collective bargaining contracts this year and in its effort to stave off some Congressional sentiment for ceiling prices on raw agricultural products and perhaps retail prices in general.

Administration forces in the Senate last night defeated three attempts to write such ceilings into a one-year extension of the Economic Stabilization Act, which the Senate then approved and sent to the House.

"If the shocking increase in consumer prices for February had been available last night when the Senate was voting," said Senator William Proxmire, Democrat of Wisconsin, who had proposed a six-month freeze on all prices and wages, "we could have had an anti-inflation law that really meant business."

Congressional sources noted that the Democratic floor manager of the bill, Senator John J. Sparkman of Alabama, and his Republican counterpart, Senator John G. Tower of Texas, kept the Senate sitting until after 9 p.m. to complete action on the bill. Mr. Sparkman was one of a number of Democrats who voted with Republicans to defeat price-ceiling amendments.

George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, who has been a central figure in the Administration's campaign to moderate wage settlements, urged Congress "to insist on food price controls from farms to market." Mandatory price controls still apply to food processors, wholesalers and retailers but not on initial sales by farmers.

PROGRAM FOUND IN PERIL

Mr. Meany hinted once again that the wage stabilization effort was in jeopardy. "Without effective control of food, the biggest item in the home budget, no stabilization program will work," he said.

The report by the Bureau of Labor Statistics showed that the 2.4 per cent rise in take-home food prices last month was slightly greater than the 2.3 per cent rise in January. Significant increases were listed for meats, poultry, baked goods, dairy products, fresh vegetables and cereal products. Egg prices declined sharply.

Mr. Stein, in a joint statement read to the Joint Economic Committee of Congress, said that the 5.4 per cent increase in meat prices accounted for almost 40 per cent of the over-all rise in the index.

"The supplies of cattle, hogs and poultry now in prospect," Mr. Stein said, "indicate that meat prices will soon be declining at wholesale and at least rising much less rapidly at retail."

POSSIBILITY OF CONTROLS

The Administration released a detailed report yesterday in an effort to convince the public that, as Mr. Stein said, the news would soon get better.

In his testimony, Mr. Stein left open in a general way the possibility of additional price controls in the food sector, but all indications were that the Administration was trying to ride out, without more regulation, what it describes as a temporary problem. As John T. Dunlop, director of the Cost of Living Council, reminded the joint committee, the third phase of the stabilization effort is viewed by the White House as a time of transition to no controls.

In nonfood categories, the price report listed increases for heating oil, women's and girl's clothing, footwear, gasoline, alcoholic beverages, household supplies and textile furnishings.

CAR PRICES DECLINE

Among services, which rose by four-tenths of 1 per cent, the most significant increases were for rent and upkeep. Doctor's fees, haircuts and beauty-parlor prices also went up.

Small declines were reported for men's clothing, furniture, appliances, new and used automobiles, and tires.

In a companion report, the Bureau of Labor Statistics showed how the increase in prices had cut into the buying power of worker's pay gains.

Expansion of the work week in nonfarm production industries and a one-cent rise in average hourly earnings added $1.17 in February to the weekly take-home pay of a typical worker with three dependents, a rise of 1.2 per cent from January. But inflation whittled the real increase in buying power to 24 cents, or four-tenths of 1 per cent.

As against a year earlier, real earnings were up 1 per cent, a bit better than the improvement of eight-tenths of 1 per cent recorded in January. The report said that the figure would have been much larger but for the January increase in Social Security taxes.

CONSUMER PRICE INDEX—U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS (1967=100)

	Index for February 1973	Percent change from January 1973	Percent change from February 1972	Point change from January 1973
UNITED STATES				
All items	128.6	+0.7	+3.9	+0.9
Food [1]	131.1	+1.9	+7.3	+2.5
Housing [2]	132.0	+.5	+3.4	+.6
Apparel and upkeep [3]	123.6	+.5	+2.4	+.6
Transportation	121.1	+.1	+2.4	+.1
Health and recreation	128.1	+.2	+2.7	+.3
Medical care	135.3	+.3	+3.3	+.4
Personal care	122.4	+.5	+3.4	+.6
Reading and recreation	124.3	+.2	+2.3	+.2
Other goods, services	127.1	+.3	+2.3	+.4
NEW YORK AREA				
All items	134.9	+.9	+4.1	+1.2
Food [1]	135.6	+1.6	+6.9	+2.2
Housing [2]	140.5	+.6	+4.8	+.8
Apparel and upkeep [3]	121.7	+1.8	−.3	+2.2
Transportation	134.0	+.1	+1.4	+.1
Health and recreation	133.5	+.5	+3.6	+.6
Medical care	143.3	−.1	+3.4	−.1
Personal care	121.3	(4)	+3.8	(4)
Reading and recreation	128.2	+.2	+2.6	+.3
Other goods, services	134.3	+.4	+4.4	+.5

[1] Includes restaurant meals.
[2] Includes hotel and motel rates, home purchase and other home-owner costs not shown separately.
[3] Includes infants' wear, sewing materials, jewelry and apparel upkeep not shown separately.
[4] Not available.

MARGARET CHASE SMITH

Mr. MUSKIE. Mr. President, a group of friends of Margaret Chase Smith has announced plans to convert the Smith homestead in Skowhegan, Maine, into a library in honor of the gracious lady who served so faithfully and well in this body for 24 years. Such a memorial will be fitting tribute to Senator Smith, whose years of congressional service spanned a turbulent period of social change in America.

Mrs. Smith's perceptions of both the revolutionary changes and recurrent patterns in American life in her years in Washington, gathered at the white, woodframe home in Skowhegan, the town where she was born, will provide a valuable resource for both current and future generations. Let me offer some examples.

Mrs. Smith has a philosophy of life which could serve all of us well. She outlined it in 1953. She said—

My creed is that public service must be more than doing a job efficiently and honestly. It must be complete dedication to the people and to the nation with full recognition that every human being is entitled to courtesy and consideration, that constructive criticism is not only to be expected but sought, that smears are not only to be ex-

pected but sought, that honor is to be earned but not bought.

I know from personal experience in the years we served as fellow Senators from Maine, that she believes that creed and lives it to the best of her ability. It is shown not only in her record of 2,941 consecutive Senate rollcall votes without an absence, but more importantly, in her willingness to buck the currents of popular opinion to follow the dictates of her conscience.

In 1950, when the scourge of McCarthyism gripped the Senate, the lady from Maine stood up to declare—

Those of us who shout the loudest about Americanism in making character assassinations are all too frequently those of us who, by our own words and acts, ignore some of the basic principles of Americanism: the right to criticize; the right to hold unpopular beliefs; the right to protest; the right of independent thought.

Twenty years later she rose again in the Senate to warn us once more that extremism must not be allowed to conquer reason. She said in 1970—

As was the case twenty years ago when the Senate was silenced and politically intimidated by one of its members, so today many Americans are intimidated and made mute by the emotional violence of the extreme left . . . It is time that the great center of our people, those who reject the violence and unreasonableness of both the extreme right and the extreme left, searched their consciences, mustered their moral and physical courage, shed their intimidated silence and declared their consciences.

Mr. President, Margaret Chase Smith served the people of Maine well in her long career. And she is continuing her service to America in several ways, including her chairmanship of Freedom House, and an active speaking schedule in Maine and elsewhere.

Mr. President, I ask unanimous consent that Senator Smith's declaration of conscience in 1950 and 1970, as well as various articles relating to her career, her present activities, and the Skowhegan library, be printed in the RECORD.

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

[From the CONGRESSIONAL RECORD, June 1, 1950]

THE GROWING CONFUSION—NEED FOR PATRIOTIC THINKING

Mrs. SMITH of Maine. Mr. President, I would like to speak briefly and simply about a serious national condition. It is a national feeling of fear and frustration that could result in national suicide and the end of everything that we Americans hold dear. It is a condition that comes from the lack of effective leadership either in the legislative branch or the executive branch of our Government. That leadership is so lacking that serious and responsible proposals are being made that national advisory commissions be appointed to provide such critically needed leadership.

I speak as briefly as possible because too much harm has already been done with irresponsible words of bitterness and selfish political opportunism. I speak as simply as possible because the issue is too great to be obscured by eloquence. I speak simply and briefly in the hope that my words will be taken to heart.

Mr. President, I speak as a Republican. I speak as a woman. I speak as a United States Senator. I speak as an American.

The United States Senate has long enjoyed world-wide respect as the greatest deliberative body in the world. But recently that deliberative character has too often been debased to the level of a forum of hate and character assassination sheltered by the shield of congressional immunity.

It is ironical that we Senators can in debate in the Senate, directly or indirectly, by any form of words, impute to any American who is not a Senator any conduct or motive unworthy or unbecoming an American—and without that non-Senator American having any legal redress against us—yet if we say the same thing in the Senate about our colleagues we can be stopped on the grounds of being out of order.

It is strange that we can verbally attack anyone else without restraint and with full protection, and yet we hold ourselves above the same type of criticism here in the Senate floor. Surely the United States Senate is big enough to take self-criticism and self-appraisal. Surely we should be able to take the same kind of character attacks that we "dish out" to outsiders.

I think that it is high time for the United States Senate and its Members to do some real soul searching and to weigh our consciences as to the manner in which we are performing our duty to the people of America and the manner in which we are using or abusing our individual powers and privileges.

I think it is high time that we remembered that we have sworn to uphold and defend the Constitution. I think it is high time that we remembered that the Constitution, as amended, speaks not only of the freedom of speech but also of trial by jury instead of trial by accusation.

Whether it be a criminal prosecution in court or a character prosecution in the Senate, there is little practical distinction when the life of a person has been ruined.

Those of us who shout the loudest about Americanism in making character assassinations are all too frequently those who, by our own words and acts, ignore some of the basic principles of Americanism—

The right to criticize.

The right to hold unpopular beliefs.

The right to protest.

The right of independent thought.

The exercise of these rights should not cost one single American citizen his reputation or his right to a livelihood nor should he be in danger of losing his reputation or livelihood merely because he happens to know someone who holds unpopular beliefs. Who of us does not? Otherwise none of us could call our souls our own. Otherwise thought control would have set in.

The American people are sick and tired of being afraid to speak their minds lest they be politically smeared as Communists or Fascists by their opponents. Freedom of speech is not what it used to be in America. It has been so abused by some that it is not exercised by others.

The American people are sick and tired of seeing innocent people smeared and guilty people whitewashed. But there have been enough proved cases, such as the Amerasia case, the Hiss case, the Coplon case, the Gold case, to cause Nation-wide distrust and strong suspicion that there may be something to the unproved, sensational accusations.

As a Republican, I say to my colleagues on this aide of the aisle that the Republican Party faces a challenge today that is not unlike the challenge which it faced back in Lincoln's day. The Republican Party so successfully met that challenge that it emerged from the Civil War as the champion of a united nation—in addition to being a party which unrelentingly fought loose spending and loose programs.

Today our country is being psychologically divided by the confusion and the suspicions that are bred in the United States Senate to spread like cancerous tentacles of "know nothing, suspect everything" attitudes. Today we have a Democratic administration which has developed a mania for loose spending and loose programs. History is repeating itself—and the Republican Party again has the opportunity to emerge as the champion of unity and prudence.

The record of the present Democratic administration has provided us with sufficient campaign issues without the necessity of resorting to political smears. America is rapidly losing its position as leader of the world simply because the Democratic administration has pitifully failed to provide effective leadership.

The Democratic administration has completely confused the American people by its daily contradictory grave warnings and optimistic assurances, which show the people that our Democratic administration has no idea of where it is going.

The Democratic administration has greatly lost the confidence of the American people by its complacency to the threat of communism here at home and the leak of vital secrets to Russia through key officials of the Democratic administration. There are enough proved cases to make this point without diluting our criticism with unproved charges.

Surely these are sufficient reasons to make it clear to the American people that it is time for a change and that a Republican victory is necessary to the security of the country. Surely it is clear that this Nation will continue to suffer so long as it is governed by the present ineffective Democratic administration.

Yet to displace it with a Republican regime embracing a philosophy that lacks political integrity or intellectual honesty would prove equally disastrous to the Nation. The Nation sorely needs a Republican victory. But I do not want to see the Republican Party ride to political victory on the Four Horsemen of Calumny—fear, ignorance, bigotry, and smear.

I doubt if the Republican Party could do so, simply because I do not believe the American people will uphold any political party that puts political exploitation above national interest. Surely we Republicans are not so desperate for victory.

I do not want to see the Republican Party win that way. While it might be a fleeting victory for the Republican Party, it would be a more lasting defeat for the American people. Surely it would ultimately be suicide for the Republican Party and the two-party system that has protected our American liberties from the dictatorship of a one-party system.

As member of the minority party, we do not have the primary authority to formulate the policy of our Government. But we do have the responsibility of rendering constructive criticism, of clarifying issues, of allaying fears by acting as responsible citizens.

As a woman, I wonder how the mothers, wives, sisters, and daughters feel about the way in which members of their families have been politically mangled in Senate debate—and I use the word "debate" advisedly.

As a United States Senator, I am not proud of the way in which the Senate has been made a publicity platform for irresponsible sensationalism. I am not proud of the reckless abandon in which unproved charges have been hurled from this side of the aisle. I am not proud of the obviously staged, undignified countercharges which have been attempted in retaliation from the other side of the aisle.

I do not like the way the Senate has been made a rendezvous for vilification, for selfish political gain at the sacrifice of individual reputations and national unity. I am not proud of the way we smear outsiders from the floor of the Senate and hide behind the cloak of congressional immunity and still place ourselves beyond criticism on the floor of the Senate.

As an American, I am shocked at the way Republicans and Democrats alike are playing directly into the Communist design of "confuse, divide, and conquer." As an American, I do not want a Democratic administration white wash or cover up any more than I want a Republican smear or witch hunt.

As an American, I condemn a Republican Fascist just as much as I condemn a Democrat Communist. I condemn a Democrat Fascist just as much as I condemn a Republican Communist. They are equally dangerous to you and me and to our country. As an American, I want to see our Nation recapture the strength and unity it once had when we fought the enemy instead of ourselves.

It is with these thoughts that I have drafted what I call a Declaration of Conscience. I am gratified that the Senator from New Hampshire [Mr. TOBEY], the Senator from Vermont [Mr. AIKEN], the Senator from Oregon [Mr. MORSE], the Senator from New York [Mr. IVES], the Senator from Minnesota [Mr. THYE], and the Senator from New Jersey [Mr. HENDRICKSON] have concurred in that declaration and have authorized me to announce their concurrence.

The declaration reads as follows:

STATEMENT OF SEVEN REPUBLICAN SENATORS

1. We are Republicans. But we are Americans first. It is as Americans that we express our concern with the growing confusion that threatens the security and stability of our country. Democrats and Republicans alike have contributed to that confusion.

2. The Democratic administration has initially created the confusion by its lack of effective leadership, by its contradictory grave warnings and optimistic assurances, by its complacency to the threat of communism here at home, by its oversensitiveness to rightful criticism, by its petty bitterness against its critics.

3. Certain elements of the Republican Party have materially added to this confusion in the hopes of riding the Republican Party to victory through the selfish political exploitation of fear, bigotry, ignorance, and intolerance. There are enough mistakes of the Democrats for Republicans to criticize constructively without resorting to political smears.

4. To this extent, Democrats and Republicans alike have unwittingly, but undeniably, played directly into the Communist design of "confuse, divide, and conquer."

5. It is high time that we stopped thinking politically as Republicans and Democrats about elections and started thinking patriotically as Americans about national security based on individual freedom. It is high time that we all stopped being tools and victims of totalitarian techniques—techniques that, if continued here unchecked, will surely end what we have come to cherish as the American way of life.

MARGARET CHASE SMITH, *Maine.*
CHARLES W. TOBEY, *New Hampshire.*
GEORGE D. AIKEN, *Vermont.*
WAYNE L. MORSE, *Oregon.*
IRVING M. IVES, *New York.*
EDWARD J. THYE, *Minnesota.*
ROBERT C. HENDRICKSON, *New Jersey.*

Mr. SMITH of New Jersey. Mr. President, prior to the address just delivered by our distinguished colleague, the Senator from Maine, she suggested to me that she thought the address she was about to make to the Senate might contain some matters with which I might disagree.

I wish to say to my distinguished colleague that I have listened with the greatest intentness to her speech; I left my desk and took a seat close to her desk in order that I might hear every word of her speech. I wish to state that I am in wholehearted agreement with everything she has said, and I congratulate her and commend her for the magnificent address she has just made to the Senate.

Mrs. SMITH of Maine. I thank the Senator from New Jersey.

Mr. HENDRICKSON. Mr. President, I wish to state for the record that the address which has just been delivered by the distinguished Senator from Maine is one of the best addresses I have heard since it has been my privilege to be a Member of this distinguished body. The address was inspiring and thought-provoking, and it sounded a clarion warning to which every one of us should pay heed. In the future, as we undertake our deliberations on the floor of this body and as we proceed to meet our daily obligations, we should keep in our minds this fine, ringing message.

I compliment and congratulate my distinguished colleague, the Senator from Maine; and as she goes forth on her new mission abroad, I hope she will remember that she has given us today this inspiring message—and to good advantage.

Mr. TYDINGS. Mr. President, it is not necessary for any of us to be in complete agreement with all the statements made by the distinguished Senator from Maine, who has just entertained us and instructed us on the highest level of statesmanship. I think there is much food for thought in the central theme of her magnificent address. This country is faced with terrific perils. The whole world is looking to us for leadership. Regardless of whether we like it or do not like it, there is no other place than America to which the free democratic world can turn.

I take the address just delivered to the Senate by the distinguished Senator from Maine to be a real contribution to the world situation and particularly to the situation existing in the Senate and the situation existing in the House of Representatives. She has been temperate, constructive, imaginative, and, I believe, fair in her comments generally upon the passing scene. I wish to compliment her both personally and as a fellow Senator upon her breadth of view and the reasonable detachment from political affairs which she has stated in such a delightful manner in the thoughts to which she has given expression. Those of us of the male sex must coin a new word in order to aptly fit her magnificent address, and I suggest the word "stateswomanship."

Mr. LEHMAN. Mr. President, I deem it a great privilege to congratulate the distinguished Senator from Maine upon her masterly and very timely address. I think she has said things this afternoon in condemnation of the current smear campaign which had to be said and should have been said long ago, things which many of us on the floor of the Senate have felt and were in agreement with.

I think she has brought home to the American people both the evil and the danger of trial by accusation, not trial based on evidence or on proof, but merely on accusation, innuendo, and smear. She has well expressed her antipathy for what she aptly called the Four Horsemen of Calumny—fear, ignorance, bigotry, and smear.

She has said the things which are in our minds and hearts, and she has done so in a manner which I think none of us who had the privilege of listening to her will lightly or quickly forget.

I think she has pointed out, too, the great danger under which we here have been working for the past few months, namely, the danger that the people of America, through the endless repetition of unproved charges against the State Department and Government employees generally, will lose confidence in their Government. She pointed out the even greater danger that the freedom-loving people of other nations will lose confidence in the leadership of the United States. If that should happen, I would see very little hope for the free world.

Again I wish to take this opportunity both to congratulate and to thank the able junior Senator from Maine [Mrs. SMITH] for her very thoughtful address.

[From the CONGRESSIONAL RECORD, June 1, 1970]

DECLARATION OF CONSCIENCE—20 YEARS LATER

Mrs. SMITH of Maine Mr. President, 20 years ago on this June 1 date at this same desk I spoke about the then serious national condition with a statement known as the "Declaration of Conscience." We had a national sickness then from which we recovered We have a national sickness now from which I pray we will recover.

I would like to recall portions of that statement today because they have application now 20 years later.

I said of the then national condition:

"It is a national feeling of fear and frustration that could result in national suicide and the end of everything that we Americans hold dear."

Surely that is the situation today.

I said then:

"I speak as briefly as possible because too much harm has already been done with irresponsible words of bitterness and selfish political opportunism."

That is not the only situation today, but it is even worse for irresponsible words have exploded into trespass, violence, arson, and killings.

I said then:

"I think that it is high time for the United States Senate and its Members to do some soul searching—for us to weigh our consciences—on the manner in which we are performing our duty to the people of the United States—on the manner in which we are using or abusing our individual powers and privileges."

That applies today. But I would add this to it—expanded application to the people themselves, whether they be students or construction workers, whether they be on or off campus.

I said then:

"Those of us who shout the loudest about Americanism in making character assassinations are all too frequently those who, by our own words and acts, ignore some of the basic principles of Americanism—

"The right to criticize;

"The right to protest;

"The right to independent thought."

That applies today—and it includes the right to dissent against the dissenters.

I said then:

"The American people are sick and tired of being afraid to speak their minds lest they be politically smeared . . . Freedom of speech is not what it used to be in America. It has been so abused by some that it is not exercised by others."

That applies today to both sides. It is typified by the girl student at Colby College who wrote me:

"I am striking with my heart against the fighting in Cambodia but I am intimidated by those who scream protests and clench their fists and cannot listen to people who oppose their views."

I said then:

"Today our country is being psychologically divided by the confusion and the suspicions that are bred in the United States Senate to spread like cancerous tentacles of 'Know nothing, suspect everything' attitudes."

That applies today—but it must be expanded to the people themselves. Twenty years ago it was the anti-intellectuals who

were most guilty of "know nothing" attitudes. Today too many of the militant intellectuals are equally as guilty of "hear nothing" attitudes of refusing to listen while demanding communication.

I said then:

"I don't like the way the Senate has been made a rendezvous for vilification, for selfish political gain at the sacrifice of individual reputations and national unity."

That applies today. But I would add that equally I do not like the way the campus has been made a rendezvous for obscenity, for trespass, for violence, for arson, and for killing.

I said then:

"I am not proud of the way we smear outsiders from the Floor of the Senate and hide behind the cloak of congressional immunity and still place ourselves beyond criticism on the Floor of the Senate."

Today I would add to that—I am not proud of the way in which too many militants resort to the illegalities of trespass, violence, and arson and, in doing so, claim for themselves a special immunity from the law with the allegation that such acts are justified because they have a political connotation with a professed cause.

I said then:

"As a United States Senator, I am not proud of the way in which the Senate has been made a publicity platform for irresponsible sensationalism."

Today I would add that I am not proud of the way in which our national television networks and campuses have been made publicity platforms for irresponsible sensationalism—nor am I proud of the countercriticism against the networks and the campuses that has gone beyond the bounds of reasonableness and propriety and fanned, instead of drenching, the fires of division.

I have admired much of the candid and justified defense of our Government in reply to the news media and the militant dissenters—but some of the defense has been too extreme and unfair and too repetitive and thus impaired the effectiveness of the previous admirable and unjustified defense.

I said 20 years ago:

"As an American, I am shocked at the way Republicans and Democrats alike are playing directly into the Communist design of 'confuse, divide and conquer.'"

Today I am shocked at the way too many Americans are so doing.

I spoke as I did 20 years ago because of what I considered to be the great threat from the radical right—the threat of a government of repression.

I speak today because of what I consider to be the great threat from the radical left that advocates and practices violence and defiance of the law—again, the threat of the ultimate result of a reaction of repression.

The President denies that we are in a revolution. There are many who would disagree with such appraisal. Anarchy may seem nearer to many of us than it really is.

But of one thing I am sure. The excessiveness of overreactions on both sides is a clear and present danger to American democracy.

That danger is ultimately from the political right even though it is initially spawned by the antidemocratic arrogance and nihilism from the political extreme left.

Extremism bent upon polarization of our people is increasingly forcing upon the American people the narrow choice between anarchy and repression.

And make no mistake about it, if that narrow choice has to be made, the American people, even if with reluctance and misgiving, will choose repression.

For an overwhelming majority of Americans believe that:

Trespass is trespass—whether on the campus or off.

Violence is violence—whether on the campus or off.

Arson is arson—whether on the campus or off.

Killing is killing—whether on the campus or off.

The campus cannot degenerate into a privileged sanctuary for obscenity, trespass, violence, arson and killing with special immunity for participants in such acts.

Criminal acts, active or by negligence, cannot be condoned or excused because of panic, whether the offender be a policeman, a National Guardsman, a student, or one of us in this legislative body.

Ironically, the excesses of dissent on the extreme left can result in repression of dissent. For repression is preferable to anarchy and nihilism to most Americans.

Yet, excesses on the extreme right, such as those 20 years ago, can mute our national conscience.

As was the case 20 years ago when the Senate was silenced and politically intimidated by one of its Members, so today many Americans are intimidated and made mute by the emotional violence of the extreme left. Constructive discussion on the subject is becoming increasingly difficult of attainment.

It is time that the great center of our people, those who reject the violence and unreasonableness of both the extreme right and the extreme left, searched their consciences, mustered their moral and physical courage, shed their intimidated silence, and declared their consciences.

It is time that with dignity, firmness and friendliness, they reason with, rather than capitulate to, the extremists on both sides—at all levels—and caution that their patience ends at the border of violence and anarchy that threatens our American democracy.

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

Mrs. SMITH of Maine. I yield.

Mr. STENNIS. Mr. President, I commend the Senator from Maine for the fine expression of her thoughts and her principles that she has given us today. Not only does she mean what she says, but also, she touches on the very sensitive parts of our system and points out some weak spots.

I recall 20 years ago when she made the speech to which she referred today. She was right then, and I can testify that that speech had a great deal to do with bringing into focus the opinion that finally congealed in the American people, and on the floor of the Senate brought about—I could not say a full remedy, but a striking part, a very major part, of the remedy.

Her speech 20 years ago was a landmark, and I think today the Senator from Maine has given us another landmark, or milestone, whichever term we may use. We are all personally indebted to her for that, and the American people are indebted to her not only for what she says but also for what she does as a Senator. I want her to know that she is appreciated, for those reasons and others, by this body and by the American people, and I congratulate her for the speech she has made.

Mrs. SMITH of Maine. Mr. President, I thank my distinguished colleague from Mississippi. Whatever he says means much to me because of our long association. The people well know his part in the committee work that has brought about the recovery from the illness I referred to, and I thank him.

Mr. WILLIAMS of Delaware. Mr. President, I join the Senator from Mississippi in paying respects to the Senator from Maine for her remarks here today. I, too, recall her remarks of 20 years ago. Just as those remarks were needed then, so, too, are the statements she has uttered here today very much needed. I hope that both the Senate and the American People will take heed to the recommendations she has made.

[From the Maine Sunday Telegram, Feb. 4, 1973]

"PEOPLE WANTED CHANGE, I'M NOT BITTER"—MRS. SMITH

(By Bill Caldwell)

"Of course I'm disappointed that I was beaten," says former Sen. Margaret Chase Smith. "Of course I'm unhappy that I am no longer representing the people of Maine as I have done for 34 years.

"Yes, my defeat was a shock to me. But I am not bitter, as uninformed, speculative news stories have said.

"Why should I be bitter? The people of Maine gave me the biggest majorities in history time after time. . . I am most grateful for those . . . this time the majority of those who went to vote decided they wanted a change. . .

"Why be bitter? It is over. There is not one thing I can do to change it. Who am I to question that or to be bitter?"

Mrs. Smith says she turned away all requests for interviews following her election defeat for two reasons.

"First, I had nothing to say except that I lost. Everyone knew that. And that I was disappointed to have lost. That surely wasn't news. . . The other reason I refused interviews was simply that I was too busy getting out of my office. And I will tell you why I had a fixation about getting out on time and in good order. . .

"You must realize that a defeated senator has an eviction notice. If he or she is not out on time, it causes havoc all down the line. When I was first elected to the Senate, I could not get into my office because the defeated senator would not leave. I had to park my files and furniture in the corridor and sit on a chair in the rotunda for two or three days. I felt furious, awkward and foolish. . .

"I was determined that I would not cause anyone the embarrassment caused me. So my first priority was to get out on time and in good order.

"That is not quick or easy, after you have been in Congress 34 years. I, Bill Lewis, Jackie Potter and all my staff worked around the clock, trying to get that job done as well as handling the regular work of the office. That work was piled up higher than ever, after the campaign. When I lost, we were deluged with mail from all over America, and indeed from many foreign nations too, which had to be answered.

"One way to save time was to give no press interviews. If I had given one, I would have had to give dozens, in fairness."

Mrs. Smith is anxious to set the record straight about news reports that mistakenly said her defeat had not triggered off any demonstration of tribute or affection from her fellow senators—implying that after being the only woman in the Senate for so long, she was leaving unnoticed and unmourned.

"That implication is wholly untrue and unfair to my colleagues," says Mrs. Smith.

To prove it, assistant Bill Lewis comes out of the study carrying a six-inch thick sheaf of letters and telegrams from people on the Hill and another big sheaf from the people in the executive branch and the White House.

There are tributes, some very moving, from senators on both sides of the political aisle, from old-timers and from greenhorns.

Sen. Howard Baker of Tennessee writes, "no outcome of any Senate race was a greater mistake than your loss. The Senate and the nation will miss you grievously . . ." Sen. Ed Brooke of Massachusetts writes, "How can I ever express my deep affection and respect I have for you? I will miss you more than you can ever know . . ."

Sen. Robert Dole of Kansas writes, "no defeat has affected me more than yours. You are a political legend in your own time . . ." Sen. Barry Goldwater writes, "Your defeat is the most shocking . . . to lose you will

be a tremendous, irreplaceable loss to the Senate and the nation."

Sen. Hubert Humphrey writes, "As a Democrat, I am supposed to be jubilant when another Democrat wins. But I just can't feel that way about losing you . . ."

The pile of letters from senators includes letters in similar vein from Sens. James Buckley, Jacob Javits, Everett Jordan, Charles Mathias, Charles Percy, Jennings Randolph, William Saxbe, Hugh Scott, Stuart Symington, Strom Thurmond, Milton Young, Carl Curtis, Harry Fong, Harry Byrd, Howard Cannon, John Sherman Cooper, Norris Cotton, Clinton Anderson and dozens more.

"I also got a nice handwritten note from Sen. Muskie. It came in the latter part of December, I think, but only after a story in the newspapers reported that my office had not heard a word from Maine's other senator."

The Congressional Record of Jan. 9 carried a full and growing tribute in the form of a senate resolution to Sen. Margaret Chase Smith, not previously noted in newspapers.

"Put them away, Bill," says Mrs. Smith to Gen. Lewis. "That is enough to show that it is a calumny on my colleagues to say they did not acknowledge my departure. I thank Heaven the Senate was not in session right after the elections. I'm afraid we would have had a lot of oratory from the floor, and that would have shook me up badly."

President Nixon wrote, saying "The most disappointing aspect of the whole election is your defeat . . . as one who has known defeats, I know how you feel. At such times you find who are your real friends. And count me among them . . ."

There are moving tributes and affectionate personal letters from Melvin Laird, Henry Cabot Lodge, Elliot Richardson, Adm. Rickover, Nelson Rockefeller, William Rogers, Dean Rusk, Bob Hope, Gov. George Wallace, Claire Booth Luce, Richard Helms of CIA, and scores of others around the world.

"I show you all this to set straight the record," says Sen. Smith. "If I have any bitterness, I am bitter to those who since my defeat are saying that I am sick, lonely, a recluse or an embittered old lady in hiding. None of that is true at all."

Within a month, Mrs. Smith says she will announce what is to become of her congressional papers and files.

"We have 300 boxes of them in apple-pie order now. The span of years they cover runs from 1937, when I was secretary (at $3,000 a year) to my husband Clyde, when he was congressman from Maine, right through to December, 1972.

"That is 35 years of Maine and Washington. It covers presidents from FDR to Nixon. They cover almost every aspect of governmental decision making in war and peace, from the highest secrets on down to the vital requests from constituents in Maine. It is a revealing documentation of American history."

Mrs. Smith says that many universities, including the University of Maine and national libraries have expressed interest in obtaining this collection. "My work on them will be over shortly. And before March 1, I will be able to say where they are going."

When this job is completed, Mrs. Smith says she will be making a number of national speeches.

"My next major engagement is Feb. 24. Then I am to receive the American Education Award in Atlantic City. Some of the previous recipients include Lyndon Johnson, Erwin Canham, Leonard Bernstein, Walt Disney. And it is a bit ironic, after what the Teachers Association had to say about voting against me in Maine, that I should be chosen to receive this educational award.

"I have also been re-elected chairman of Freedom House, the Memorial Foundation to Wendell Wilkie, which represents the progressive, active center view of American life and politics. And that job keeps me traveling to New York. On Feb. 26, there is a big dedication ceremony there over which I will preside.

"In March I go to the University of Alabama to lecture for three days there at the law school. In April I make a speech to the convention of the Federated Womens Clubs in Ohio. In May, I will speak in Indiana and Michigan.

"And as usual I will make the commencement address at Maine high schools, this June at Winslow and Harrington."

Mrs. Smith says she has so far not acted upon a number of commercial offers. "Lecture bureaus wanted to sign me up for national speaking tours. But I think that would be too confining. And then Doubleday, the publishers, want me to write two books, one an autobiography and the other a critique of Congress. I would like to do both, but I am not quite ready yet to get started.

"And a national television network wants to discuss a contract for me to become a regular TV commentator . . . but I will wait a while longer before making decisions. If I move too fast, I fear some would charge me with 'sour grapes' when I speak out on issues. I have not lost my trait for independence. . ."

Looking back at her election defeat, Mrs. Smith says that she "fully expected to win, right up until I heard the returns coming in from Augusta. When I showed badly there, I first began to get really seriously worried. Before that I thought it would be close but that I would win."

Mrs. Smith says she might have announced that she would retire and not run for reelection again until Robert Monks announced he would fight her in the primaries.

"The principal reason I decided to run" she says "is because Monks jumped in with both feet, said he had a million dollars to spend and wanted to kick me out. If he had not gone ahead and announced this way, I might not have run."

Mrs. Smith says that Robert Monks, accompanied by Robert Marden, came to see her in Nov. 1971. "Bob Marden said nothing. Sat there looking embarassed about the whole thing. And Monks talked on for 1½ hours about almost nothing. He failed to say one word then about his intention of entering the primaries against me a few months later."

She applauds Monks for being a "very fair and honest opponent in the primary fight and a gracious loser.

"But my big victory in the primary over Monks may have given us false assurance. My age compared to Monks' age did not hurt me then. Nor did rumors of my being in bad health. Yet when it came to election, it was my age and malicious rumors about my bad health that damned me most.

"Being 74 (and not 75 as many papers said) was bad enough. But the thrust was that I would be 81 before my term expired if I were re-elected. Now I could not deny my age. It is a fact; not a debatable campaign issue.

"I did my best to offset it by proving to all who cared to look that age was not a handicap to me. I did full five days of hard work in the Senate, flew to Maine every weekend, put in 18-hour campaign days there, and then flew back to Washington.

"Proof of my ability to do the job was there for all who cared to look. I carried a full load in the most important committees in the Senate, I had voted on more than 5,000 roll calls. My position on the current issues of revenue-sharing, the Vietnam War, the economy, education, social security—everything else was on the record to see. I did not duck any issues in this campaign. I did far more than talk about them. I had voted on them, on the record.

"But people wanted a change. The national feeling was anti-establishment. They wanted someone younger. That is understandable. But it was unfair and wrong to say, as some did, that I had lost touch with Maine people.

"I read and answered 200 letters a day from Maine people. I was in constant touch with the urgent details of their private and business problems. In 1972 alone I spent more than 100 days in Maine. And as to my health—why I had never been hospitalized once until my first hip operation in 1968. And I am fit as a fiddle now."

To prove it, Mrs. Smith stands up and insists upon moving a big dining room table and six chairs without assistance. Then, to locate a file others cannot find, she scrambles up a small ladder and pulls down a cardboard filing cabinet locates the missing papers, and lifts the file back into place.

"Maybe I should have done more television in the election campaign. But that is not my style. I have always been against 'Buying elections'. I turned $20,000 over to Charles Moreshead of the GOP Committee in Maine, told him to contribute $5,000 to Porteous, $5,000 to Cohen and use $10,000 to get Republicans elected to the state legislature.

"Maybe I should have used that money myself or taken help from the national GOP or the President. He at one time offered to make an appearance in Maine. But I like to run on my own two feet.

"However I was a strong team player for others. Everytime I spoke I urged people to vote for Nixon, for Cohen, for Porteous and for Republican legislators. I don't believe they did as much for me, and I did not ask them.

"Some people's loyalties were split. I remember I sent primary petitions, for example, to Sen. Minette Cummings and to Mrs. Henrietta Crane. Both were thinking of running then to become Republican national committeewomen. Minette Cummings got her petition filled and sent it back. But Henrietta Crane sent hers back blank and empty, saying she felt it might upset Bob Monks if she circulated a petition for me. "But I don't really bear grudges. People do what they think best for them.

"Only one thing really hurts. I still hurt when I think about my own home town Skowhegan, where I was born, worked and grew up, voting against me. That hurts. And it is no use pretending it does not.

"It hurt too when my hometown paper came out editorially against me . . . the Somerset News. I had worked eight years on that paper. But what few people knew is that the Bangor Daily News had bought the Skowhegan Paper. And when the Bangor Daily News decided to come out against me that policy was in effect on the Skowhegan paper too.

When the Skowhegan paper told the AP they were refusing to support their home town Margaret Smith, they did not tell the AP that they were not an independent paper but were controlled by Bangor and acting on orders from Bangor. So the news went out across America that my home town paper was against me. That really was not the whole truth."

Mrs. Smith feels that some influence on her defeat was exerted by the papers owned by the Bangor Daily News and the Guy Gannett Publishing Co. "Of course it is their right and duty to support whomever they choose. But in February at a dinner in Washington the owners of both papers said publicly to me that they would support me not only in the primaries but also in the election. And of course they did not."

Mrs. Smith admits she will miss the Senate, especially the committee work and the work for her constituents. "The mail from Maine still pours in. People still ask me to intervene for them to solve their problems. They refuse to realize I no longer have any position or influence in government.

"But I will not be a hanger-on. I will not, as some do, haunt the Senate offices or lobby. I did not even go to any inaugural celebrations. I have cut those ties—except where they involve personal friendships. Those 34 years are done."

Mrs. Smith says that the President has not made any overture to her regarding a position in the administration. If he did, she might have doubts about taking it "because I am inclined to be pretty independent. The President knows that well—for instance my votes against his nominations for the Supreme Court and my vote against the ABM. Those upset him. I upset Eisenhower too, when Nixon was vice president. I can be a team player. But not when I am in total disagreement with policy."

Mrs. Smith hopes to return to Maine "but not right away. I think it would be hard for me to live in Sowkhegan right now, and it would be hard for many people in Skowhegan.

"And it would be hard to go back to Cundy's Harbor right now. The vandals who broke in there don't seem to have been petty thieves. They tore up and desecrated all my personal mementos and belongings. That had the earmarks of a vicious personal attack. And it naturally worries a woman alone. But I will surely be back to Maine before too long.

"Tell them back home that I am not bitter, grudge-bearing, a lonely or sick and aged woman. Tell them I am fine, happy, busy and intend to keep right on being busy and happy and doing what I feel worthwhile!"

[From the Maine Sunday Telegram, Feb. 11, 1973]

MRS. SMITH ON A SUNDAY AFTERNOON

(By Bill Caldwell)

WASHINGTON.—"Look how the buds are swelling on the dogwood and azaleas already!" says former Sen. Margaret Smith, walking the extensive grounds of her home in the Washington suburb of Silver Spring, Md.

"This rock is my diving board. I swim here in the pool twice daily in the summer. First in the morning, then on hot nights to cool off . . . Bill Lewis built the barbecue. Those black tops are Monson slate we brought from Maine. And this polished slab of Maine granite comes from Stonington.

"Now I'll change," she says. "And get on with washing the car. That's what I like to do on Sunday—wash the car."

You can take Mrs. Smith out of Skowhegan. But you can't take Skowhegan out of Margaret Smith.

At 75 Margaret Smith is younger looking most of the time than most women of 60. She is comfortable financially, on a pension of over $34,000 a year. She held higher political office longer than any woman in American history. Presidents fawned over her—and she sometimes infuriated them.

But on Sunday afternoons the lady from Skowhegan, Maine, gets out hose, bucket and boots and washes down her aging white Pontiac convertible.

On a driveway at a separate entrance to the same house Maj. Gen. Willim C. Lewis, the landlord and for 26 years loyal assistant to Mrs. Smith, works on his antique car.

Bill Lewis, 60, is the envied owner of a classic 1941 Plymouth coupe. "This is an heirloom" he says. "My father gave it to me. He drove it here from his ranch in Red River, New Mexico. Every time I'd drive it to the Senate gargage I would get offers of $2,000 and more for it. But I'm not selling."

Bill Lewis built this house in 1952, when this area of suburban Washington was still an apple orchard.

"My father and mother came to live here with me part of every year until they died. My father was a great trial lawyer in Oklahoma and late U.S. attorney there. My father was, like me, a general in the U.S. Air Force Reserves. He died in 1965. My mother was a lawyer, too and also a U.S. marshal. She was chief law clerk to the Supreme Court in Oklahoma. My mother died in 1963.

"They were close friends of the Senator's, who had the lower half of this house for most of the 10 years my mother and father lived in the upper half with me. They spent summers at my place in Cundy's Harbor, Maine, close to where the Senator has her summer house."

Lewis took his law degree from the Univesity of Oklahoma in 1935 and his master's in business administration from the Harvard Business School two years later.

"I first came to Washington in 1938 as senior trial lawyer for the Securities and Exchange Commission. My job was to prosecute public utility corporations who made illegal political contributions. Then in World War II I served in the Navy. Only later did I switch to the Air Force Reserve, following in my father's tradition."

I asked Bill Lewis where he had first met Margaret Smith and how her career became his career.

"When she was in Congress. I came back from the war to become chief counsel to the House Naval Affairs Committee. She was a member of that committee. I first worked with her there . . .

"And then when Sen. Wallace White announced his retirement, I urged Mrs. Smith to run for Senator from Maine. She asked me to become her campaign manager . . . That was when she beat a sitting governor, Horace Hildreth, and a past governor, Sumner Sewall, and a man named Beverage. In that primary she won more votes than all her opponents combined. And I have worked for her ever since."

For 25 years bachelor Lewis and widow Margaret Chase Smith have worked in close harness. He has been her strong, loyal right hand in all her Senate work, in her four triumphant elections and her one losing election campaign, in her world-wide travels.

Yet, a distance of rigid formality still seems to separate these two after 25 years. In speaking to Mrs. Smith, Lewis always addresses her as "Senator". In speaking about Mrs. Smith, Lewis always refers to her in the third person as "the Senator". Never does he use the name "Margaret".

Mrs. Smith almost always addresses and refers to her long time assistant as "Bill", on more official occasions she refers to him as "General Lewis". In conversation Mrs. Smith speaks more warmly, more affectionately about his mother and father than about Lewis himself.

Yet when Bill Lewis suffered a severe heart attack more than a year ago, Mrs. Smith immediately broke her rigid rules of constant attendance to Senate business. For the first time in her career, she chose not to go to her office. She spent days and nights close to Lewis' bedside at Walter Reed hospital during the critical stage of his illness.

Waiting almost to the end of a seven hour interview, I asked Mrs. Smith: "If there was now any likelihood you might become Mrs. William C. Lewis?"

She chuckled, "Lordy, no! Bill is just a young man," she answered. "He is 60. And, furthermore, he's never asked me!"

Earlier in the day, Mrs. Smith was in her kitchen making oyster stew for lunch. Lewis came in to check that all burners were turned off. Petulant at his concern, Mrs. Smith shooed him out, snapping, be it with laughter in her voice, "Don't be nosing around my stove as if I didn't know what to do! I was cooking long before you were ever born!"

On another occasion, Mrs. Smith said, "I don't have a maid. There is too little for a maid to do here. I like keeping house. I'm finickety. Every three weeks a team of men come in half a day or so to do all the really heavy cleaning . . .

"Somedays, however, I feel I should lend a hand to Bill, to straighten up his quarters. But he doesn't want me to help. I never set foot in his part of the house, really, not since his mother and father lived there and we used to visit back and forth."

Speaking of house cleaning, Mrs. Smith recalled her vain efforts to clean-up the Senate dining room. "Only time I screamed in my 34 years in Congress was when a cockroach ran across my steak in the Senate dining room. . . . When I reached down to grab my purse and run, another ran up my arm! Out I ran, screaming at a gallop!"

Mrs. Smith recalls, "The men had been complaining constantly about quality, prices and service of food. They asked me as a woman to get something done. Those cockroaches triggered me to action. But when I asked the Rules Committee to authorize $15,000 to investigate operations of the Senate Dining Room, those 32 male co-sponsors vanished. And one columnist wrote a snide piece about "Margaret's $15,000 cockroach."

"It is a man's domain, the Senate" sighs Mrs. Smith. "The men get hair cuts free. I paid $5 every time I got my hair done in the Senate . . . When I used the Senate swimming pool, part of my physical therapy after my hip operation, I had to go down there out-of-hours."

Mrs. Smith spoke briefly of the $34,000 a year pension she is now drawing after 34 years. "I started work in the Congress in 1938 at $3,000 a year, as secretary to my husband, Clyde, when he was congressman. I have been contributing to the pension fund ever since. I figure I have paid in over $70,000. It will take me years to get my money back. Thereafter, I may have to pay about $17,000 a year in income taxes and other taxes out of my pension."

Over coffee, the talk switches to how a state delegation operates.

"I am a bit surprised about news stories now concerning meetings of the Main congressional delegation—as if the idea was new—it's far from new. I held them in my office on a Tuesday of each month for the eight years I was chairman."

The talk turns to prominent figures in the Nixon Administration.

"Henry Kissinger is a perfect dear, wholly charming to be with," is Mrs. Smith's opinion of President Nixon's special envoy. "I used to get awfully tired of those leaderships meetings at the White House. But at one breakfast meeting, I found Kissinger at my shoulder saying, 'Senator, I hope you'll have breakfast with me'.

And I answered, "After all those lovely young girls you squire around town, aren't you going from the sublime to the ridiculous asking to eat with me?"

Thereafter at the White House and elsewhere, Kissinger and Mrs. Smith grew to be close friends.

"Richard Helms, head of the CIA until his new appointment as ambassador, is one of the men I admired most in the Nixon administration" says Sen. Smith. "I knew him well. I was one of just three United States senators given the fullest possible security clearance. Dick Helms kept us well posted on all CIA plans and operations and budgets. He was a most able CIA director. He did extremely well in presenting us with the full knowledge of CIA we were entitled to have."

Helms got along so well with the Congress, says Mrs. Smith, that some people feel President Nixon sent him overseas on a different job to get Helms off the hill.

"Some senators felt that the President does not like any person working for him to get along well with the Congress," says Mrs. Smith.

As to old friend William Rogers, "Few people appreciate", says Mrs. Smith "how close Secretary of State Rogers as been to President Nixon or for how long. Despite his outward isolation from the White House and the ap-

parent dominance of Henry Kissinger in foreign policy, Bill Rogers has to be among Nixon's closest longtime confidants.

"Having Rogers in the State Department instead of in the inner White House circle may make Rogers better able to do certain assignments for the President than he could otherwise be doing."

I ask Mrs. Smith her opinion of President Nixon.

"Nixon is extremely hard working, able, pragmatic and above all extremely driven by ambition. He is determined to carve a place in history for his presidency. He will let nothing stand in the way of that ambition to make his presidency renowned," says Mrs. Smith of the man she has known for almost a quarter-century.

The confrontation between President Nixon and the Congress, particularly over spending limits and war powers? Mrs. Smith thinks the President will win both battles. "As to impounding funds, that is nothing new. And the Congress knows it. So does Nixon. Both know that Truman, Kennedy, Eisenhower, LBJ, all impounded money Congress had appropriated and earmarked. Congress did not protest then.

"One reason Congress is making so much noise today is that this is the first new Congress not to have a civil rights bill or a filibuster to occupy is attention right after Inauguration. They'll settle down by March, I think."

Her desk is the thing she'll miss most from the Senate, says Mrs. Smith. "It was in the front row. It was officially called 'Senate Desk Number One.' I had the same desk all the 24 years I was in the Senate, something few senators do.

"But besides being in a good position, that desk had another special meaning for a senator from Maine. It is the desk that belonged to Hannibal Hamlin of Maine. He sat at this desk first in 1848. Later he became Lincoln's vice president, thereby becoming president of the Senate and a powerful voice for emancipation. He came back to the Senate in 1869 and served till 1881. I was proud to sit at it for 24 years. . ."

Another advantage of that desk was that it was close to the vice president "partly because of where I sat. I have known all the vice-presidents very well" says Mrs. Smith.

Talk switches to the presidents and vice presidents with whom Mrs. Smith has served closely. She is not willing to name favorites. But her sense of closeness to LBJ is clear.

"We came into Congress as freshmen in the House in the same year . . . Then we served together constantly, not just in the House and then the Senate but on the same committees together all through . . . There is where you really get to know the quality of a colleague . . .

"I looked up the records. They show that Lyndon Johnson and I broke all records in the history of Congress for the amount of time we spent working together on the same committees . . .

"He had a huge understanding and love for both houses of Congress but particularly the Senate. We shared that, as well as our work . . . Yes, I respected and admired Lyndon Johnson especially his devotion to his work. And I like to think it was mutual. We were real friends for a long time, long while."

Mrs. Smith recalled her days in newspapering, from the time she worked for the Skowhegan paper through the years she was a syndicated columnist, telling the woman's view on the opposite side of the political fence from fellow-columnist Mrs. Franklin Roosevelt.

"I am looking for the right platform to speak from now," says Mrs. Smith, who wants to be a voice for the center of American life and politics. "I'm afraid of extremists and distrustful of them, from either side of the spectrum."

She is most tempted by an offer to become a network television commentator.

"I did television before, you remember," she says. "There was that nationally televised debate between Mrs. Roosevelt and myself when she supported Adlai Stevenson and I supported Ike.

"But I recall mostly those television interviews I did for CBS and Ed Murrow during my world trips in 1954 and 1955.

"I spent hours with Churchill and Eden. In France I particularly remember the experts told me not to waste my time talking to Charles de Gaulle. They said he was a has-been. But I wanted to see him anyhow.

"We were shown into a bare, stark white room. The only furniture was a narrow table. On one side was a huge raised chair, like a throne. On the other side were three tiny, low chairs, with legs sawed off to make them smaller. Then in came De Gaulle, almost seven feet tall himself. And we had to star gaze up at him up on his throne for a whole two hours. . .

"I spent four hours with Nasser. He was nervous. He insisted on having all my questions in writing. And then reading all his prepared written answers.

"I did the world's first televised interview with Generalissimo Franco of Spain and saw President Menderes of Turkey. I went to Moscow to see Molotov. But no TV was allowed. In Germany we did a camera interview with Chancellor Adenauer. Then we went to East Berlin, Bill Lewis and the cameramen got thrown in jail.

"Most fascinating perhaps were the hours I spent with Nehru in India. It started very badly. He came in carrying one rose and wearing another. He always wore a rose on his tunic, as I did on my dress. The second rose was for me. But I already had one on—to my embarassment and his.

"That was a bad start. Then the first question I asked Nehru was a very tough one: 'Mr. Prime Minister,' I said, 'Why are you so tolerant of communism outside your borders but so tough and anti-Communist inside India. How do you reconcile these opposite positions?'

"The first hour was icy. But then the ice melted finally and we had two more hours of the best talk with one of the best minds I have ever encountered.

"And on the trip we interviewed U Nu of Burma, President Diem of Saigon, President Magsaysay in Manila and Chiang Kai-shek on Taiwan . . . It was all unforgettable and CBS shot miles of film.

"Yes, maybe I would like to do television again as a commentator for the center."

Watching her feed birds, cook oyster stew, clear a table, even wash her car on a Sunday afternoon, it is hard to realize one is talking to a woman who is a legend in her own time across the nation.

For there is not one iota of pomp, not one air of self-importance and vanity in her as she talks in her home.

You can take Mrs. Smith out of Skowhegan. But you can't take Skowhegan, Maine out of Margaret Chase Smith.

[From the Washington Post, Feb. 13, 1973]

EX-SENATOR SMITH'S HOME TO BECOME A MEMORIAL

(By Maxwell Wisenthal)

SKOWHEGAN, MAINE, February 12.—Friends of former Sen. Margaret Chase Smith plan to convert the three-story, white, wooden Smith homestead here into a memorial library in her honor.

They plan to move ahead on the conversion despite Mrs. Smith's recent observation that "it would be hard for me to live in Skowhegan right now," because the voters of this central Maine community favored her opponent, William D. Hathaway, in the November election.

The committee planning the library has formed a corporation known as the Margaret Chase Smith Memorial Library. All of her books, papers and other material will be stored there and be available to researchers and for public viewing.

Among those planning for the library are Leo Cherne, executive director of the Research Institute of America; Claire Giannini Hoffman, a director of the Bank of America and daughter of the founder, A. P. Giannini; Katie Louchheim, former vice chairman of the Democratic National Committee and former Deputy Assistant Secretary of State; Claire Booth Luce, former ambassador and author; William B. Mills, executive of the DuPont corporation; Robert T. Stevens, former Secretary of the Army and chief executive officer of the J. P. Stevens Textile Co.; James E. Webb, former administrator of the National Aeronautics and Space Administration and former director of the budget; Richard H. Wels, New York attorney; H. L. Gosselin, former executive of the Bates Manufacturing Co. and one of Mrs. Smith's campaign directors; William C. Lewis Jr., former administrative assistant to Mrs. Smith, and Merton G. Herny, Portland, attorney and campaign aide to the former senator.

Henry said Mrs. Smith was delighted with the idea of the residence being converted to a memorial library.

He said the committee would meet shortly to discuss the cost and renovations involved.

Mrs. Smith also has a home at Cundy's Harbor on Maine's Casco Bay.

[From the Lewiston Daily Sun, Feb. 13, 1973]

SENATOR SMITH MEMORIAL

The conversion of the Skowhegan home of former U.S. Senator Margaret Chase Smith into a public memorial library is a fitting tribute to the outstanding work and distinguished career of the woman who was Maine's senior senator until last month.

Senator Smith's 34 years of service at the nation's capitol began when she was secretary to her late husband, Congressman Clyde H. Smith. It continued as she served in the House and reached its zenith in the Senate. Courageous and independent, she became a power in the Senate and in the federal government, and an active member of top ranking committees.

The years that Sen. Smith served in Congress were among the most turbulent and important in American history. The files of documents and papers which she accumulated are of inestimable historical value.

The Margaret Chase Smith Memorial Library will house those papers and mementoes of her congressional career. Future generations of Mainers and Americans will be enabled to more fully appreciate her tremendous contribution to our government and our times.

[From Newsweek, Nov. 20, 1972]

MAGGIE SMITH: ROSES, THORNS

They made a fuss in Washington over the fresh rose she always wore pinned near her left shoulder, but that was so much sentimentality. The thorn was what counted in Margaret Chase Smith's 24-year career in the U.S. Senate. She voted and spoke alone if need be, and took no money from anyone for anything (including any private donations for her own reelection campaigns), and made up her mind with such detachment from the usual quid pro quos of Senate politics that no one dared even ask her how she intended to vote. When the 74-year-old Republican senior senator from Maine was finally defeated last week, overtaken as much by advancing age as by her Democratic challenger, 48-year-old Rep. William D. Hathaway, the Senate lost its fourth-ranking Republican, its lone woman—and one of its only true independents.

A handsome, soft-spoken Skowhegan schoolteacher, Maggie Smith went to Washington in the 1930s with her congressman husband and succeeded him in the House after his death in 1940. In 1948 she was

elected to the Senate—the third woman elected in its history—and within two years made her lasting mark upon it. While much-paragraphed liberals like Hubert Humphrey stood silently by, the Republican lady delivered her "declaration of conscience" against "hate and character assassination" that has "debased" the Senate. She did not once mention Sen. Joseph McCarthy by name, but he got the point well enough to stalk off the Senate floor—and to pour money and his best campaign efforts into a vain attempt to defeat her in the Maine primary in 1954.

Through the years, her habitual silence and unpredictable independence seemed to give her vote a special weight in crucial Senate roll calls. She cast one of two GOP votes against confirming Lewis L. Strauss as Dwight Eisenhower's Secretary of Commerce—and these two votes made the difference. A domestic liberal and international hard-liner, she earned the name of "devil" from Nikita Khrushchev for voting against John Kennedy's nuclear-test-ban treaty.

She opposed Richard Nixon's nominations of both Clement Haynsworth and G. Harrold Carswell to the Supreme Court. Her aloof sense of integrity could be exasperating. Though she opposed the President's ABM program because it was "obsolete," she also opposed a compromise that might have stalled the program. She fiercely resented any pressure or blandishment: when Mr. Nixon disclosed on the day of a hairline vote on the supersonic transport that he had decided to keep open a job-rich naval shipyard on the Maine border, Mrs. Smith kept her counsel—and voted against the SST and the President.

But perhaps her proudest voting record was that she cast more of them in a row than any senator in history—2,941 roll calls until a hip operation finally sidelined her briefly in 1968. Never a hero or a real power in the Senate—where the doers no less than the slackers were frustrated by her refusal to compromise—she nevertheless exerted a certain force simply by her silent example. Amid all the pious rodomontade that followed on the assassination of John Kennedy, it was Margaret Chase Smith who went quietly to his old Senate desk and laid on it one red rose.

A NEW POLICY TOWARD SOUTHEAST ASIA

Mr. ROTH. Mr. President, just a year ago, in March 1972, I suggested that as the cornerstone of a new policy toward Southeast Asia, we should encourage the development of a neutralized Southeast Asia, free from great power competition. I pointed to the proposals for a zone of peace, friendship, and neutrality made by the member countries of the Association of Southeast Asian Nations—ASEAN—and suggested that our improved relations with China and the Soviet Union should be utilized to examine these proposals on the great power level.

Now that our military involvement in Vietnam has ended, I think the conditions for a neutralized Southeast Asia have improved. Last month the foreign ministers of the member countries of ASEAN—Indonesia, Malaysia, the Philippines, Singapore, and Thailand—met to discuss the implications of the cease-fire agreement for their region and the possible ways that they could assist in strengthening the prospects for peace. One of these countries, Indonesia, is directly assisting in keeping the peace in Vietnam by its participation as a member of the International Commission for Control and Supervision. At the same time, relations among the great powers have continued to improve. We will soon have a permanent mission in Peking, and diplomatic relations between China and Japan were established late last year.

It is my understanding that the members of ASEAN would welcome the membership of other Southeast Asian countries who agree to abide by the spirit of cooperation embodied in the organization's declaration of 1967. This would certainly be the implications of the remarks by Indonesia's President Suharto, as recently reported by Mr. C. L. Sulzberger in the New York Times. President Suharto is quoted as saying:

> We want ASEAN to strengthen regional independence and avoid having this area become a regional cockpit.

President Suharto would also welcome both South and North Vietnam into the association, saying:

> If both North and South decide to keep their separate governments, it would be to our advantage and to theirs if they joined ASEAN.

I find this thinking strikingly compatible with our own hopes for Southeast Asia. We want and have fought for the independence of the countries of the region, and we are also sympathetic to and encourage their aspirations for economic development. I think all Americans would agree that it would be much better if these countries were left to strengthen themselves through regional cooperation, free from outside interference. It is clear from Mr. Sulzberger's article that this is the goal of President Suharto. He wants no part of the Soviet Union's collective security arrangement as proposed in 1969 by Premier Brezhnev. At the same time, an effective neutralization arrangement would also serve as a substitute for other security arrangements in the region that should be phased out, including SEATO and the five power agreement linking Malaysia and Singapore with Australia, New Zealand, and Great Britain.

I believe that neutralization deserves the active attention of our foreign policy leadership. On January 23, when President Nixon announced the conclusion of an accord on Vietnam, he said:

> All parties must now see to it that this is a peace that lasts and also a peace that heals, and a peace that not only ends the war in Southeast Asia but contributes to the prospects of peace in the whole world.

As part of our contribution toward seeking such a peace, I would reiterate my earlier suggestion—that the United States sound out the other great powers with a stake in Southeast Asia on whether some neutralization agreement might be made for the entire region. The time for doing this has never been more propitious. The countries of ASEAN are doing their part to seek peace, and their continued cooperation is essential to a durable neutralization agreement. We can make their task easier and give them encouragement to continue on their path if we support their efforts by seeking a supplementary larger power agreement.

Mr. President, I ask unanimous consent that Mr. Sulzberger's article be inserted at this point in the RECORD.

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

THE KILLING HAS TO STOP

(By C. L. Sulzberger)

JAKARTA, INDONESIA.—A new kind of neutralism, in which Indonesia plays a vital role, is now advancing in Southeast Asia. With luck, it might be able to absorb the political wreckage of the Indochina war. This neutralism, unlike other varieties as expressed in India or Syria, is in no sense tinged with anti-Americanism. Indeed it appears more sympathetic to the United States than to either the Soviet Union or China.

Less than a decade ago, when Sukarno was still absolute ruler here, both Moscow and Peking were vying for the favor of this country, fifth largest in the world. The Russians sent in enormous quantities of military equipment including aircraft, tanks, guns and warships.

The Chinese subtly cultivated the Jakarta regime, hoping to swing it to the Peking brand of Communism through a local uprising and then to squeeze Southeast Asia in an ideological nutcracker.

All these visions have vanished. The Soviet arsenal has rusted away. A mild and realistic China policy has taken over. Sukarno is dead and the pro-Peking Indonesian Communist party was smashed after a violent coup backfired in mass bloodshed.

Indonesia now aspires to an international role of restrained nationalism and protection of Southeast Asian interests against the ambition of countries foreign to the area. As explained by President Suharto, a smiling but no-nonsense general who put down the Communist uprising seven years ago, regional defense is the paramount concern.

In the long run, he conjectures, it might be useful to organize a larger Asian group to consult on problems but at this moment only ASEAN, the Association of Southeast Asian Nations, is workable. The five members are Indonesia, Singapore, Malaysia, Philippines and Thailand. It is noteworthy that, this country apart, all are linked by military arrangements with the West.

"The most important thing is to consolidate ASEAN as a regional force," says General Suharto. "There is no point of linking it with larger Asian lands like India and Pakistan or China and Soviet Russia. That would merely embroil the area in new contradictions. We would, however, welcome as members Southeast Asian nations like Burma, Laos, Cambodia, and should they so desire, both South and North Vietnam."

This view of ASEAN is not as a bloc or alliance, although the members could exchange military information; training and assistance. It would be entirely up to the Indochina countries, once peace really comes, to decide whether they wish to join. The President feels ASEAN offers the Vietnamese an alternative to Great Power rivalry.

For him the Vietnam conflict proved nothing. He says: "If we go back to the Clausewitz definition that war is a continuation of policy by other means, no belligerent achieves anything. But the Paris agreement permits self-determination. If both North and South decide to keep separate governments it would be to our advantage and to theirs if they joined ASEAN."

The general reasons that this is consonant with U.S. desires, as expressed in the Nixon Doctrine, that American forces should withdraw and let Asians settle their own problems. Likewise it would frustrate Soviet power dreams as expressed in the Brezhnev Doctrine for Southeast Asia. He says: "We want ASEAN to strengthen regional independence and avoid having this area become a regional cockpit. Therefore, we automatically reject the Brezhnev Doctrine."

Finally, it is plain that he would like to check future revival of Peking's former am-

bitions among the Southeast Asian lands, all of which have large Chinese minorities. "China," he says, "supports the Communist coup here. It still supports remnants of the Indonesian Communist party, which try to create disturbances. We cannot tolerate this and won't resume relations with Peking until it ends this policy."

National security is the obsession that dominates Indonesian foreign and internal policy and this is largely true for its ASEAN partners. General Suharto sees a chance that when similar views begin to prevail in ravaged Indochina, it too will want to join the club.

This is an unemotional and pragmatic vision that could some day appeal to battle-scarred lands north of here. It is a far cry from the kind of grandiose talk that prevailed in Indonesia itself under Sukarno, who dreamed of grabbing Malaysia, Papua, and even Australia.

Perhaps some day its logic may also attract weary Vietnam, Laos and Cambodia when they realize that for them too, as in Malaysia, Indonesia and the guerrilla-torn Philippines, another pattern must emerge when the killing has to stop.

NATIONAL CRISIS—ENVIRONMENTAL AND ENERGY

Mr. FANNIN. Mr. President, in recent times we have witnessed the collision of two great forces.

On one hand we have the steadily developing American economy which requires a continually expanding supply of energy if we are to achieve our lofty national goals.

On the other hand we have the deepening concern over environmental deterioration.

To solve the energy crisis we need expeditious means of developing resources and constructing facilities. But as a result of the environmental concern, there are numerous redtape barriers to the development of desperately needed power resources.

Today I would like to discuss this collision of concerns and one major step we should take to help resolve the crises—environmental and energy.

Mr. President, shortages of natural gas and fuel oil for heating this winter have aroused great public concern. A number of distinguished Members of this body have spoken of the energy crisis. The President of the United States has recognized the need for immediate action in this area. Extensive hearings have been held in both Houses and they are continuing.

The CBS television network and its distinguished news commentator, Mr. Walter Cronkite, devoted a substantial amount of time to this subject, concluding with the opinion that the energy crisis was really not a crisis at all, that our present problems bear a made-in-Washington, D.C., label, and that we have enough undeveloped or undiscovered reserves to meet our needs for perhaps the next 100 years.

I personally find it illogical to count undiscovered reserves in an inventory of available fuel sources. Nevertheless, I am reassured by the fact that this distinguished news gathering agency has recognized that we face a present shortage of energy, and furthermore, that part must be laid at the door of the Federal Government.

In my remarks on this subject in January, I attempted to give a factual assessment of our present position—in my view there is a real and present danger threatening the United States and its people.

In those earlier remarks I touched only briefly on those activities of the Federal Government which have contributed to our present situation, where this winter schools were forced to close, factories to shut down, and the airlines to reschedule certain flights—all because of fuel shortages.

The future is not indeed as black as some critics have painted it. We have ample reserves of coal, and certainly in the next decade we can anticipate that a substantial number of new nuclear powerplants will increase the supply of available electrical energy.

The construction of these nuclear generators has been delayed because of the action by groups which contend the plants would be a danger to the public.

It is now apparent that as a result of the calculated efforts of those who oppose the utilization of nuclear power, we must for at least the next decade place our major reliance for generating electrical energy on conventional fuels.

We have the coal available. We have the engineering talent. We can transport coal to the generating site, or we can transport electrical energy from a mine-mouth generator to the centers of population. Why is it then, Mr. President, that most of the great cities in the United States are faced with an inadequate source of electrical energy? Why is it that both investor-owned utilities and public power generators are urging their customers to reduce consumption of electricity and to be prepared to cope with a rationing of electrical energy in the immediate future?

In my home State, where the desert temperatures frequently range up to 115 degrees in the summertime, our peak demands for electrical energy occur in July, August, and September. Without electrical refrigeration our homes and our office buildings and our factories would he unbearably hot during the summer months.

As many of you know, Arizona has experienced a phenomenal growth in population over the past 20 years. This increase in population, which has produced a strong economy and has improved educational and cultural opportunities, can be traced to the advent of refrigerated air conditioning.

When I was a boy in Arizona we always had the snowbirds—the winter tourists who came to our valley seeking to escape from the snow and ice of other sections of the country. But these tourists departed with the first hot days of spring, and for the natives who were willing to endure the heat, the four summer months—June, July, August, and September—were a period of enforced relaxation. The tempo of life slowed down. The way of summertime life was of the blame for our present shortage weeks in the higher mountain areas of Arizona or long sojourns to the beaches.

Air conditioning has changed all that. The long summer slowdown is gone forever, and our utilization of electrical energy has doubled and tripled and will double again.

At the outset I repeated the charge you have heard from a number of sources declaring that our present energy crisis must bear a made-in-Washington, D.C., label. Certainly no one in Government consciously desires to impose upon our citizens the hardships invoked by shortages of natural gas or heating fuel or electrical energy.

Certainly no one in Government deliberately desires to erect roadblocks—the effect of which has been to prevent the development of adequate sources of electrical energy.

And yet, Mr. President, the effects of Government action and in-action have created a situation which threatens to impose uncomfortable and costly hardships on the people of central Arizona. The people of Arizona have waited more than 40 years to realize the construction of the central Arizona project. Happily, work is being commenced on construction necessary to bring Arizona's share of Colorado River water into the central valleys where it is desperately needed.

As a part of that project and also to meet our ever-increasing demands for electrical energy, a consortium of utilities in concert with the Bureau of Reclamation has under construction at Page, Ariz., the Navajo plant—a conventional coal-fired thermal generating station which will ultimately provide 2,250,000 kilowatts of capacity to serve the needs of consumers in southern California and Arizona.

More importantly, the Navajo station will provide the energy necessary to lift Arizona's share of the Colorado River water from the channel above Parker, Ariz., and deliver it through some 200 miles of aqueduct and pumping stations to the urban populations of Arizona.

In their efforts to construct this essential generating station, the builders were required to deal with 10 separate Federal bureaus or agencies, with nine State agencies or political subdivisions, with one multi-State commission. Let me read the list:

First, U.S. Bureau of Reclamation; second, U.S. Bureau of Land Management; third, U.S. Bureau of Indian Affairs; fourth, U.S. Forest Service; fifth, Navajo tribe of Indians; sixth, Hopi tribe of Indians; seventh, U.S. Corps of Engineers; eighth, Arizona State Land Department; ninth, Arizona Legislature; tenth, U.S. Environmental Protection Agency; eleventh, U.S. Department of Labor; twelfth, U.S. Interstate Commerce Commission; thirteenth, Federal Aviation Administration; fourteenth, Arizona Department of Aeronautics; fifteenth, Arizona State Highway Department; sixteenth, Arizona Water Commission; seventeenth, Upper Colorado River Commission; eighteenth, U.S. Bureau of Mines; nineteenth, Arizona State Department of Health; twentieth, Coconino County Board of Supervisors; twenty-first, Advisory Committee to the

City of Page, Ariz.; twenty-second, Arizona State Motor Vehicle Registration.

Mr. President, these 22 agencies produce more miles of redtape than the Colorado River travels in its journey from the Wind River Mountains of Wyoming to the Gulf of Cortez.

Twenty-two bosses—22 subdivisions of government—each zealously protecting its own preserves, demanding reports, imposing conditions, issuing instructions.

I suggest that this example of overlapping, duplicating authority offers positive proof of the need to consolidate the oversight of the Nation's energy-producing facilities under a single Cabinet-level division of Government.

It is equally essential for each State to consolidate oversight into a single State agency with decisionmaking authority. If this could be accomplished within a reasonable time, we could look forward to an end to unnecessary delay and the rapid and proper expansion of the necessary generating facilities.

Mr. President, allow me to cite another example of how redtape inhibits the expeditious development of needed power.

Southern Arizona, and notably the city of Tucson, is served by a dedicated, efficient, investor-owned public utility. Long before many of us in Washington recognized the impending energy shortage, this utility had made positive moves to provide for the needs of the people in their service area by participating in the construction of a coal-fired generating station in the Four Corners area just west of Farmington, N. Mex.

Unfortunately, the power developed at the San Juan station could do nothing to contribute to the comfort and necessities of the people of Tucson until a transmission line was constructed to connect the production source with the potential consumers.

In their efforts to construct that transmission line the Tucson Gas & Electric Co. was compelled to deal with 11 State agencies and 22 Federal agencies, departments, and bureaus.

The need for that additional energy in Tucson was undisputed. The San Juan powerplant was constructed with the full approval of all appropriate agencies, and the need for transmission lines from San Juan to Tucson was implicit in every aspect of this development. And yet, Mr. President, the Tucson Gas & Electric Co. had to deal with and satisfy strictures and rules and conditions laid down by the New Mexico State Land Department, the New Mexico State Highway Department, the New Mexico Public Service Commission, the New Mexico Cultural Properties Review Committee, New Mexico State Planning Office, New Mexico State Game and Fish Department, the New Mexico State Environmental Improvement Agency—seven entities in the State of New Mexico.

And then the Tucson Gas & Electric Co. had to deal with and satisfy the rules and strictures of the Arizona State Land Department, the Arizona State Highway Department, the Arizona State Parks Department, the Arizona State Game and Fish Department—four agencies in the State of Arizona.

This was only the beginning. The Tucson Gas & Electric Co. had to deal with and satisfy the conditions and strictures laid down by the U.S. Department of Agriculture Forest Service, the Apache National Forest of Springerville, Ariz.; the Gila National Forest Service of Silver City, N. Mex.; the Forest Service Regional Office in Albuquerque, N. Mex.

The Tucson Gas & Electric Co. had to satisfy three divisions of the Bureau of Land Management—the New Mexico Bureau of Land Management at Santa Fe, the Arizona Bureau of Land Management at Phoenix; and the Washington, D.C., Bureau of Land Management and the Department of the Interior.

There is more:

The Zuni Tribal Council at Zuni, N. Mex.; the Bureau of Indian Affairs at Albuquerque, N. Mex.; the Washington, D.C., Bureau of Indian Affairs and the Department of the Interior; the Navaho Tribe, Window Rock, Ariz.; the Bureau of Indian Affairs, Window Rock, Ariz.; the Bureau of Indian Affairs, Washington, D.C.; the National Park Service; the New Mexico Archeological Center at Albuquerque, N. Mex.; the Arizona Archeological Center at Tucson, Ariz.; the Bureau of Reclamation; its regional office at Boulder City, Nev.; Washington, D.C., Bureau of Reclamation, Department of the Interior; the U.S. Bureau of Sport Fisheries and Wildlife, Albuquerque, N. Mex.; the Federal Aviation Authority, Los Angeles, Calif.; the Federal Communications Commission, Washington, D.C.; the Environmental Improvement Agency, Dallas, Tex.; the U.S. Bureau of Public Roads.

Mr. President, prudence, supported by commonsense and a recognition of consumer needs, makes it imperative that we end this overlapping, duplicating, confusing division of Federal authority. We need a consolidated Federal agency, empowered to make Federal decisions and to expedite construction and utilization of additional sources of electrical energy essential to the future welfare of this Republic.

When such a Federal authority is created we can anticipate the States will consolidate State decisionmaking power in a single State agency. When this is accomplished the Federal agency, the State agency and the constructors of our proposed generating plants can work cooperatively both to protect the environment and to end the threat of an electrical energy shortage.

The public interest can be amply protected and the public welfare properly served.

In that regard, Mr. President, may I point out that within the Department of Agriculture authority has been granted to the regional level to make decisions and to issue rights of way. However, the Department of the Interior has withheld such authority and it is retained in Washington, D.C.

All utilities are now required to go through the National Environmental Policy Act process, during which all aspects of the action to be taken are reviewed and aired with the public prior to clearance for Federal agencies to proceed with issuances of right of way. An unreasonable burden is placed upon the utility by requiring that any regional analysis and requirements pertaining to the issuance of such right of way must be transmitted to Washington, D.C., for additional review and issuance of rights of way.

The regional levels are more aware of conditions relating to the action. The transmittal of this information to Washington not only adds to the confusion and redtape, but imposes considerable additional time delay.

Mr. President, so far I have spoken primarily about the stifling effect of our multilayered bureaucracy on electrical generating and transmission facilities.

The same forces are at work, however, in the suppression of other facilities which are needed to meet the Nation's energy needs. One good example is the now-stalled Alaskan pipeline.

Twenty-five percent of America's known oil reserves are in Alaska, and we have explored only a small area of that huge State. Many authorities feel confident that future exploration will bring vast additional proven reserves.

Presently exploration has been delayed pending the approval of the pipeline construction. Each week of delay costs our Nation millions of dollars.

My distinguished colleague from Alaska has noted some of the overwhelming costs.

Senator STEVENS pointed out the environmental impact statement alone already has cost the American taxpayers $10 million.

Each year of delay in building the pipeline will escalate the cost $200 million to $300 million.

The millions of dollars in additional costs will be borne, as all such costs ultimately are, by the American consumers.

Mr. President, we all are familiar with the long and arduous process which has been involved in trying to get the pipeline built. Men of vision proposed the pipeline so that it could be constructed to avert the energy crisis we now are facing.

Many, many roadblocks have been thrown up. The time has come to take affirmative action to see that this pipeline is constructed so that America will have the fuel to maintain its economy and its position of world leadership. If we do not take action to meet our fuel needs through use of our own abundant resources, then we will not have the physical nor economic strength to meet our social needs at home or our commitments to our free world allies abroad.

It is my feeling that we must break this impasse and get on with the vital business of providing the means to satisfy America's future energy needs.

Whatever we do regarding the Alaskan pipeline, however, will simply be nothing more than a stopgap. The pipeline is of great importance but it is only one project.

Proposed legislation will not solve the problem of overlapping, duplicating authorities which inhibit the necessary development of all our energy resources.

Mr. President, the first step in alleviating our current energy shortages and avoiding a future crisis is to consolidate procedures by which decisions are made.

Let us remove some of the tentacles of government which are choking off energy supplies, and let us replace them with a firm guiding hand which can protect the public and the environment while expediting needed power development and delivery.

In conclusion, I want to emphasize that I am not proposing any Federal usurpation of State authority. Federal decisions should be consolidated into one decisionmaking operation, and State decisions should be consolidated into another. This is essential to the future of America.

PROMOTING THE ARTS AND HUMANITIES

Mr. HUMPHREY. Mr. President, formal support by the Federal Government for the arts and humanities, under statutory law, has a comparatively recent history, commencing with the administration of President Johnson. However, in only a few years this support has had an effective and dramatic influence on the quality of our Nation's cultural and social life.

Strong, bipartisan support for extending authorizations and increasing the level of funding under the National Foundation on the Arts and the Humanities Act of 1965, is evident in bills already introduced for this purpose both on behalf of the Nixon administration and by Senator PELL. I urge the early completion of action on this legislation to assure that vital programs under this act will continue to reach into the lives of more and more of our people in significant and meaningful ways.

These programs represent a genuine Federal-State partnership, with Federal seed money being effectively matched with State funds. Dramatic accomplishments have been recorded in Minnesota. Productions by the Tyrone Guthrie Theater, in Minneapolis, have received widespread recognition. Our people can point with pride to a major symphony orchestra, a contemporary art center and a leading art institute, a children's theater, contemporary and traditional opera producing companies, an established chamber orchestra, many community theaters, art centers and symphonies, and dozens of fine artists, musicians, and actors. The Minnesota Humanities Commission has made more than 40 grants, on a matching basis, to universities, State colleges, private and junior colleges, libraries, educational television stations, museums, historical societies, and community organizations to share with the public at large the insights of humanists at the grassroots of our State. New and innovative programs—educational programs for children, on-the-job training for youth, mobile art displays, major theatrical productions, and symphony tours, all have been made possible through Federal and State assistance under this historic act. And these programs provide invaluable communications channels for addressing the profound issues of our time, and for evolving a framework of principles and new perceptions by which to judge the quality of life we should be striving for in our country and for all mankind.

Effective support for the arts and humanities has been one of my primary concerns, not only during my term as Vice President where the leadership and encouragement of President Johnson were of decisive importance in this area, but also during 18 years as a U.S. Senator. In 1957, I introduced the first of several bills which culminated 7 years later in the enactment of legislation establishing the National Council on the Arts.

Two years earlier, in 1962, President Kennedy had stimulated national interest in the arts through the appointment of August Heckscher as Special Consultant on the Arts—a precedent carried through by President Johnson in the appointment of Roger L. Stevens as Special Assistant, and by President Nixon in the appointment of Nancy Hanks as Chairman of the National Endowment for the Arts. And it has been through the intelligent and perceptive leadership of Miss Hanks that further major steps have been taken in establishing new dimensions for the arts.

However, it is important that the decisive initiatives launched by President Johnson in promoting the arts and humanities in our Nation receive the recognition which they fully merit. An article by Richard Coe, entitled "L. B. J. and Arts," and appearing in a January 1973, issue of the Washington Post, clearly spells out this record of leadership and deep interest. And I can only second Mr. Coe's judgment that "L. B. J. did more for the arts than all his 35 Presidential predecessors combined."

Mr. President, I ask unanimous consent that the Washington Post article by Richard L. Coe be included at this point in the RECORD.

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

L. B. J. AND ARTS

(By Richard L. Coe)

LBJ did more for the arts than all his 35 presidential predecessors combined. The irony was that the most vocal members of the arts community derided him and mocked his "style."

In the four eventful years from 1964 to '68, President Johnson guided into reality at least a dozen projects which the arts community had dreamed of vaguely for years. Even now many in that community are unaware such programs exist. They were:

The National Council on the Arts, authorized to develop a plan for the federal role in all the arts.

The National Foundation on the Arts and Humanities, the first agency in our history specifically designed to support the growth of all the arts throughout the nation.

The John F. Kennedy Center for the Performing Arts.

The National Museum Act of 1966 providing for programs of museum training, research, surveys and publications.

The Corporation for Public Broadcasting to encourage the development of noncommercial radio and TV.

Acquisition of the Joseph H. Hirshhorn collection, its building now nearing completion on the Mall.

Realization, through Arts Endowment funds and private sources, of the American Film Institute.

Grants through the Office of Education, making possible funding for artists to visit elementary and secondary schools under the Education Act of 1965.

Programs in 16 major cities to provide summer arts programs for young people.

Creation of the National Collection of Fine Arts and the National Portrait Gallery in the old Patent Building at 8th and F sts.

Reclaiming the old Court of Claims at the corner of Penn ave. and 17th st., now the Renwick Gallery.

Grants-in-aid programs both to regional theaters, music and dance groups and, as well, individual awards to painters, sculptors and writers.

These accomplishments had a trusted strategic planner and field commander, Roger L. Stevens, who for much of the Johnson years had three titles: White House consultant on the arts, chairman of the National Council on the Arts and Chairman of the Board of the Kennedy Center, a title Stevens still holds by vote of the board.

In the late '50s even tentative mention of such projects was deemed visionary. In the early '60s both Sens. Kennedy and Nixon, then running for the presidency, spoke virtually unanimously about more government relationship to the arts but three years after taking the oath of office President Kennedy answered a criticism of mine that no advances had been made with the promise: "Cheer up. We'll get them done." Ten months later he was dead.

President Johnson waded into the challenge with a vengeance. Within a week after he assumed office he went along with Sen. Fulbright and Rep. Thompson in altering their bill for a "National Cultural Center" into a "living memorial" for his predecessor. At the same time he urged Honolulu to name its new East-West Theater for President Kennedy. On a chillingly cold, rainy December morning of 1964, President Johnson broke ground for the Center. He looked on the project with a visionary vigor, but on his several post-White House visits to the area, never got around to visiting the building.

But he saw to it that the cream of American artists visited the White House both as guests and as performers on the elegant little stage Rebekah Harkness, his wife's friend, contributed from the design of famed Jo Mielziner. This portable stage repeated the East Room's hand-crafted panels, fluted piasters and neo-classic capitals so that the stage seemed a part of the room itself, not a make-shift that had been shoved into place.

Hardly an American artist of distinction refused an invitation to perform for the dinner guests assembled honoring world leaders. Here, for Morocco's Hassan II, the late Jose Limon danced his great work, "The Moor's Pavanne," his "Othello" variation. Marian Anderson, Dorothy Maynor, and Duke Ellington were recognized as peerless black artists. Carol Channing's "Hello, Dolly!" was given its fourth birthday performance on Mrs. Harkness' stage and at its end President Johnson wheeled on a huge birthday cake for the star who'd spent the '64 campaign singing "Hello, Lyndon."

The most famous day—and it was all-out Texas style—was the Johnsons' Festival of the Arts, June 15, 1965. It began in the morning, lasted till after midnight and was a day spread all over the house and grounds, embracing sculpture, painting, photography, literature, films, drama, dance and music, an amazingly vast panorama of American

arts. Everyone trekked over with Mrs. Johnson for lunch at the National Gallery and dinner was served under the trees of the White House south lawn, LBJ table-hopping.

If it was an expansive day it was also an abrasive one. In advance Robert Lowell had refused to attend on the grounds that "we are in danger of imperceptibly becoming an explosive and suddenly chauvinistic nation." Invited to read, John Hersey stated he would contribute sections from his "Hiroshima." He did so and was welcomed. Mark Van Doren introduced him and Ambassador George Keenan faced the topic of government and the arts:

"Art is not a political weapon but much of what the artist does is profoundly political in helping to dissolve barriers of hatred and ignorance. In this way you work toward peace, not the peace which is simply the absence of war, but the peace which liberates man to reach for the finest fulfillment of his spirit."

LBJ said: "Amen to that" and then smiled, a bit sadly I thought, at his guests, some of them visibly signing the protest against the Vietnam war which guest Dwight MacDonald was circulating for all to sign and leave behind for their host.

The man who did much to organize the day, Princeton Prof. Eric Goldman would later write a book about that experience and it would prove to be almost as abrasive a work as the controversy itself.

I doubt that LBJ read Goldman's book, though very likely Mrs. Johnson at least read its magazine excerpts. She read everything about the arts, saw all the plays from her earliest days as a Washington congressman's wife and unquestionably influenced LBJ's actions for the arts. One big occasion, a "Salute to Congress" in the fall of '65, lost most of its audience because the House was then debating, far into the night, Mrs. Johnson's national beautification bill. The President kidded Lady Bird that their spoiled party was her own fault.

What one remembers from all the gregarious gatherings is the top quality of the guests, all leaders in the arts. There was Catherine Drinker Bowen talking of how she researched her biographies, Hume Cronyn and Jessica Tandy collecting words about the Great Society, Eugene Ormandy chatting with Satchmo Armstrong, tiny Beatrice Lillie looking up at her Marine escort. There was Gregory Peck laughing about reports he was going to run for Congress. There was Charlton Heston, invited to the unveiling of Franklin D. Roosevelt's portrait and playing a scene from "Sunrise at Campobello" and Alice Roosevelt Longworth telling him: "I'm here today not because I was a cose friend of Franklin but because I was a close critic."

Mrs. Johnson's interest over-ruled such obstacles as health. She'd arranged for presentation of the Margo Jones Award in the upstairs Oval Room but when the time came she was in bed with the flu. But she talked to each of the honorees on the phone to make them feel welcome and as they were leaving they had a glimpse of LBJ leaving his oval office. There was the night a company of "You're A Good Man, Charlie Brown" came in from Shady Grove to serenade Lynda Robb and her new baby, Lucinda, with an East Room performance and LBJ looked in on the small, youngish group to say goodnight to his grandchild.

Roaming restlessly among his guests, sometimes hundreds of them, sometimes only a few, was the tall Texan, often not talking as you'd expect that man to do, but listening, it sometimes seemed, with his eyes; taking in all the details about this particular segment of his Great Society, the artists, finding them very different from himself but not, for that reason, to be despised. It was as though they were a luxury he'd missed along his way to the top and he wanted to grasp all he could about this colorful, assertive breed. He used his energetic know-how on their behalf and if he was puzzled at their ingratitude he was too proudly sensitive to mention it.

PROTECTION OF THE NEWS MEDIA

Mr. ROTH. Mr. President, through hearings conducted recently by the Senate Judiciary Committee's Subcommittee on Constitutional Rights and led by the distinguished Senator from North Carolina (Mr. ERVIN), the various pros and cons of so-called "newsman's privilege" legislation have been brought into the public forum for debate. While I have not, as yet, determined whether a Federal "shield" law should be enacted, I wish to share with my colleagues some interesting thoughts which have been expressed in recent newspaper editorials.

To me, the question whether a Federal "shield" law should be enacted is of extreme importance for, like most Americans, I cherish the freedoms which our Founding Fathers sought to protect through the first amendment to our Constitution. That amendment provided that "Congress shall make no law—abridging the freedom of speech, or of the press" and it seems clear to me that this protection is needed as much today as it was 200 years ago, for by guaranteeing the freedom of the press, we are safeguarding the people's right to know.

In my mind, the issue surrounding the enactment of newsman's "shield" laws centers around this question: Would passage of such a law, granting either absolute or qualified protection to newsmen and their sources of information, enhance the protection afforded all citizens through the first amendment, or would it dilute the protection which has long been a part of our American heritage?

Two recent newspaper editorials focused on this question. These articles, written by Joe Smyth, of the Delaware State News, and Kenneth Crawford, of the Washington Post, clearly point out the dangers inherent in such a "shield" law.

The first danger we noted by Mr. Smyth when he wrote that—

> The legislation would . . . set (newsmen) apart from other citizens, and make freedom of the press something more than just an exercise of free speech.

This act of further defining first amendment guarantees may, in fact, limit the freedom presently available to all citizens. As Senator ERVIN himself has stated:

> The same Congress which grants the privilege may condition it on proper conduct. A future Congress, irritated by a critical press, may hold repeal of the privilege as a threat to secure a more compliant press.

A second question which confronts lawmakers drafting "shield" laws is whom should the law apply to? It is my belief that the first amendment belongs to everyone, not just reporters for major newspapers and publishing firms. But, if a "shield" law is enacted giving blanket privilege to anyone who seeks to decline to testify before grand juries or in the courts, then anyone, even a member of organized crime, could hide behind it. On the other hand, if the law attempts to accurately define the term "newsmen," it would, in effect, be licensing members of the press. This result would, in the words of Mr. Smyth, cause "freedom of speech and the people's right to know," to become a "hollow memory."

Like many of my colleagues, I do not believe that there is any justification for the harassment of newsmen or for using reporters in vague "fishing expeditions." But, like Messrs. Smyth and Crawford, I now have a serious question as to the wisdom of enacting any legislation which may result in an erosion of our first amendment liberties.

The thoughts expressed in these editorials have been helpful to me in considering one segment of this complex issue. I hope the Senate will consider the views of these two journalists together with the other testimony which has been offered in this important debate. I ask unanimous consent that the text of the following articles be printed at the conclusion of my remarks.

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

[From the Dover (Del.) State News, Mar. 18, 1973]

BETWEEN THE LINES: NOTES FROM THE EDITOR'S DESK

(By Joe Smyth)

Now that we have equality among the sexes, I suppose men have just as much right to change their minds as women have. And that's what I've done.

Like many newsmen, I've been upset by the Nixon Administration's attacks on the First Amendment. Since the president has been so successful in turning the FBI into a political agency, he's trying to do the same thing with the news media.

Most of the damage has been done to the electronic media—radio and television—over which the government already has vast regulatory powers. Public television has been drained of its substance, and Nixon's political friends have challenged several television and radio licenses now held by politically independent organizations.

Newspapers aren't as easy a target, but the Administration has been making inroads there, too. The main weapon has been harassment of reporters by prosecutors, grand juries and judges. Some newsmen have even been slapped into jail.

In view of all that, many newsmen were quick to shout approval when equally-alarmed legislators started talking about so-called "shield" laws which would give newsmen immunity from disclosing confidential sources.

The "shield" from harassment is tempting, but such legislation contains more danger than benefit.

For one thing, the legislation would, for the first time, put the government in the position of granting special privileges to newsmen. It would set them apart from other citizens, and make freedom of the press something more than just an extension of free speech.

Newsmen should have no special privileges. When we talk about freedom of the press, we're really just talking about the people's right to know. Reporters, for example, should have no more access to information than any other citizen.

The huge danger would be that "shield" legislation would have to define who qualifies as a "newsman". That would put the government in a position where it is, in effect, licensing newsmen. When that day comes, freedom of speech and the peoples right to know will be a hollow memory.

Yet, if the legislation did not define the term "newsman", practically anybody could start printing a newsletter and claim access to the proposed privilege of newsmen not to reveal their sources.

The governments recent habit of subpoenaing and jailing newsmen who protect their sources of information is not in keeping with the spirit of the First Amendment. If allowed to continue, this practice will interrupt the public's access to a great deal of information tion, and will dry up some confidential sources now available to the news media.

But the only acceptable answer is to have elected and appointed officials who understand the importance of a free press. We will have such officials only if citizens—the voters—care enough to find out where candidates stand on the issue.

In the interim, some of us in the news profession may end up imprisoned as a result of our efforts to protect our sources of information. If that happens, it is a price every dedicated journalist should be willing to pay. Hopefully, public outrage will keep such cases at a minimum.

The First Amendment has kept the people's right to know alive for two hundred years, without granting any special privileges to newsmen.

And that freedom, if we don't panic and write legislation which will put the government in the business of licensing newsmen, will still be here long after Richard Nixon and his repressive Administration are just an unhappy footnote in a dusty history book.

THE PRESS CAN DEFEND ITS OWN FREEDOM

(By Kenneth Crawford)

The American Society of Newspaper Editors has now made it more or less official: the country's journalistic establishment wants Congress to give the press unqualified immunity from disclosure of its confidential sources of information under compulsion of the subpoena power of the courts. Not all journalists agree with the position of the ASNE, but it appears that a majority of them does.

A dissenting minority, as well as the majority, has been permitted to make its case in hearings now being conducted by a Senate committee on various shield bills, some to grant limited immunity, others to go all the way.

Since Congress almost certainly will not pass any of these bills and President Nixon stands ready to veto any measure it does pass, the argument is largely academic. It nevertheless has educational value, the relationship between government and the fourth estate being as little understood as it is both by Congress and the public. Even the courts seem a little hazy about it.

To some of us who have been in this business for a long time the minority has the more persuasive position, perhaps, because age makes us resistant to change but perhaps, too because we detect dangers in any attempt to define freedom of the press as guaranteed by the First Amendment to the Constitution. Special favors granted us by Congress today could become disfavors tomorrow. Any law passed by this Congress could be amended to reverse its thrust by some future Congress.

Not only Congress but state legislatures across the country are under siege of demands for press shields. Some of them have already complied. Some of the bills under consideration by Congress would extend press immunity to state as well as federal jurisdictions.

The reason for this siege is that the courts have recently issued scores of subpoenas calling upon journalists to testify before grand juries and in criminal and even in civil cases, identifying their sources of information and producing unpublished notes, films and recordings. Several reporters have been jailed for contempt for refusing to comply.

In one such case, the U.S. Supreme Court has upheld the right of a lower court to jail a New York Times reporter for non-compliance. The decision was a close thing, 5 to 4, and more tentative than final. Close observers of the court believe that this was not its last word—that it might go the other way in another case presenting a somewhat different set of facts.

In the background of all this, and perhaps more important than the foreground, is the widely held assumption that the Nixon administration is so hostile to the press that press freedom needs more protection than in the past. There is nothing new about the subpoenaing of reporters or about their punishment for contempt. It has all happened before but not with such frequency as it has since the Nixon administration came to power. So the administration is blamed whether it should be or not.

Another new element is television. Although it operates under federal license, it rightly claims the same freedom to disseminate news and opinion as does the print press. Licensing makes it vulnerable and therefore especially sensitive. If anything, its spokesmen want shielding even more than representatives of the older media do.

The advent of television has had an indirect effect on the other media, too. To compete with its animated capsulization of the news, publications dealing with current events have emphasized reporting in depth and investigation of social phenomena—drug, crime, minority unrest, underground protest, and all the rest. In this kind of reporting, the facts are sometimes reachable only through sources that insist upon protection from exposure.

Even the members of Congress who are most enthusiastic about press shielding concede the difficulty of writing an effective law. Whether protection should be limited or unlimited is still under discussion, though the drift seems to be toward total immunity. Then there is the problem of deciding who is to be protected. Who is a journalist and who isn't. Reporters for the New York Times and the Washington Post obviously are, but what about the man who mimeographs and distributes an underground scandal sheet?

Is anybody who claims to be a journalist to be granted immunity from testifying about a crime he has witnessed? If not, where is the line to be drawn? Journalists are not professionals in the sense that doctors and lawyers are. Their relations with sources are not the same as those of doctors to patient or lawyer to client. Journalists have always resisted any kind of licensing and will continue to do so.

Until now, the courts have applied the first amendment case by case and the results, while sometimes unpleasant to the press, have not been disastrous. The American press is still the freest and probably the best in the world at its primary job of informing the public. Granting that it is facing new difficulties, it is fully capable of defending its freedoms in the future as it has in the past.

In any case, the ASNE and its allies will probably be saved from themselves at least for the duration of the present congress and administration.

POVERTY PROGRAMS

Mr. BAYH. Mr. President, I am pleased to join today with the distinguished Senator from Wisconsin (Mr. NELSON), the distinguished Senator from New York (Mr. JAVITS), and 30 of our colleagues as a sponsor of Senate Concurrent Resolution 12, calling upon the President to carry out the provisions of the Economic Opportunity Act of 1964.

I am taking this action for two reasons, both of which I feel deeply about. First, I believe that the Federal Government has a vital role to play in helping States and localities provide effective services and programs to assist the poor and disadvantaged. We all wish that it were not so, we all wish that there were no need for such assistance; but anyone with eyes and ears and a heart knows that there is a great need—and that the Federal Government must supply the leadership and resources to meet that need.

Second, I believe that legislation which has been passed by the Congress and becomes law must be carried out by the President and the executive branch until Congress changes the law. The President, like the rest of us, is bound by valid laws; he cannot refuse to carry out the law simply because he thinks other priorities or ways of proceeding are preferable. In this regard, I agree with the statement Senator JAVITS made concerning this resolution:

> The elimination of OEO and its administration of programs should not be considered "fact" but as proposals, which should be acted upon by the Congress in the context of a reorganization proposal, the appropriations process, and in other appropriate contents.

I am fully prepared, Mr. President, to review all Federal programs—poverty programs as well as defense programs, health programs as well as space programs—to revise those which are ineffective and to eliminate those which are no longer needed. But the Constitution will not permit me to bow to the President's unilateral decision to dismantle, without Congress' permission any program which is low. And my conscience will not permit me to sit by and let effective and needed Federal antipoverty programs be destroyed.

As a member of the Appropriations Committee, I look forward to the opportunity to review the budget proposals to assure that our national goals are being met at the lowest possible price, and that reasoned decisions are made about national priorities. I share President Nixon's "determination to make every dollar devoted to human resources programs return 100 cents worth of real benefits to the people who most need those benefits." I am equally determined that the vast resources of our Nation be put to work to meet the great needs of the poor, the disadvantaged, the minorities, and not squandered in tax loopholes, defense overruns or poverty bureaucracies.

The resolution I join today calls for the President to continue in operation the Office of Economic Opportunity as provided under law and to utilize fully the funds appropriated by Congress for this purpose. For reasons I have stated, I am in full accord with that provision. If alterations are needed in the program, as the President has suggested, then I will consider those suggestions open-mindedly and in the proper course. The resolution also calls on the President to submit a revised budget for fiscal year 1974 requesting full funding for OEO. I con-

sider this provision unnecessary. The President's viewpoint is reflected in his budget. It is now up to Congress to decide whether what the President proposes shall become national policy. Should we disagree with the President with respect to the future of the poverty programs or any other program we will not need a revised request to decide what to appropriate. The resources and the knowledge of the Congress, based on what will surely be an extensive hearing record, will be adequate to the task.

Mr. President, the Economic Opportunity Act of 1964 declares that it is the policy of the United States "to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work and the opportunity to live in decency and dignity." As a public official, I have dedicated myself to that goal. And I am dedicated to reaching that goal—as all other goals the Nation sets for itself—as effectively and efficiently as possible. By setting our priorities straight, revising inefficient programs, and eliminating unnecessary ones, we can and will make giant strides forward.

AGING AND NATIONAL PRIORITIES

Mr. TUNNEY. Mr. President, as a member of the Senate Special Committee on Aging I was outraged by the recent announcement that the administration wants to increase the cost of medicare for the millions of older Americans who participate in that program.

And, as a Senator from California, I was especially mindful that the proposed cost increases—when combined with the wholesale cutbacks in the State medicaid—Medi-Cal—program during the past few years, would cause increased despair and hardship among the 1.8 million Californians of age 65 or over.

When Health, Education, and Welfare Secretary Weinberger appeared before the committee a few weeks ago, he was asked pointblank for good, solid arguments to support his call for increases in so-called cost-sharing for elderly medicare participants.

In my opinion the Secretary gave utterly unconvincing arguments. His arguments were strictly budgetary. Even when confronted with evidence strongly indicating that increases in deductibles and coinsurance would defeat their announced purpose, the Secretary remained adamant.

This stubborn stance by the Nixon administration was challenged recently by Mr. William R. Hutton, executive director of the National Council of Senior Citizens in a speech delivered at a rally organized by the California Legislative Council of Older Americans in Sacramento.

Mr. Hutton described the administration proposals in some detail and made this major point:

Though recommending a cutback in Medicare benefits for the workers' elderly parents, the President made no recommendations to cutback on the taxes the worker pays to support the Medicare program. By maintaining the Social Security tax as it is, President Nixon is making available as a paper surplus in his unified budget another $1.6 billion a year which is now going to support benefits that Mr. Nixon would abolish.

The Hutton speech also deals with many other issues related to aging and national priorities.

It was a hard-hitting, informative address by one of the most energetic and effective leaders in our national senior power movement. I ask unanimous consent to have it printed in the RECORD.

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

SENIOR CITIZENS AND THE BATTLE OF NATIONAL PRIORITIES

(By William R. Hutton)

From Sacramento, California, to Albany, New York, our older Americans are facing deep trouble.

Unless, during the months which lie immediately ahead, we can win to our side and to our understanding, the members of the Congress of the United States and the members of our State legislatures, our senior citizens—the poorest among them in particular—are going to be asked to struggle along without help or hope while President Nixon seeks to turn back the clock on social programs.

We are here today to talk to our lawmakers in Sacramento. On March 6 over 5,000 delegates from affiliated clubs of the National Council of Senior Citizens will assemble on the steps of the Empire State Capitol in Albany, New York. Within the next few weeks there will be rallies in Michigan, Florida, Illinois, Iowa and other States.

The three thousand clubs of the National Council are facing the biggest battle since we began in 1961 to fight for the enactment of Medicare which we finally won in 1965 over tremendous odds and powerful vested interests.

Unless we win this new fight we'll lose adequate health care, decent housing and maybe most of the gains which Seniors have won in the past ten years.

For the truth is that the President's credibility on aging is in very sorry shape. And I believe it is going to get worse.

You may recall President Nixon wasn't in office but a few months before his Secretary of Health, Education and Welfare started saying that too many Federal dollars were being spent on old people. That Secretary—long since out of the Cabinet, who clearly now wants to run for office here in California—said that tens of billions of dollars were going each year for the elderly. When he was asked how he could say such a thing it turned out that he was talking almost exclusively about payments made under Social Security and Medicare.

His so-called big spending on behalf of older Americans was really the money paid out by employers and employees over the years for their own protection!

That coverage did not come out of general revenues—but the Secretary of H.E.W. acted as if he thought it did.

I'm sure you all recall the struggle we had last year to win a 20% boost in Social Security. You all knew that both Democrat and Republican members of Congress supported the 20% boost but that the White House was stubbornly opposed.

But not many of the 20 million Americans over 65 understood the arrangement with the unified budget and how the money in the Social Security Trust Funds could help the President balance his budget—*provided that money was not spent for the purpose for which it was contributed!*

If Congress had not given our elderly that 20% boost, the Administration would have been able to utilize the resulting additional surplus of six billion dollars in the Trust Funds to pare down some of the deficits caused by overspending in Vietnam. That's what the Administration was unhappy about. That's why President Nixon opposed the 20% increase.

Of course the President's unhappy position was buried in a flood of election propaganda last year.

You remember those 28 million cards that were sent out to Social Security recipients on October 3 only a month before the election—the ones which implied that the President was responsible for the 20% increase?

Maybe you remember the millions of brochures which were designed and printed and distributed by half a dozen government agencies at taxpayers' expense telling the voters what a wonderful event was the White House Conference on Aging and didn't it show that the Nixon Administration really cared about older people?

But the electioneering is all over. President Nixon has four more years to show how he really feels about old people.

In the first of what will be a series of State of the Union reports to Congress, President Nixon has repeated the dominant theme of his inaugural address, his budget and his economic report: *social programs must now be cut back.*

You all remember President Kennedy's great inaugural speech in which he exhorted Americans to ask not what their country could do for them—but what *they* could do for their country?

President Nixon's inaugural speech a few weeks ago asked Americans not what they could do for their country but what they could do for *themselves.* And he followed up this appeal for personal self-reliance with budget and State of the Union messages which were frankly aimed at dismantling some of the great social programs designed to help those Americans, either aged, blind or disabled who cannot help themselves.

Before his re-election for four more years, President Nixon told us he was going to make sure that the recommendations of the December 1971 White House Conference on Aging would not gather dust in the national archives. Right now the dust smothering those recommendations could be inches thick!

One of the major recommendations called for making comprehensive medical care available to all Americans, including the elderly, without deductibles and without any other coinsurance or out-of-pocket payments, financed under Social Security.

Now President Nixon wants legislation to require Medicare patients to pay more than twice as much as they now pay for an average hospital stay and, in addition, a substantial increase in the out-of-pocket payments required under Medicare Part B (doctor insurance).

I don't have to tell you that this means denial of needed health services to a vast number of men and women who can barely meet the present Medicare out-of-pocket payments.

Meeting recently in Washington, D.C., the Executive Board of the National Council of Senior Citizens, denounced the drastic Medicare cuts sought by President Nixon as "an attempt to win favor with the well-to-do at the expense of the defenseless sick elderly of the nation."

And because you are not likely to see anything about this in your local newspapers, let me give you one of the reasons why we have charged President Nixon with seeking to balance his budget on the backs of the elderly poor.

At the same time Mr. Nixon announced deep cuts in Medicare and other social service programs, it was revealed that his new budget included a $4.7 billion boost in the defense budget.

But though recommending a cut back in

Medicare benefits for the workers' elderly parents, the President made no recommendations to cut back on the taxes the workers pay to support the Medicare program. By maintaining the Social Security tax as it is, President Nixon is making available as a paper surplus in his unified budget another $1.6 billion a year which is now going to support benefits that Mr. Nixon would abolish.

To be sure, he cannot expend this money for anything else—but it is not being spent for the purpose for which Congress imposed the tax—and is therefore a deceitful misuse of the Social Security Trust Funds. It releases other money the Administration can use to boost the Pentagon budgets.

As you may know, the Administration proposes to raise the deductible for doctor bills under Part B from $60 to $85.00 an increase the patients coinsurance costs from 20 to 25 per cent of the balance. Federal support for adult dental care under Medicaid will be eliminated. Medicare patients would pay for the actual room and board costs of the first day of hospitalization plus ten per cent of all subsequent costs.

Doesn't this sound to you like the Nixon Administration is going back to the foolish notion that somehow the Nixon budgetary problems are caused in large degree by expenditures on aging?

The chilly, class-biased, half-hearted social and economic policies of this Administration are most certainly helping it to lose what little sense of social responsibility it had in the first place.

That lost sense of social responsibility is what eleven City Mayors were talking about last week when, as the Legislative Action Committee of the U.S. Conference of Mayors, they met in New York City to criticize the new Nixon budget. They accused the Nixon administration of breaking a promise that the President made in 1969—that general revenue sharing would be *in addition to, not a substitute for* specific programs for the poor and the minorities who make up so much of central city populations.

The Nixon budget explains the elimination of federal funds for such programs as open space, community action agencies, and library aid by saying that localities can pick up the tabs—if they want—with their revenue sharing funds.

But, because of the magnitude of the cuts, the cities will find themselves far behind their position last year before general revenue sharing was enacted.

Urban renewal, water, sewer grants, Model cities, neighborhood facilities programs, are literally going down the drain.

A so-called 18 months moratorium on building public housing of any kind went into effect as of January 5. Currently more than $1 billion dollars of housing funds are being impounded.

Remember how the President in the days before his reelection pledged to work for property tax relief—but he never got around to offering one concrete proposal though property taxes have increased by 35% since 1969?

On October 7 last year, just a few weeks before the election, Mr. Nixon called the high property taxes paid by elderly retired Americans a "national disgrace." He actually pledged that "relief for these Americans is going to be a first order of business in our next federal budget."

Nevertheless, there isn't a whisper of this promise in the new budget. I don't suppose many members of the National Council of Senior Citizens were caught holding their breath!

In last year's budget message the President said that welfare reform was a good idea whose time had come.

We never got welfare reform last year—and the President doesn't even mention it in this year's budget.

Credibility used to be a very precious commodity, but it doesn't seem to matter much in politics anymore. The Watergate criminal trial is over but heavy questions still remain and many of us feel an unsatisfactory sense that all that was rotten in Denmark is still largely in place. How long will it be before we learn how widespread the espionage activities were, exactly who directed and authorized them—and how strong an effort those in authority made to get to the bottom of the whole affair once aspects of it had come to light?

Many people are ashamed, however, by what we *have* learned about this political party espionage—and this sense of shame keeps getting in the way of a person seeking to think enthusiastically about the President's exhortations to greater individual self-reliance, and about taking power away from big government and giving it back to the people.

Remember the President's strong speeches last year about the terrible shame of so many of American's nursing homes?

Actually it wasn't until his third year in office that the President paid any real attention to nursing home care. In his speeches in Chicago, Illinois and Nashua, New Hampshire, he began to talk about inspections and shut downs. Yet, almost from the day he took office there was always authority in legislation for him to take more far-reaching action than he has even taken.

What we really need is genuine improvement of treatment and practical ways to prevent institutionalization.

Instead, there is an alarming trend to the budget: showing anticipated doubling of the usage ($680 million) for intermediate care homes and a cut of $50 million in skilled nursing home care (down to $959 million).

It is clear that patients are being forced into institutions which provide lesser care. It may turn out that half of the 5000 intermediate care homes may not be up to the new federal standards which are being proposed for these institutions. Already there are signs that more and more poor patients will find themselves in boarding houses and "bootleg" homes.

A man could talk a very long time reporting merely about the broken promises of this Administration regarding older Americans. But that is not going to get us anywhere—even though it is important that all Americans understand.

I have a feeling that most members of the National Council of Senior Citizens are only too familiar with the distorted sense of priorities of this Administration—but there are millions more older Americans who apparently don't.

And there are millions of other Americans who must reach if we are to fashion an effective coalition which will demand of the President and of the Congress that attention must be paid!

Senior Citizens over 65 represent only one tenth of the U.S. population. We learned from the Medicare fight that we needed a coalition to win—and we fashioned a campaign that appealed to three generations: the old folks who would be directly receiving Medicare benefits; their children who are today's workers and who before Medicare had to find money to pay the old folks' medical care; the grandchildren, many of them were able to get money for education which their parents used to spend on grandparent's health care.

We built that successful coalition because it was an issue which genuinely touched on the lives of young, old and middle-aged. And we built it because our elderly people had the enthusiasm and the time to work on their sons and daughters and on their neighbors and on their Congressmen and their Senators, and their State lawmakers.

That is why we are here today.

And what do we have to say? Are we merely saying we want to block the President—cut him down to size? If that's all we want to do we'll have a hard time reaching the 61% who recently voted for him!

No, if we are to win the friends and influence the people of America in sufficient numbers to change our present tragic priorities, we must be prepared to learn about the issues, to talk to our neighbors and friends about the issues—and maybe even to talk to strangers about the issues.

We cannot merely attack the President because he seems to have a down on old people. A lot of young folks and some middle-aged feel the same way! But we can attack his whole string of policies which rob the elderly of their dignity through low incomes, inadequate and move costly health care, stagnating housing policies and dwindling chances for meaningful retirement.

So long as millions of our elderly people continue to struggle for survival in the murky bogs of poverty, or ill-health, they cannot be expected to develop what the President calls "self-reliance."

How can the skills and experience of our older people be developed as a needed national resource when they are sick, hungry, need housing, or need prescription drugs? It doesn't make good business sense—for example—not to expand community service programs for the elderly who are capable and willing to undertake such work, when the only alternative to the absence of these programs is to increase the welfare rolls.

It simply doesn't make good business sense, to give another sad example, to continue our present non-system of health delivery and the costly institutionalization of patients for long term care instead of developing more effective and less costly alternatives—particularly to keep patients in their own homes.

It doesn't make sense not to add the financing of general revenues as a third partner to our social security system, and to raise the tax base. It will certainly make the tax less regressive for the younger worker and permit us to increase benefits for present and future retirees.

And a further needed expansion of our social security is the addition of a system of national health security, guaranteeing the right to fully comprehensive health care to every American, young and old, through a single universal system, without using a means test and with the same benefits for all, rich and poor alike.

This would provide health care *directly* at the lowest possible cost, with no waste of health dollars on private insurance carriers as middlemen, and by using advance budgeting to assure effective controls on all health costs.

National Health Security will remove barriers to timely care by eliminating deductibles and coinsurance and by assuring the patient of no billing by the doctor.

Coinsurance and deductibles are effective; they deprive the very people the system should be designed to help. It is the poor, not the well-to-do who will go without health care, thus increasing inequities and aggravating the health problems of all but the most fortunate.

And President Nixon is now seeking to increase the coinsurance and deductibles in Medicare . . . Brothers and Sisters, do you think—if twenty million seniors take to the streets to tell the rest of America about the effects of this decision, the Congress will ever permit it to take place? I think the workers will be with us—and I think the children will be with us.

These things then, must be our immediate goals.

We must reach the young and the middle-aged by reassuring them that we do not consider our senior citizens a group set apart from the rest of the population in the sense that our needs are to be met at the expense of meeting the needs of others.

Our goal is to improve life for *all* Americans, including the elderly, and we want to be sure that the better life for the elderly is in harmony with the total national interest.

The National Council is a whole-hearted supporter of national health security for the total population. Medicare has relieved much of older people's heavy medical costs, lessening the need to seek for help from family or public welfare in meeting crushing medical bills. Our members now want the same relief for their own children and grandchildren in the years ahead.

We must convince all Americans that the basic floor of income for older people should be provided through a combination of contributions from employers, employees and general revenues.

We must once against pass—first in the U.S. Senate—the Older Americans Act Comprehensive Services Amendments pocket-vetoed by the President right after the 92nd Congress. This Bill—known as S–50—will be voted on the very near future. With your help 67 Senators—19 Republicans and 48 Democrats—have agreed to co-sponsor this important bill.

We must urge Congress and press the White House to lift the moratorium on building and initate immedately the construction of low and middle income housing units with a minimum production of 120,000 units a year for the elderly.

Employment of older workers is a vital part of our national problem of attaining full employment. Older workers are especially disadvantaged in competition for jobs in the labor market. Their problems cannot be met adequately at the State and local level or through the financial instrument or revenue sharing.

We must demand that Congress review our tax structure to close the loopholes so that the very wealthy bear their fair share of the burden. We must continue those social programs which have filled genuine need and, in particular, call for immediate action to meet the spiralling transportation needs of older people.

Finally, we must all commit ourselves to maximum personal effort to bring new elderly people into the organized senior citizen movement, to widen our coalitions and, through the achievement of these objectives, to win a much better life for all older Americans and to build a better America.

DR. DANIEL GRANT, OF OUACHITA BAPTIST UNIVERSITY

Mr. FULBRIGHT. Mr. President, the Arkansas Democrat of March 17 contained a very interesting article by the paper's religion editor, Erwin L. McDonald, on the growth and development of Ouachita Baptist University under the leadership of Dr. Daniel Grant.

Dr. Grant became president of Ouachita 3 years ago. He holds the same position which his father, Dr. J. R. Grant, held for 16 years. Like his father, Dr. Daniel Grant is making an outstanding record at Ouachita.

Mr. McDonald's article details the development at Ouachita in recent years and reports on the new vistas at the Arkadelphia campus.

Ouachita Baptist University is making a significant contribution to the State of Arkansas and to young people in our region. I ask unanimous consent that this article be printed in the RECORD.

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

GROWING UP TOGETHER: A RIVER, A CAMPUS, AND DR. GRANT

(By Erwin L. McDonald)

ARKADELPHIA.—Ouachita Baptist University and the Ouachita River have existed side by side since the Baptist institution was established, on the site of the old state Blind School back in 1886. But until now, there has been little connection between the river and the school.

A bluff and woodland have so completely hidden the river that it has been possible for students to spend the full four years on campus without even knowing, first hand, that the river touches the college campus at its northeastern extremity.

But with the completion of Ouachita's new, million-dollar Student Center this year, a second-story overlook will bring the river into sharp focus and incorporate it into the natural beauty of the campus.

Dr. Daniel Grant, who grew up on the Ouachita grounds while his father, the late Dr. J. R. Grant was head of the school, and who recently passed his third anniversary as the Ouachita president, is understandably proud of the new river vista. As a youngster, he was very much aware of the nearness of the river and a swimming hole it afforded nearby.

"There were times in the past when the Ouachita River used to go on periodic rampages and overflow the college farm," he said. "But the lakes it feeds—Ouachita, Hamilton and Catherine—with DeGray on its tributary, the Caddo, now pretty well take care of that."

The elevation of the Ouachita campus proper has always been adequate to protect it from flooding.

The new river vista will stand as something of a symbol of many other vistas in the life of the university that are coming into prominence in the administration of Daniel Grant.

One thing Grant had never aspired to be was a college president. He had specialized in political science and had many achievements to his credit in this area, including designing metroplan that turned Nashville, Tenn., into a city of nearly half a million, and the writing of several books, including one that became a best seller as a college text. So when he was officially visited by a president-seeking committee from the Ouachita trustees in the summer of 1969, he was both chilled and thrilled.

When he finally agreed to turn his back on one career and begin a brand new one, many of his friends who were aware of what he was giving up to head a struggling church college thought he was wrong.

The financial outlook for the college was far from being as dark when the younger Grant took over as it had been in the heart of the depression, when his father had accepted the reins. Back in 1933 even many of the friends and supporters of the college felt the only thing to do was to let it die. J. R. Grant was promised a salary only on the contingency that he could first pay the outstanding bills against the school. He learned early in his 16-year tenure, one that was to turn out exceptionally well for the institution, that Ouachita's credit at that time was not good for 50 cents worth of nails at a local hardware store.

But the need for millions of dollars in extra funds, for operation and for capital expenditures, was close to acute, on Feb. 1, 1970, when Daniel Grant took his chair in the president's office.

Thanks largely to an era of good feeling among Arkansas Baptists, the main support of the university, two buildings of an eventual five-building megastructure—the Student Center and a Business and Economics classroom building—are fast taking shape, and a third new building, the Fine Arts Building to house the School of Music and the Art Department, is expected to be started soon.

The Ouachita Baptist University-Southern Baptist College Advance Campaign, approved by the Arkansas Baptist State Convention in the fall of 1970, has passed its original goal of $4 million, with about $3 million of this assured in cash and pledges from Baptist churches of the state and is expected to total $5 million before it is finished. Of this, Ouachita will receive about three-fourths, with one-fourth going to Southern Baptist College, the junior college at Walnut Ridge.

Last week the Ouachita board approved a budget of $3,833,000 for operations for the coming school year. This will include about $635,000 from the Arkansas Baptist State Convention, aside from Ouachita-Southern Advance Campaign funds. Of this amount, $460,000 will be for the operating budget and $175,000 in advance funds from the bottom of the convention budget, that part beyond operating funds.

The new Ouachita budget represents an increase of more than $400,000 over the current budget.

The university now has a long-term development department in operation, under the direction of Dr. Ben Elrod. This assures the university of continuing and substantial support from an annual Alumni gifts program, and through deferred gifts, including annuities and wills.

Another Ouachita bright spot is the substantial increase in enrollment that has come about in the new administration. All dormitories are now filled to near capacity. The total enrollment of 1,511 for the fall semester this year was 9 per cent over the total for the previous fall, and the total, nonduplicating enrollment for the current school year has reached 2,100.

The freshman class this year totals 506, making it the largest in six years and 22 per cent over the total a year ago.

Grant could not attribute the increase in enrollment to any one thing, but said the students themselves are the best student recruiters.

Thousands of Arkansas high school students are brought to the campus during the year for such things as youth choir festivals and high school choir days. There are special days, too, for parents of high school students.

There are new vistas academically at Ouachita. Increasing options have been provided for students, giving them more freedom to chart their study courses, to cross academic department lines.

By strange coincidence, the same day that Grant began his presidential duties at Ouachita, an old friend of his, Martin Garrison, was becoming president at Henderson State College, just across the ravine from Ouachita. Garrison and Grant had become friends while they were living in Nashville, Grant on the Vanderbilt University faculty and Garrison on the faculty at George Peabody College for Teachers.

They have worked out new relationships between the two schools that are proving beneficial to students on the two campuses. Library facilities of the two institutions are now open to faculty and students interchangeably, and certain courses are also available from campus to campus, avoiding much duplication, particularly in advanced and special fields. Each library now has a complete set of file cards on the other library.

The two institutions now pool their funds for annual joint lecture series, thus making it possible for them to bring to Arkadelphia outstanding speakers which neither on its own might be able to afford.

Ouachita cooperates with Henderson in certain special areas, including speech therapy.

A Cooperation Education Planning Committee, composed of four faculty members and two students from each institution, keeps the schools alert for new ways of working together.

The schools begin and end their semesters on the same days, so as to simplify the new cooperative ventures.

THE CIVILIAN AND THE MILITARY

Mr. GOLDWATER. Mr. President, the civilian taking a dim view of the military man is nothing new in America's history. In fact, I can remember when I first received my commission as a second lieutenant in 1930 when the services had about hit bottom. During the 1930's and 1940's, of course, they ascended to the levels that I feel they should always be in the public mind, but gradually during the late 1950's and 1960's, through the constant attack of the liberal and radical press, the military man once again came into disrepute.

Happily, I think, the bottom has been reached in this and I think that more and more civilians are going to realize that the military man has something to say and not only that, the military man is anxious to listen to what his counterpart in civilian clothes has to say and what he has to say about all problems.

I came across an article in the September 27, 1972, issue of the Wall Street Journal written by Vermont Royster entitled "Civilian Versus Military," and I think it is so germane to this subject that I have opened that I ask unanimous consent that it be printed at this point in my remarks.

Following this there are definite efforts being made to correct the general impression of the military man, one of these being the Air Force Academy Foundation, Inc., in Colorado Springs. I hasten to say that this is not financed with Federal funds. Its construction and operation will be financed by private contributions which are already coming in. The retired Air Force general, Thomas Moorman, who was once Superintendent of the Air Force Academy, is in charge of this movement.

Its effort, as explained in the text is to bring the military and civilian mind together to the end that both will benefit. I hasten to say here that a cursory examination of the average officers education in our military system would find it slightly above the average education of the Members of the Congress, if we try to measure it by degrees. I admit this is not the best way to measure intelligence, but it is a good way to get started in denying the repeated rumors that the military man is not intelligent and does not understand the problems of his country. After all, he has been trained to serve which is far more than people in public life can say.

In order that my colleagues might have a better understanding of this educational enterprise, I ask unanimous consent that information concerning the foundation be inserted at this point in my remarks.

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

[From the Wall Street Journal, Sept. 27, 1972]

CIVILIAN VERSUS MILITARY?

(By Vermont Royster)

The role of "the military in a democracy" was the subject of an interesting 3-day symposium recently, sponsored by the Southern Newspaper Publishers Association and held on the campus of the University of North Carolina at Chapel Hill.

There was a long list of speakers. Among them, former Secretary of State Dean Rusk. A number of historians, political scientists and journalists. But no one from any of the military services.

The omission, apparently, was not by design. It just did not occur to those arranging the program that the view of the military might have some interest or bearing on the topic. There was on unconscious assumption that the military mind wasn't worth listening to, at least on this subject.

Yet in a way that made the omission more significant than if it had been calculated. It may have summed up better than anything else on the program the current public attitude toward the military in a democracy.

Among many people today it is fashionable to disdain the military mind. Not a few, indeed, hold up the military man as the villain who gets us into wars. Among the educated elite, and those who are being educated to join it, there is a widespread feeling that they should not only have no truck with military life themselves but not even concede that a military view has any relevance to national policies. To do so is somehow equated with militarism, if not war-mongering.

This attitude differs in both kind and intensity from our traditional view of the military. We have always, of course, had a civilian attitude toward our armed forces. For most of our history they were small, and except in time of crisis treated with disinterest.

There was, nonetheless, a public consensus that, however regrettable that it should have to be so, the study of military problems was a respectable intellectual activity. There was nothing shameful about being a soldier. On the contrary, being one was at times a basic obligation of citizenship. Disinterest in the military was not the same thing as disdain.

Vietnam has wrought a change. The endlessness of that war, and the seeming pointlessness of it, have combined to bring us first to despair about that particular war, and then by transference to a scorn for anything military.

Thus we have nearly abandoned that concept of the citizen-soldier; we are talking of leaving the business of manning our armed forces to hired mercenaries. There is scarcely any respectability accorded any longer to those who think about military problems.

So it is interesting, if nothing else, to have one of our most distinguished historians rise to question this current public attitude—Barbara Tuchman, a two-time Pulitzer winner, author of "The Guns of August," that probing study of World War I.

Mrs. Tuchman has thought much on war and peace, the causes of one and the hopes of the other. And in a recent syndicated article she finds urgent and persuasive reasons why the thoughtful and the better educated should, most of all, not abdicate their responsibilities toward the military and the nation's military problems.

She reminds us, to begin with, that Vietnam was not some aberration of the military. It was, she says "a product of civilian policy shaped by three successive civilian Presidents and their academic and other civilian advisers."

The failure so far to end that war, she concludes, is also a civilian failure. "There is nothing the professional officers want more than to get the ground forces out of Vietnam as quickly as possible," she writes, adding "which is perhaps one reason why President Nixon is doing it."

Mrs. Tuchman's conclusion is grounded in the record. When we first began to sink into Vietnam the loudest objections to a land war came, ironically, from military men. And anyone who actually reads those "Pentagon Papers" notices that those memoranda flying back and forth, including the most bellicose, were mainly from civilian officials in the Defense Department.

As for the military mind, Mrs. Tuchman comments:

"The liberal's sneer at the military man does himself no honor, nor does it mark him as the better man. Military men are people. There are good ones and bad ones, some thoughtful and intelligent, some men of courage and integrity, some slick operators and sharp practicers, some scholars and fighters, some braggards and synthetic heroes." That is, pretty much like the rest of us.

But Mrs. Tuchman is most provocative when she turns to the general relationship of the educated, thoughtful citizen to the military in our society.

"Our form of democracy—the political system which is the matrix of our liberties—rests upon the citizen's participation, not excluding—indeed especially including—participation in the armed forces . . . To abdicate the right because our armed forces are being used in a wrong war is natural. But we must realize that this rejection abdicates a responsibility of citizenship."

Yet the citizen's participation, in her view, must be broader than that. It involves not merely sometime military service but constant involvement in the formation of military policies and, beyond that, in those national policies which may create military problems.

This cannot happen, in her view, when the enlightened citizen "climbs out of the arena," scorning not only the military mind but the intellectual importance of the problems which the military mind must deal.

What her view implies is the need for an interaction between the military and the civilian intellectual arena. If the educated turn away, one consequence might be that we would end up with our armed forces dominated by the semi-educated, leading in fact to the narrow-mindedness of the stereotype.

The fundamental American premise has always been the civilian control of the military. This requires both that the civilian involve himself in military affairs and that the military be in the hands of those who understand the premises of democracy.

So if we are going to discuss the role of the military in a democracy it's absurd to exclude the military mind. It should be present not only to speak but to listen.

THE CONCEPT AND FUNCTION OF THE EDUCATION CENTER

There is an urgent need to strengthen the bonds of understanding and mutual reliance between the various segments of our society. Efforts are well advanced toward the creation of a civilian-military institute which will actively concern itself with this need and with man's quest for knowledge for judicious use of his environment and for the improvement of the quality of life.

The Center will function in association with the Air Force Academy and has been designed to meet the special requirements of conferences, symposia, seminars, workshops, forums for research and similar assemblies. At the Center, civilian and military educators, students, businessmen, scientists, engineers, industrialists and statesmen, both national and international, will be brought together to discuss and study a wide range of objects. Particular attention will be focused on concerns for our heritage, our environment, the interaction of technological and sociological development, and our governmental and nongovernmental relationships. A comprehensive purpose of the Center, implicit in the programs, is to help provide decision makers with information necessary to permit better informed decisions and more meaningful choices in policy areas. Specific plans have been made for methods

of providing impact for Center programs, including distribution of program materials and recommendations to general audiences and specific individuals who are involved in or concerned with the decisionmaking process.

Although the Center will be located at the Academy, it is particularly significant that it will be operated by an education "Association," a nonprofit, Academy-affiliated educational organization. Its Board of Trustees, with a civilian Chairman, will consist of a combination of other distinguished civilian men and women and representatives of the military, including the Superintendent of the Academy, with civilians comprising the majority. The Director of the Center will be a civilian educator responsible to the Board of Trustees, and his staff will be primarily civilian with a few Air Force positions to provide liaison with the Academy. This strong participation by well-reputed civilians in policy making and daily operation will insure that the Center's activities are a meaningful and productive civilian-military enterprise, attracting the broadest possible participation of civilian expertise from across the country and from abroad.

The topic areas and the programs conducted at the Center will embrace the wide range of problems facing modern man and will include subjects of national concern to which the Center, in association with the Academy, can contribute unusual expertise. Selected for particular attention at this time are the following subject areas and related Center activities:

Traditional values and the American heritage: The traditional values of the American heritage and their relevance in the light of contemporary views and problems will be systematically reexamined by representatives of a cross section of contemporary society. The object of the examination will be to redefine these values where appropriate and encourage an understanding and appreciation of these updated precepts.

Reconciliation of views: Individuals representative of differing points of view will be brought together in a dispassionate academic environment for discussion and study of issues and problems. The object is to foster understanding, respect and mutual reliance and to encourage these individuals to work together to facilitate solutions leading toward national direction and unity.

Aspirations of American youth: The Center will serve as a catalyst in efforts to define and establish practical methods of encouraging the idealism, concerns and ideas of young people, including the Academy cadet, for the constructive good of the nation.

Commitment for public service: By identifying the positive and negative aspects of public service, efforts will be concentrated on motivating participation in civilian and military public service programs and encouraging a high order of professionalism, integrity and dedication in such service.

Leadership and management: New ideas for innovative leadership development and motivation programs for both civilian and military organizations will be stimulated and refined.

Technology and social change: The specific areas which offer the greatest promise for turning technological advances toward the betterment of the quality of life will be identified and studied. Particular attention will be directed to the civilian applications of the technology of the Air Force and the aerospace industry.

Education and human resources: Exchanges of civilian and military experience and research in educational technology will include examinations of ways of reducing costs, increasing effectiveness and productivity and improving the quality of education.

The environment: The Center will serve as a catalyst in sharing experiences and knowledge of military, governmental and private ecological programs, including the systematic exploration of aerospace knowledge directed toward the solution of environmental problems.

International issues: Studies of American views and positions in international relations will examine the sources and effects of such positions and will give full consideration to the proper balance of political, social, economic and military factors.

The subject areas reveal the scope of interests and activities of the Center. Also basic to the Center's concept are:

Academy enrichment: The curriculum of the Air Force Academy is devoted equally to the basic and engineering sciences and to the humanities and social sciences. It incorporates the full spectrum of traditional and contemporary issues and includes those which demand urgent efforts to achieve solutions. The subjects discussed and the programs conducted at the Center will be equally wide ranging. The educational experience of the Air Force Academy cadets and faculty and the leadership qualities of cadets for service to their country, will be enriched and strengthened through the productive interaction in the Center of the best civilian and military minds.

Responsibility to society: The Center will provide the United States Air Force and the Academy with increased opportunities to work with other segments of society in demonstrating their concern and responsible involvement with major issues facing the nation.

Through personal contact and dissemination of the findings and conclusions of its deliberations, the Center's program will foster understanding and stimulate involvement in fields which are often considered the exclusive concern of government or special interest groups, but which, in reality, are of primary concern and importance to each and every citizen.

Obviously, no enterprise, especially a new entity, could possibly address all of the program subjects early or simultaneously. A screening process will be maintained to enable the energies of the Center to be directed toward selected subject areas which give greatest promise of productivity for society generally, as well as the potential for enriching the educational programs of the Academy.

THE OPERATION OF THE CENTER

There are several basic questions which should be answered concerning the facility itself and the nature of the conferences, seminars, special projects and studies to be conducted at the Center.

Who will originate programs at the Center? Center programs will be originated by:

1. The Director and staff of the Center.
2. The Academy faculty and student body.
3. Formally and informally organized off-campus organizations and groups whose programs have an educational purpose within the scope and intent of programs planned for the Center.

What types of programs will be conducted? Center activities will include six distinct types of programs:

1. Programs designed to seek specific solutions to specific problems.

2. Programs to bring various segments of our society into closer contact and understanding. The Center will be ideally suited to accomplish this catalyst and intercommunication function.

3. Programs designed primarily for self-improvement of the individual. An example of this continuing education function might be leadership and management development programs which have applications common to the Air Force and to civilian enterprise.

4. Programs for group training. Educational, scientific, cultural, industrial, military and charitable organizations, and others, will be encouraged to utilize the Center. The facility also will be opened to informally organized groups whose program objectives are consistent with those of the Center.

5. Programs for national conferences, sponsored by recognized organizations whose interests and aims are within the spirit of those of the Center.

6. Programs designed to reach audiences physically removed from the Center through television, radio, printed materials and lecturers.

Initially, effort is being directed toward plans for specific conference programs focusing upon critical issues fundamental to the concept of the Center. Individuals and organizations, well informed in their respective fields, will be considered for selection and invitation to participate in the programs and activities of the Center.

What facilities will the Center have for its conference activities? Located adjacent to the Academy's academic area on a beautiful hillside site, the floor area of the five-level structure will exceed 210,000 square feet. The conference facilities will accommodate 1,000 conferees at a time, either in one large group or in several smaller groups. A 650-seat auditorium and a series of large and small seminar rooms will provide a total of 25 meeting areas, adaptable to a wide variety of conferences. Two dining rooms, seating a total of 550 conferees, and the auditorium, designed for alternate use as a 500-seat banquet facility, will be serviced by on-premises food preparation areas. Eighty-six guest rooms and suites are provided for overnight accommodation of conference speakers and other conference leaders.

How will the Center be financed? For the Center to operate effectively in the manner described, there are compelling reasons why it should be constructed with privately donated funds and operated with nonappropriated funds. This conclusion is irrespective of the fact that government-appropriated funds cannot be used to support certain conferencing activities planned for the Center.

The groups and individuals who will be using the facility, including civilian and military scientists, educators, students, business and professional men and women, sociologists, engineers, industrialists and statesmen, both national and international, will undoubtedly participate with less inhibition and with greater initiative than would be the case if the Center were purely a government-financed facility with its operations dictated by hard and fast governmental procedures.

A highly significant factor in the economics of the Center is that the Air Force Academy is Colorado's leading tourist attraction with more than one million visitors annually. Therefore, the Center's visitor facilities will include exhibits, a 420-seat theatre, gift shop and snack bar. The exhibits, displays and theatre presentations will portray highlights of Academy cadet, training programs and conference activities and provide unusual opportunities to generate public interest and understanding in a wide spectrum of subject areas. The gift shop, snack bar and the conference accommodations will provide revenue sufficient to make the Center financially self-sustaining. Thus, although the two areas are physically separated in the single, unified structure, the conferee and visitor activities are closely related in mission and purpose, with income from the visitor facilities making the total operation economically viable—a rare and highly advantageous situation.

How will construction of the Center be accomplished? The creation of the Education Center and the necessary fund-raising efforts have been undertaken by The Air Force Academy Foundation, Inc. President Eisenhower encouraged the formation of the Foundation in 1954, to assist in the continued development of the United States Air Force Academy as a leading educational institution. The

Foundation is nonprofit, civilian controlled, with a voting membership of 50 directors from across the nation who, with the exception of the Superintendent of the Air Force Academy and five retired Air Force officers, are distinguished civilians. It has already completed and fully paid for three major facilities at the Academy, at costs totaling more than $4 million. This present undertaking transcends in scope and importance the earlier projects.

Years of thorough planning have gone into all phases of this undertaking and the architectural plans, by Welton Backet and Associates, have been highly praised for their excellence in design. In adapting to the natural environment of the Academy grounds, and for their suitability to the Center concept. The architectural construction documents have already been completed and paid for. Construction will cost an estimated $12 million, with an additional $2 million required to furnish the Center and provide it with the audiovisual and highly specialized equipment necessary for its successful operation.

The Foundation is now conducting a fundraising campaign based primarily on appeals to select individuals, foundations and other organizations who evidence a genuine interest in supporting forward-looking educational endeavors. As of March 1972, donations and pledges exceed $2.5 million. Donors may elect to have their tax-deductible donations identified with specific elements of the facility, and recognition of gifts will be appropriately inscribed in selected areas throughout the Center.

Why build such a center at the Air Force Academy, rather than elsewhere? The conference center, a national enterprise functioning in conjunction with the Academy, will fill an important need in an area remote from the nation's more populous areas. Although removed from the distractions of a large metropolis, the Center can capitalize on its proximity to Colorado Springs and Denver.

The Academy has a national reputation as a major educational institution, with an intrinsic and unique value as a national military college. The conference facility will be physically separated from, but within short walking distance of, the Academy's academic area and its extensive educational facilities. These include a 2,900-seat auditorium and a notable library, conveniently available to those using the conference facility. The conferees will have opportunities to participate in "on-campus" Academy pursuits or, if preferred, sessions may be held in the atmosphere of a "retreat," withdrawn from Academy activities in the beauty of one of the nation's most attractive mountain environments.

The Academy is both a servant of society and a cross section of it. Its staff and faculty include most of the professions—engineers, scientists, economists, humanists, authors, doctors and lawyers—and association with the Academy will significantly broaden the Center's effectiveness in the technologial and humanistic areas so vital to modern society. The intermingling at the Center of cadets, students from other colleges and universities, Academy and university teaching staffs, professional, governmental and business leaders will achieve productive interaction and will guard against the intellectual isolation of the Academy. The opportunity for these highly valuable interchanges will attract to the Center a wealth of civilian experience and expertise. Both facilities will be in a position to draw upon this reservoir of knowledge at substantially less cost and effort than would otherwise be possible.

Because of its mission, the Air Force is one of the most technological segments of our society. The Center will provide unusual opportunity for the civilian society to turn to its advantage the technologies evolved for air and space research and activities. For example, spin-offs from aerospace programs in the fields of communication, miniaturization, medical techniques, food nutrition and packaging, weather information, high resolution photography, gravity and environmental control are but a few of the technological advances which can be brought into direct focus at the Center and can have a direct bearing on the improvement of the human condition.

In summary, with the Foundation as catalyst and with funds donated by those individuals, foundations and organizations vitally concerned with the advancement of education, the Center will come into being at the Air Force Academy. With the advantages of such an educational and geographical environment, the Center will provide an outstanding laboratory for stimulating creative and productive thought to the benefit of both the civilian and military communities. It will help to generate understanding and mutual reliance between these two vitally interdependent elements of our society. It will enrich the education of the Academy cadets and better equip them, as public servants, to effectively discharge their forthcoming responsibilities of leadership. Unquestionably, the Center can and will make major contributions to effective civilian-governmental-military relationships in a wide-ranging spectrum of learning and endeavor. The Center will be more than a contribution to the Academy or to the special interests of any one group. It will be a contribution to the knowledge of all mankind and to the desire and consummate need of man to communicate with his fellow man.

BETTER USE OF BUSES AND CARS NEEDED TO MEET DEADLINES FOR CLEAN AIR ACT

Mr. HUMPHREY. Mr. President, I believe the time has arrived for a more extensive debate on alternative solutions to the transportation crisis we face. The facts of the matter are severe.

We have expended tens of billions of dollars on roads and highways.

We have expended tens of billions of dollars constructing suburbs interconnected by those roads and highways.

However, as the average American family has become able to afford a car, and often two or three cars, traffic congestion has become unbearable at peak traffic hours. The resultant air and noise pollution is not only unbearable, but now illegal, under the Federal Clean Air Act.

What is to be done? Well, the conventional wisdom is that mass transit is the answer. So the lines are drawn—the highway supporters versus the mass transit supporters. The rural areas versus the urban areas.

Mr. President, "mass transit" is too oversimplified a term to be useful as a solution. Too often, mass transit implies increased use of rail and subway. Too often, the term does not mean increased use of buses and car pools. Yet I think these latter are the more practical solutions to our problems—particularly for the immediate period.

We must face the fact that rail transit is increasingly obsolete as a solution to the transportation crisis. First, it is inflexible. Each of our metropolitan areas, whether we like it or not, sprawls over dozens of square miles and includes hundreds of neighborhods. They have been shaped, in the last 25 years, by the automobile—that is, by roads. To try to service them with rails as the primary mode of transportation is irrational. It is especially irrational because the growth is occurring mainly in the suburban corridors of our cities. Such decentralized, spread-out growth does not lend itself to being serviced by rail.

Rail or subway is also enormously expensive to construct. It means a whole new infrastructure of subway and rail stations, tracks, and equipment. It means tearing down parts of whole cities.

Finally, construction of rail takes years. A recent article in the New York Times of March 4, 1973, indicates that a conventional rail system to meet Los Angeles transit needs would take at least 5 years to establish. Thus rail in itself is not an answer for meeting the 1975 deadline set by the Federal Government for air pollution.

Mr. President, I am not saying that no subways or rail systems should be built. But I am saying that when we compare all the costs and disadvantages of rail in urban areas versus making more effective use of our present highway and road system, more of our emphasis should be put on the latter.

The fact is that the highway already exists, and there is plenty of room on them. The congestion results not from the highways per se, but from our very inefficient use of them. Two points are worth noting here: First, there are many more cars than buses. That is "inefficient." Second, in each of those cars, there is usually only one person. That compounds the inefficiency.

We should try to curb these inefficiencies.

Regarding the first problem—too few buses—an investment in our bus system would pay off dollar for dollar, better than an investment in a subway or rail system, for the reasons I have given. Also, buses go wherever people want them to go. But subways do not. Subways or trains go to where our planners today think people will want to go 5 or 10 years from now. But what about 20 years from now? By the time the D.C. Metro is built, part of it may be obsolete in terms of commutation patterns. No one can foretell the future of urban growth—and our subway and rail planners are locking billions of dollars of investment into a limited number of rail stops.

Regarding the second factor that makes highways inefficient, I am hopeful that language will be written into the Federal Highway Safety Act of 1973 which creates incentives to the States to develop computerized carpool matching systems under the act, and also any other system which will result in more people in each car. If we could put two people in each car instead of one, we could cut pollution in half, and travel time in half. Moreover, we would take a major step in solving the energy crisis by cutting the consumption of gasoline in two.

In the floor debate on this bill, I inserted some descriptive remarks of such a system (p. 8225). An article in the March 1973 Board of Trade News, Washington, D.C., describes the advantages of increasing carpools.

There are other measures that should be taken so that highways and roads can

be used more effectively. We need more special bus lanes. We need higher tolls for cars with only single passengers. We need higher downtown parking fees.

In short, we need both the carrot and the stick—penalties for inefficient use of cars and buses, and incentives for efficient use.

But above all, underlying all these measures is a simple principle: more people in less space. This means moving away from the use of a 2-ton automobile to transport a single individual. I believe we can do this most effectively in metropolitan areas by using our present road and highway capacity much more effectively, not by giving up on it and starting all over again on rail and transit.

Mr. President, I ask unanimous consent that the article by Gladwin Hill, from the March 4 New York Times, be inserted in the RECORD. I also ask unanimous consent that the article from the Board of Trade News be inserted in the RECORD.

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

HEARINGS TO OPEN ON ALTERNATIVE SOLUTIONS TO SMOG

(By Gladwin Hill)

LOS ANGELES, March 3.—In a major milestone in the national air pollution abatement program, the Environmental Protection Agency will open three weeks of hearings here Monday to find out what sacrifices the 10-million citizens of the Los Angeles basin are prepared to make to meet Federal air quality standards.

Technically, the hearings are designed to provide the antipollution with agency information on which to base a "transportation control" plan for the 9,200-square-mile basin to reduce excessive emissions of atmospheric contaminants.

Los Angeles is the first of 37 cities in 22 states to confront the problem. The other cities, including New York, Washington, Baltimore, Philadelphia and most of the nation's other big urban areas, have to submit transportation control plans to the agency by April 15. If they are not deemed effective enough to meet Federal air quality limits by mid-1975, the agency, under the Clear Air Act of 1970, will lay down its own plans for them.

LOS ANGELES IS WORST

Los Angeles is acknowledged to have the worst problem of any city because of the basin's large number of automobiles (6 million), the frequency of atmospheric "inversions" that trap aerial contaminants, and the large amount of sunshine that transforms automobile exhaust gases into a variety of corrosive chemicals. The Federal limit for these "photochemical oxidants" of 0.08 parts per million is being exceeded about 200 days a year.

Last year, when California air pollution officials submitted the over-all "implementation plan" for meeting Clean Air Act requirements, they did not pretend to have an answer for the Los Angeles basin.

So last Jan. 15 the Federal Antipollution Agency, under a Federal court order, set forth its own plan. The plan called for an 82 per cent reduction in automobile mileage—an admittedly impractical proposal that would cripple economic and social life in one of the largest metropolitan areas in the country.

Accordingly, the hearings opening Monday will be to canvass alternative solutions—of which no definitive ones have yet been suggested.

The problem has since been aggravated, both for Los Angeles and for most other cities, by a ruling of the United States Court of Appeals for the District of Columbia last Jan. 31, that two-year extensions of the 1975 compliance deadline the E.P.A. had granted to 17 states were invalid.

Now the states have to retailor plans to meet the 1975 deadline, or make a persuasive showing that they cannot comply before 1977. Five additional states—Alabama, Indiana, Louisiana, New Jersey and Missouri—which, on the basis of 1977 compliance, foresaw no need for transportation controls, will have to impose them to meet the earlier deadline.

In addition to photochemical oxidants, the Federal air quality standards cover five other major pollutants—particulite matter, sulphur oxides, nitrogen oxides, carbon monoxide and hydrocarbons. The limits are quantities above which experts have said there are adverse effects on human health.

AUTO EMISSIONS BLAMED

Officials of Los Angeles County, which covers the biggest portion of the basin, say that by rigorous regulations going back to 1947 they have reduced smog from stationary sources, such as factories, to only 10 per cent of total air pollution, and that 90 per cent of the smog now comes from automobiles, whose emissions are a Federal responsibility.

Neither local officials nor state officials see any possibility—short of stopping auto traffic entirely—of meeting Federal standards even by 1977. But they foresee, with an ever-increasing ratio of fume-controlled cars, the problem being brought within bounds by 1980 or soon theerafter.

William D. Ruckelshaus, the E.P.A. Administrator, has suggested that one solution for Los Angeles would be to seek a special dispensation from Congress extending the compliance deadline even beyond 1977.

In a sense, the Los Angeles basin hearings will be an academic exercise, because the Federal antipollution agency has no power to enforce whatever transportation control plan it finally promulgates. The agency is dependent for this on state and local cooperation in adoping the legislative and administrative measures necessary to carry out any plan.

But, in another sense, Mr. Ruckelshaus has said, Los Angeles is a national test case in the willingness of citizens to alter lifestyles to meet air quality standards they have already espoused through their Congressmen.

Short of nonpolluting automobiles, there is widespread feeling that the most urgent need for Los Angeles is a comprehensive rapid transit system in place of the existing minimal bus network. A conventional rail system, would take at least five years to establish, and there is a lot of opposition to such an inflexible investment. An expanded bus system could be introduced relatively quickly.

On the eve of the hearings, the Greater Los Angeles Area Chamber of Commerce denounced the 82 per cent auto travel cutback proposal as "unworkable and irresponsible," and said the proposal pointed toward "economic disaster" entailing the loss of 400,000 jobs.

CAR POOL PROGRAM WILL SUBSTANTIALLY IMPROVE POLLUTION PROBLEM

COG has unanimously voiced its approval for a proposed major car pooling program for the entire Washington area. Under the recommended group ridership plan, a concerted joint effort would be made to help beat air pollution by decreasing the incidence of the one-man-in-his-car. This would be put into motion by the Department of Transportation working with the Environmental Protection Agency and other federal agencies in the public sector, and COG and area local governments working with major employers in the private sector.

One suggestion has been that car pool vehicles be given the same kind of priority on Shirley Highway's middle lanes as express buses now receive. If successful there, the same kind of priority treatment could be given to car pools on major streets throughout the area.

Car pooling should be considered as a form of public transit, serving the low density end of the transit market, rather than as a competitor to transit. As densities and common destinations increase, car pools should give way to bus pools and charter bus operations, and finally to regularly scheduled bus and rail transit operations.

Use of Shirley Highway for car pool vehicles would be the second phase of a three-part car pooling program for the area. The first phase—the monitoring portion—would be designed to identify former travel habits of car poolers to determine how many single occupancy drivers have switched to car pools.

The third phase would apply the results of the demonstration efforts to an aggressive regionwide car pooling program that would include not only movements to downtown but also trips from suburb to suburb throughout the region.

Car pooling has very high potential. For example, increasing the average number of persons in a single automobile from one and one-half persons per vehicle to only two persons per vehicle would reduce the number of commuting vehicles on area highways by 25 percent. That also means a reduction in auto emissions of 25 percent.

Use of car pools to reduce air pollution is one of the proposals contained in an areawide plan to meet national air quality standards being considered by Governor Linwood Holton of Virginia, Governor Marvin Mandel of Maryland, and Mayor Walter E. Washington of the District of Columbia. The plan was prepared by a regional Air Quality Planning Committee and endorsed last month by the COG Board.

There are four advantages to car pooling as a technique for reducing air pollution:

A car pool program does not require a high capital investment.

There are no major legal or institutional barriers to overcome.

The impact of a successful program can be immediate and dramatic, and may reduce the need for some of the more restrictive measures proposed to meet the air quality standards.

A successful areawide car pooling program can also help to reduce the need for new highway construction, and lessen the impact of gasoline shortages that appear to be developing.

JOBS—NOT PROPAGANDA

Mr. HARTKE. Mr. President, as you know I am the cosponsor of the Burke-Hartke bill which is designed to settle U.S. trade problems, dollars outflow, and ease unemployment here at home. Now I want to see these trade problems settled right now because each day we procrastinate, more Americans are losing their jobs, more small businessmen are closing up shop and the dollar continues to zig-zag all over the world. These trade problems, growing like a malignancy over this great land of ours must be settled immediately. Every time somebody closes a plant and moves it overseas to get cheap slave labor in a foreign country our welfare rolls go up. Every time a businessman throws in the towel here in America, the United States has lost

some more of its vitality. Now we have the highest cost of living in decades and a trade problem which is putting more and more Americans on welfare rolls. More and more Americans unemployed. More and more Americas each and every day unable to pay for a bowl of soup on their dinner tables, let alone a steak that costs $2.50 a pound.

Now, we have been reading in the newspapers for weeks about the President talking to foreign dignitaries about our trade problems. We get bits and pieces about what he would like to do about these problems, but we do not get any legislation. Mr. Eberle came to my office to talk about some of their ideas. The so-called Flanigan report on trade problems has been circulating around this city for some time now, but we still do not have the President's recommendations before us here in the Congress. We keep getting these bits and pieces void of any specific recommendations. I would like to remind my colleagues that we are talking about trade legislation, and the last time I checked the Congress was still involved in the legislation process according to the Constitution. But the President is talking to everybody under the Sun regarding these trade problems without sending us anything we can look at in black and white, on paper.

Apparently the administration has little regard for the people in this matter because the President and his aides are talking to everyone but the people. The feelings of foreign governments are taking precedent over the concern of workers in unemployment lines and on welfare rolls. The feelings of foreign governments are taking precedent over the concerns of small businessmen about to go under drowning in a flood of cheap foreign imports made by slave labor overseas.

Yesterday in the House of Representatives, the distinguished chairman of the Ways and Means Committee, Mr. MILLS made a lengthy statement on these trade problems. I want to commend Mr. MILLS for tackling this problem. I hope this means we will soon have hearings on trade problems. I hope this means we can get to work on it right away. I hope the administration will send its recommendations to the Congress this afternoon so we can see out in the open what they want and then proceed to discuss the problems out in the open instead of in backrooms and at cocktail parties. I want to see these trade problems settled right now. If we wait much longer the welfare rolls will double, there will not be a small business left in America and the dollar will not be worth the hole of a donut. It is time we legislate these problems.

DAVID BRUCE, SPECIAL ENVOY TO CHINA

Mr. MATHIAS. Mr. President, I want to say a few words of congratulations and of thanks.

Congratulations are certainly due to President Nixon for his wisdom in selecting David Bruce as special envoy to China and for his success in persuading him to enlist again in the service of his Nation in a sensitive and demanding job.

Thanks are due to Ambassador Bruce for once again assuming a responsibility of major portions at a time when a sure and delicate touch is needed.

I am proud to claim some affinity with Ambassador Bruce. Since we are both alumni of the General Assembly of Maryland, a notable institution of higher education. He may, however, have a slight edge because he has also served in the Virginia Legislature.

His distinguished service as Ambassador in London, Paris, and Bonn is almost without parallel in our diplomatic service. His patient and knowledgable representation at the Paris peace talks was an important contribution to the success of President Nixon's efforts to extricate America from the quagmire of Vietnam.

But more than being just an expert in a chosen field or a professional within the confines of a highly specialized and narrow field, David Bruce is a whole man. His interests and his knowledge span nearly the whole range of man's experience. It is a rare thing when a man cannot only be equally conversant with the humanities and the sciences, but can excel in both. He can speak of art and sculpture with the same assureness that he can speak of political and military matters.

It is not without significance that David Bruce goes to Peking without the formal title or rank of Ambassador. He does not need them. He is Ambassador Bruce in his own right and we are proud of him.

SHERIFF ROBERT S. MOORE, OF DESHA COUNTY, ARK.

Mr. FULBRIGHT. Mr. President, on March 12, 1973, one of the outstanding citizens of Arkansas, Mr. Robert S. Moore, who, for 24 years was sheriff of Desha County, died as a result of an automobile accident. Sheriff Moore was a truly unusual public servant, a man of great integrity and dedication to the interests of the people whom he served. I wish to pay tribute to him, and to express my deep sympathy to his family in his passing. I ask unanimous consent, Mr. President, to insert in the RECORD as part of my remarks an article which appears in the Arkansas Gazette of March 13, 1971, about Sheriff Moore.

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

ACCIDENT INJURIES KILL SHERIFF; FORCE IN POLITICS FOR 24 YEARS

ARKANSAS CITY.—Robert S. Moore, aged 64, Desha County sheriff and collector, died Monday at a Little Rock hospital of injuries suffered Saturday in a two car wreck south of Pine Bluff.

According to State Police, Mr. Moore, who was traveling south on U.S. Highway 65, about nine miles south of Pine Bluff, apparently lost control of his car on a rain slick highway and hit a northbound car.

Four persons were injured in the other car—James Adams, 23, the driver; and Anthony Cantrell, 22; William Cantrell, 23, and Pat Norsworthy, 21, all of England.

Mr. Moore's 24 years as sheriff allowed him to become a prolific campaigner and influential politician.

He had no trouble retaining his office and enjoyed landslide victories against the three men who ran against him.

Mr. Moore's influence with the electorate and the popularity he gained with residents of the state allowed him to become a dominant political force both statewide and nationally. He was the man law enforcement officials went to when they needed a liaison with the legislature or assistance with acquiring federal aid with some project.

Politicians of every sort sought Mr. Moore's assistance and friendship. He boasted of his love for the Democratic Party and did what he could to elect the candidates of his choice. One of his most active campaigns was during last year's campaigns was during last year's incumbent John L. McClellan and Representative David H. Proyor.

Moore worked diligently for McClellan, a longtime friend. Mr. Moore was mentioned in 1962 as a possible gubernatorial candidate when Governor Orval E. Faubus announced that he would not run. Faubus later reconsidered.

His 24-years as sheriff was second only in tenure to Mississippi County's William Berryman.

Mr. Moore once told a reporter, "I guess I'll die working at this job."

His humor became an asset in avoiding conversation about his political prowess. "Just call me the 'high sheriff' and let it go at that," he once told a persistent reporter.

Sheriff Moore served as president and executive director of the Arkansas Sheriffs Association and the Arkansas Peace Officers Association. In 1960, he was elected president of the National Sheriffs Association and at the time of his death was secretary of the Association. He was a former director of the state Law Enforcement Academy at Camden, and one of the school's most enthusistic backers.

Mr. Moore was elected chairman of the state's Criminal Code Revision Committee in 1971. The 16-member group was appointed by the Arkansas Supreme Court and the attorney general to review state statutes and suggest possible changes in updating the laws. Mr. Moore was the only law officer on the committee, which included 14 lawyers and a state senator. He also was a member of the State Advisory Committee for the Arkansas Plan for Local and State Corrections.

Mr. Moore, a native of Dumas, attended Dumas schools, where he excelled both scholastically and athletically. He was valedictorian in a class of 28 and received a scholarship to attend Ouachita Baptist College (now Ouachita Baptist University) at Arkadelphia. He later was chosen president of OBU's Former Students Association and was a member of the Board of Directors.

Mr. Moore was raised by strict Baptist parents and became devoutly religious himself.

He was chairman of the Board of Deacons of the Arkansas City Baptist Church and served as a past president of the Arkansas State Baptist Brotherhood.

He participated in all sports at Ouachita, where he earned several nicknames including "Big Tooth."

Mr. Moore was graduated from Ouachita in 1929, and he returned to Dumas. He worked as a proofreader for the clerk of the House of Representatives in 1931. He was hired as a deputy sheriff at Arkansas City in 1933 under the late Howard L. Clayton. The job, he said, convinced him to make law enforcement his career.

Mr. Moore ran unopposed in his first political race and was elected circuit and chancery clerk. He was elected sheriff in 1948. He had begun his thirteenth term in January.

Sheriff Moore was a Mason, a Shriner and a Boy Scouts of America representative.

Survivors include his wife, Mrs. Dorothy Price Moore; a son, Robert S. Moore Jr., of Fayetteville; a daughter, Mrs. Dorothy Moore Gates of Woodbridge Air Base, England, four brothers, Ike Moore of Dumas, Ralph Moore

of Conway, Lloyd Moore of Colorado and Charlie Moore of North Little Rock; three sisters, Mrs. Viola McNeese of Monticello, Mrs. Madge Youree of Arkansas City and Mrs. Carr Lemoine Priddy of Seoul, South Korea, and four grandchildren.

Funeral arrangements will be announced by Dyer Funeral Service at McGehee. The family requests that memorials be made to a favorite church or religious educational institution.

MINISTER PRAISES SHERIFF'S WORK

Rev. J. M. Watkins of Little Rock, presiding elder of the Forest City District of the AME Church, said Monday that he was one of many thousands who were "deeply saddened" by the death of Sheriff Robert S. Moore of Desha County.

"His innate quality of genuine friendliness to people regardless of race, color or creed, won for him a place in the sun not only in the Desha County area, but our state and nation," Mr. Watkins said. "Our world is richer because a Christian gentleman and law enforcement officer whose name was Robert S. Moore lived."

Mr. Watkins said his wife formerly taught school at Arkansas City and that he had served as a minister at Arkansas City and McGehee.

THE ENERGY CRISIS

Mr. BAYH. Mr. President, since the 93d Congress convened there has been a great deal said in both Chambers regarding the energy crisis confronting this Nation. The concern expressed in Congress reflects the growing awareness that the production of energy not only depletes natural resources but also involves serious economic and ecological costs.

The era when we could flip on a light switch, start our automobiles, or push up the heat in our homes without regard for where the energy would come from has passed. Now we must be concerned about the effect on the environment and future energy supply if this power is used, especially if it is used inefficiently.

One essential point about the energy crisis which I fear is too little understood by the public is that we do not have a fuel shortage, we have a shortage of clean fuels. Suffice to say that unmined coal in the United States would easily meet our energy needs through the middle of the next century, but for the fact that we would so foul our air by burning that coal that the cost in destruction of our environment and human suffering would be immense.

What must we do to deal with the energy crisis? We must find clean environmentally sound ways to burn coal and other available fuels, and to develop the technology of new, nonpolluting energy sources. We must develop policies which will assure adequate energy supplies to meet the demands of a sound, full-employment economy. We must demand that all appropriate steps are taken to guarantee that energy is used efficiently.

To meet these goals, Mr. President, I have joined as a cosponsor of the National Energy Research and Development Policy Act which was introduced by the Senators from Washington (Mr. MAGNUSON and Mr. JACKSON) and the distinguished chairman of the Public Works Committee (Mr. RANDOLPH).

This measure proposes the creation of quasi-public corporations to conduct research and development of several energy sources, each of which has the potential for providing a welcome breakthrough in meeting domestic energy needs in an ecologically sound fashion.

The separate corporations would be in these areas: Coal gasification, shale oil, coal liquefaction, advanced power cycle, and geothermal steam. Each of these areas has been the subject of limited research, and in each respected authorities have suggested the time is ripe for significant breakthroughs.

Besides establishing the research and development corporations, this measure also sets out the goals of coordinated, adequately funded energy research to meet the burgeoning demand for energy in a responsible fashion. Rather than yielding to pressures for meeting energy needs regardless of environmental impact, or equally extreme measures to shut off demand, this approach specifies and requires that an integral ingredient in developing new energy sources must be the minimizing of the harmful ecological effects of producing that energy.

In every instance, it is indicated that the research and prototype energy development be geared to protecting the environment. For example, while the technology of coal liquefaction is not new, heretofore it has been suffering from the same deleterious environmental effects as burning the coal itself. The goal of the research, then, would be to refine the technology to find means of removing sulfur before the liquefied coal is burned or cleaning the emissions in the stacks.

In order to prevent the institutionalization of an unnecessary bureaucracy, the measure creates a small, highly professional staff to administer general energy research and development funds which would be available to qualified public and private researchers.

A substantial sum of money—a total of more than $1 billion a year—is provided for this general R. & D. effort and for the five corporations. While this is an expensive undertaking, I am satisfied that the end savings—in supplying clean energy—is worth the investment. Moreover, the bill specifically provides that private industry pay at least 40 percent of the costs of each of the five corporations established. This should mean a private investment of more than $150 million a year, making the costs truly shared between Government and industry.

As welcome as this legislation is, it is not of itself going to solve our energy problems. There are a number of problems which we face on an immediate basis and which require prompt action.

In my own State of Indiana, we faced a major shortage of propane gas this winter, just when demand was greatest among farmers who had to operate their grain dryers. My office, with the cooperation of private industry, was able to arrange for the emergency shipment of more than four million gallons of propane to Indiana to avert a disaster.

But while we were able to take special action to solve the problem this year, the propane shortage showed that there are major weaknesses in policies of refining crude petroleum and in distributing energy supplies.

A parallel situation is the danger that there might well be a shortage of diesel fuel this spring to operate farm machinery during the crucial planting season. Farmers have little leeway about when they can plant—this is governed largely by the weather—and we must be watchful lest we find ourselves with too little diesel fuel during the short planting period.

Moreover, there have been numerous suggestions from Government officials and the private sector that there might be a gasoline shortage this summer.

It is important to realize that propane gas, diesel fuel, and gasoline are all petroleum products and that these shortages and potential shortages must be faced even though oil wells in the continental United States are producing at full capacity.

Fortunately, the President responded to an urgent plea from some of us in the Congress and suspended oil import quotas when it was clear that that action was needed. However, because of uncertainty about future import policies, foreign suppliers were reluctant to commit too much crude petroleum to the United States in excess of old quotas.

It is essential that the oil import policy undergo a thorough review to determine how we can most effectively meet domestic need in a manner consistent with national security policy.

Such a review must also take into account the fact that areas in the midwest, such as Indiana, have been faced with unfairly high fuel prices because of import and distribution policies which favor coastal areas.

The unfair economic position of the great middle of the United States should also be an important consideration as the Congress is asked to debate the means whereby the substantial oil and gas reserves in Alaska are to be used effectively.

I intend to raise and demand an answer to the question of why Alaskan oil should go to the west coast when the need is greatest in the midwest. A trans-Canadian oil pipeline would bring the oil to the Great Lakes for distribution in areas where there is the need and where costs for fuel are too high. Moreover, such a Canadian route could parallel the probable gas pipeline taking that same route, thus minimizing environmental problems.

A full discussion of the pipeline question should be saved for another time, but I think it important to indicate that the Midwest will not be content to pay 30 to 40 percent more for its fuel than the rest of the Nation. Nor are we willing to put up with administrative decisions which force us to bear the brunt of uneven distribution of available energy sources.

Mr. President, it is my view that one reason for our current problems in meeting energy needs has been the great reliance by major utilities on nuclear power for meeting their needs in this decade.

Nuclear power has had an unfortunate record of costing far more than estimates and coming on line far later than promised. There are major unanswered questions about nuclear technology; the Atomic Energy Commission itself has acknowledged in the past 2 years that earlier certainties about the safety of radioactive emission standards and the emergency core cooling systems—the key against nuclear disaster—were premature.

Because of the continuing debate about the safety and long-term environmental effects of nuclear power it is inappropriate and unwise for the public utilities or the government to rest all their future plans on this energy source. There is no reason to believe that the long lag-time between planning and operation of a nuclear facility will not continue. Utilities have a respnosibility to make their plans with a candid recognition of the problem implicit in nuclear power.

Mr. President, I have not covered the full range of questions which must be dealt with by this Congress if we are to resolve our energy crisis on both short-term and long-term bases.

In addition to those areas I have discussed, we must also consider emission standards legislation concerning the price of natural gas proposals relating to offshore oil drilling, suggestions dealing with the importation of liquified natural gas and other relevant and difficult questions.

I hope, Mr. President, that we will seek to meet energy needs in a manner that encourages public understanding of the need to make efficient use of our energy sources, to protect the environment and to balance our priorities in a thoughtful, responsible fashion. We must move beyond easy words to hard decisions, and we must do that with an eye not only to providing the energy we need, but with an eye to making certain our planet is habitable for our children and our children's children.

TIMBER EXPORT ADMINISTRATION ACT OF 1973

Mr. PACKWOOD. Mr. President, as a sponsor of legislation for which I am seeking the support of my colleagues, I consider it a part of my responsibility to present as much information as I can for the use of my colleagues so that each may better understand the issues involved.

Specifically, my reference is to the Timber Export Administration Act of 1973, S. 1033. During the last few weeks a great deal of misinformation has surfaced as to precisely what it is we propose to accomplish by passage of this measure.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks several news items that combine to present a lucid picture of the problems that accrue to our economy and our citizens by virtue of our nonpolicy on softwood log exports.

By urging my colleagues to study these papers, I do not intend to imply that I, personally, agree with each and every interpretation of the facts or conclusion arrived at by the respective authors. I do feel very strongly, however, that these items must be brought to the attention of my colleagues in order that each of us might have an opportunity to review the facts and arguments that combine to illustrate the difficulties we are facing as a nation because of the unrestricted export of softwood logs.

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

A HIGH PRICE FOR EXPORTING LOGS

For most U.S. industries, this week's devaluation of the dollar should prove to be a welcome spur to overseas sales of products and services. It means that foreign buyers can purchase U.S. goods at cheaper prices. Hence, exports should grow.

In the case of the housing industry, however, the 10 percent devaluation of the dollar could be a bitter blow. It is already in trouble because exports of softwood logs to Japan are doing so well that prices of plywood and lumber in the U.S. have increased 20 percent to 50 percent just since the start of Phase III. Production at many U.S. sawmills is plummeting as some mills cut back on their output and others shut down because of a shortage of timber stemming from the export of huge quantities of logs to Japan. And such exports will probably be increased now that the Japanese can get more for the same amount of money.

A spokesman for the Japanese Lumber Importers Assn. leaves no doubt that Japan's demand is all but insatiable. He says that Japan will continue to seek U.S. logs, which are expected to add up to 90 percent of its lumber imports this year. There are more than 24,000 sawmills in Japan, which is in the middle of a vast housing boom, and without steady log supplies, the association spokesman indicates, thousands of Japanese mills would be forced to go out of business.

FEW CURBS

There are restrictions on the export of logs from Alaska and British Columbia, and also from land owned by the U.S. government. The latter is controlled under the so-called Morse amendment to the Foreign Assistance Act of 1968, which runs out on Dec. 31, 1973. But there are no restrictions on the export of logs from private or state land in the continental U.S. The Japanese are raiding this market and apparently are ready to pay almost anything for timber to keep their sawmills buzzing.

For example, according to Joseph McCracken, executive vice-president of the Western Forest Industries Assn., in Portland, Ore., in 10 days in December the Japanese bid up the price of Douglas fir sawlogs by $100 per 1,000 board ft. As a result, a sawmill in Tacoma, Wash., sold the Japanese 20-million ft. of Douglas fir logs that it had planned to process itself. It made a $2-million profit.

Builders' associations around the U.S. are vigorously protecting runaway prices caused by the strong Japanese buying. In Washington, officials admit protests are rolling in. And a spokesman at the Cost of Living Council affirms it is watching lumber prices closely. "We heard a good deal from them [the builders] during Phase II," he says. "We continue to do so."

TRADE IMBALANCE

A high U.S. trade official is more explicit, but not very promising. "The Administration is under enormous pressure to do something about log exports," he says. The subject was on the agenda of Nixon's special trade representative, William Eberle, who was in Tokyo last week for talks with the Japanese government. But observers do not think Eberle got very far on the subject. Moreover, the Administration "has no present plans" to initiate legislation to limit log exports.

For one thing, there is the balance of trade situation. It would be contradictory for the State Dept. to continue to encourage U.S. exports to Japan generally, while banning or limiting log exports. For another thing, the alternative of forcing the Japanese to buy processed timber in place of logs could also force them to buy elsewhere. Thus, the Treasury and Commerce departments, as well as such big companies as Weyerhaeuser, could be expected to oppose export limits.

Though the Administration is not expected to endorse legislation to halt the sale of logs to Japan, there is budding agitation for it in Congress. Senators Robert W. Packwood (R-Ore.) and Alan Cranston (D-Calif.) sent a letter to the President last week urging him to "declare immediately a six-month embargo on overseas shipments of softwood logs and such lesser period as may be necessary on lumber and plywood."

GETTING WORSE

The great increase in lumber prices over the past year, and particularly in recent months, is threatening the U.S. homebuilding industry and the homebuying public, Packwood and Cranston argued. Last year, foreign companies bought 3-billion board ft. of logs from the U.S.; 90% of this huge quantity went to Japanese industry. During the same period, lumber costs on an average house in the U.S. jumped $500.

This year, the prospects are worse. Lumber costs on an average house leaped another $700 just in January, and experts estimate that this will eliminate about 2-million Americans from the single-family house market.

Senator Packwood already has prepared draft legislation, which he expects to introduce in the Senate within a few weeks. And the response of those in the industry who have seen his proposal is said to be "generally quite favorable." But anything less than a price rollback will be less than satisfactory to hard-pressed users of U.S. lumber and plywood.

Edward J. Plikaytis, owner of Webster Lumber Mills in Seattle, says bitterly: "The Japanese market is governing the lumber market in the U.S. What the Japanese decide to pay is what the American has to pay to compete." Says Bronson J. Lewis, executive vice-president of the American Plywood Assn., "There is just no way a U.S. mill can live with these kinds of prices."

[From the Sunday Portland Oregonian, Feb. 25, 1973]

NEW ELEMENTS ADDED TO JAPANESE LOG-SALE CONTROVERSY

(By D. J. Sorensen)

"I don't want to do it, but if the only way I can stay alive is to sell to the Japanese, then I'll have to do it. I have workers and their families that I am concerned about and they need to keep working."

This comment was reportedly made by a sawmill owner in Western Washington who has been approached by a Japanese company with an offer to buy the mill.

Rumors are circulating in logging circles about reported offers by Japanese to buy mills or purchase land to build mills.

One such report claims a Japanese firm, through an export company, has acquired an option to buy a sawmill in South-Central Washington. The owner of the mill denied he was dealing with the Japanese, although he admitted a Washington lumberman has an option to buy the mill.

The latter also denied the Japanese connection, as did an official of the Japanese company supposedly involved.

Another report had a mill in Coos County being sold along with a large stand of private timber. The owner admitted selling the timber to a lumberman who has been active in the export market. He would not admit how

much was involved, but sources indicate it was around 80 million board feet.

The owner denied, however, that the mill had been sold and that it was being operated normally with timber supplied from other company lands.

Still another story has West Coast Orient's Co., an independent exporting company, buying land in Tacoma to build a mill. T. Ban, executive vice president and general manager of the company, said in Portland that his company is purchasing the timberland for Mitsui, a company with which it does most of its business.

"We are negotiating for timberland from the mill owner," he told The Oregonian. "Any idea that a mill will be built is only rumor. We have been acquiring private land and timber on the West Coast for several years, but there is no thought to anything so exotic as a mill."

Officials of Mitsui were unavailable for comment.

The likelihood of the Japanese making direct investments in mills in the Northwest is very real. They are investing in other parts of the country. One Japanese trader in Portland said, "If we were to build or buy a sawmill in the Northwest we would use it to produce lumber to sell here as well as ship to Japan."

Reports of direct investments by the Japanese along with the possibility of exporting lumber to Japan are two new ingredients to the long-standing dispute over log exports.

The Japanese ambassador to the U.S. disclosed in Portland last week that his country is considering buying dimension lumber. Currently, Japanese interests are buying 4x4 squares, a basic construction item for their houses.

Contacted about this possibility, Japanese traders in Portland pointed out that a change in the housing code is necessary before they can buy dimension lumber.

"The government must approve any changes," one of them said, "so we have to wait for this approval before we can buy lumber." He was optimistic that Japan would soon take the necessary steps to import lumber from the U.S.

The Japanese trader, who asked to be unidentified, said, "The demand for American logs is going up quickly. We have a big shortage of houses in Japan and we have a goal to build 2 million homes a year.

"Money is plentiful in our country and interest rates are low, so people are finding it easy to get money to build. However, costs are very high, and they are continuing to rise. We have quite a bit of inflation, and the cost of the land is high, too.

"I don't think the market will stand such high prices in Japan very long and with housing and land costs going up so fast, the people cannot afford to pay such a high price for very long."

However, the flow across the Pacific continues at a brisk clip; mills in the Northwest still gripe about the dwindling supply of logs and make adjustments in their work force, and government figures make desperate attempts to solve the dilemma.

One of the latter gestures finds Rep. Wendell Wyatt, R-Ore., traveling to Japan on a factfinding mission. With the devaluation of the dollar, there is talk that the Japanese will step up their buying because the logs will be cheaper.

If the Japanese were to begin importing lumber it might ease the situation for some mills but would bring added pressure to the domestic housing market. With prices already high and lumber scarce, the prospect of shipping lumber to Japan would divert lumber from domestic needs.

Domestic mills would have to be assured of a supply of logs to provide lumber for the Japanese market. Export of lumber is looked on in some quarters as a solution, but it would have to be tied to a decline in log exports to be a practical solution.

Meanwhile, the high bidding goes on and mills and other wood users are feeling the log pinch.

One industry source reported that 10 days ago the Japanese had offered $995 per thousand board feet of No. 1 Douglas fir peelers and another offer was made for $975 for logs in the Puget Sound area.

"Six weeks ago, the price was about $775," he said. "Prices of some of the lower grades are beginning to drop but the high grades are still way up." The volume of the top grades is not large, however.

According to one company, the offers have been so attractive that it could sell its log inventory, close down the mill and pay the employes until next year and make a $2 million profit. "What can I do?" he asks.

The logs the Japanese buy are the better grades, and this cuts down on the supply for other wood users. The Nicolai Co., for instance, is a Portland manufacturer of doors that has had to lay off workers because of a shortage of logs.

"Our order file is fantastic," said Paul Karstedt, president of the company, "and we could make all the doors we want if we had the lumber. We use shop grade lumber for our doors, and much of what normally went into shop-grade lumber now goes into exports."

As a result, Nicolai has laid off 129 workers in the last two weeks or so and the work force is down from a total of 352 last Dec. 31.

"We're buying lumber anywhere we can get it," Karstedt said, "Canada, California as well as Oregon. It's all negotiation and we have had to pay twice as much as normal to get lumber."

THE LUMBER CRISIS

An update of a speech given at the Tacoma Home Builders Association on February 22. By Wayne Gaskins from Western Forest Industries Association.

The problems we run into in supplying the American homebuilder is a softwood raw material crunch, and it's a crunch that's a world crunch—it's a world softwood shortage. You have been hearing a lot about how the Forest Service should be required to practice better forestry, that with better practices on the natural forests we would have all the timber we need to supply U. S. and Japanese needs.

But that is a long range project, not a source of immediate relief for this years housing starts. We are faced with a raw material crunch! A short term solution might be some device to get a portion of the U.S. logs that are now pouring to Japan back into the American homebuilding stream. This outflow of logs has become even more critical with the revaluation of the dollar and the upward float of the yen. Our latest figures indicate that instead of 2.8 billion board feet log scale, the Japanese want an additional 700 million board feet this year; 1973. That raises 1973 export projection to 3½ billion feet, enough wood to build 250,000 average American homes. You also will hear that all of the homebuilding nations are peaking in their homebuilding programs.

Let me tell you what the Japan Economic Research Center of Tokyo reports. The Japan Economic Research Center reports that in 1971 Japan built 4½% more houses than they did in 1970. In 1972 Japan built 17½% more than they did in 1971. They're slowing down though—in 1973 they are projecting housing starts to increase by only 12% over 1972. Japan is slowing down the rate of increase—if that is called peaking.

We are hearing also, this export log trade is essential for our balance of trade. However, for each dollar we generate in softwood log export trade, it costs us $2.25 to buy the equivalent lumber, or better still, let's call it substitute lumber from Canada. If we were to stop, and could stop immediately, all log exports to Japan, we would improve our three-way balance of trade with Canada, Japan and the United States. The United States would improve its balance of trade by almost $500 million. Lastly, there is another red herring that has been drug across the landscape, i.e. our softwood manufacturers are producing at full capacity. Some elected government representatives have been saying that and particularly those log exporting companies that are growing fat on exports have been saying that. We just couldn't believe it, so we started checking. What we found on our limited study of 18 mills in Western Washington, was that if these mills had the logs immediately, we could produce 58 million feet of additional lumber per month. These mills—Roesler Timber—reduced in December from two shifts to one. Seattle-Snohomish operating only one shift. Evans Products plywood plant is down, cutting 155 people out of work. These mill workers are picketing log loading ships. Anderson and Middleton—one shift, would operate two shifts and go to six days if they had the logs. Mt. Adams Veneer—operating three shifts, one lathe, have one lathe sitting idle.

These are just a few examples. Another mill in Western Washington is under option to the Japanese. The Japanese are getting concerned. They are buying the sawmill so they can be sure that they get their lumber if log exports are restrained.

EDITORS NOTE: It is imperative that the exports of logs and lumber be stopped until prices and supply are normalized. You are all urged to write your Congressmen and Governor constantly until something has been done.

[From the Klamath Falls (Oreg.) Herald and News, Mar. 4, 1973]

LOG EXPORT CUTBACK NOT EXPECTED TO HURT BASIN

(By Lee Juillerat)

Effects on local mills of a proposed log export ban or cutback are up for question, but most lumbermen agree the effects would be relatively minor.

Sen. Bob Packwood, R-Oregon, and Rep. Wendell Wyatt, R-Oregon, have announced plans to introduce legislation banning and limiting the export of logs from the U.S. to Japan. Packwood's bill would place a total embargo on log exports while Wyatt's planned legislation would stop the export of logs from federal lands.

No logs from Klamath County areas are reported being shipped overseas. Most logs being sent to Japan are from Western Oregon and Washington.

Weyerhaeuser Co. has sent Eastern Oregon logs overseas in the past, according to company spokesmen, but has not shipped any in recent years. The company has come under heavy fire because it sends heavy amounts of Northwest timber overseas.

"Weyerhaeuser, and to my knowledge, no one else in Eastern Oregon is exporting timber," reports Weyerhaeuser Eastern Oregon Vice President Bernard Agrons.

Agrons has noted previously that a log export ban would result in increased log prices in the U.S. and the loss of many jobs in Washington and Western Oregon.

Countering Agrons' argument, however, is Gil Hannigan, manager of Klamath Lumber Co. "If exports are trimmed, I think we'll see a drop in domestic lumber and plywood prices," he believes.

Other effects, according to Hannigan, would be increased "stability and orderliness in the timber situation insofar as not having people from the coast coming in here and bidding for timber."

Hannigan says that in recent months lumber companies from the Oregon coast have

been bidding on area timber projects. "And when supply goes down the price goes up."

Other local lumbermen, including Chuck Glidden, forester for Columbia Plywood Corp., Klamath Division, believe that without a ban, competition from lumber companies from such areas as Medford for Klamath County may increase. The "rippling" effect, he says, could intensify because coastal timber mills sending logs overseas cannot meet their demands from coastal forests.

Some lumbermen have noted that competition with Medford-area mills for Klamath logs has increased in recent years. Reports that "ripples" are felt as coastal mills reach into the Grants Pass or Medford area and cause those mills to reach into Klamath County are echoed by many Klamath Basin lumbermen.

Locally, it means that some lumber companies must in turn look to areas east of Klamath Falls for timber.

David Maxwell, sales manager for Modoc Lumber Co., believes that an export ban would make wood "more available." He says that although short-term effects would be relatively minor, over a longer period the effects would be more intensively felt.

Weyerhaeuser, however, believes "rippling" effects are minor at most and notes that there is no log shortage at present in Eastern Oregon. According to Agrons, the company is supplying "significant quantities of timber to 21 different plants in and around the Klamath Basin," including mills out of the county.

The demand for Klamath area lumber is also subject to debate.

Traditionally, the Japanese have not sought the types of lumber grown locally, such as ponderosa pine. White fir and other species not generally found in the Klamath Basin have been most desired for export.

Some lumbermen, including Hannigan, have claimed that the Japanese are now showing interest in pine woods for use overseas. Other types of wood, such as fir, have been demanded because of the rush of home building in Japan.

[From the Glendale, Calif. News Press, Mar. 5, 1973]

JAPAN BUYERS PUSH U.S. LUMBER PRICES UP

(By Bill Hill)

SEATTLE, WASH.—Skyrocketing log prices have closed more than a dozen sawmills in the Northwest and at least that many more have curtailed production. The cost of building a 4-bedroom house has risen $1,200 in the last 13 months, including $700 in one recent month alone.

Mill operators, lumber dealers and builders all blame Japanese buyers who have pushed log prices upward as much as 700 per cent in the last five months, and there is no sign that prices are about to level off.

In New Orleans, prime Douglas fir lumber produced in the Pacific Northwest has increased in price from $172 a thousand board feet to more than $400 a thousand, according to Robert F. Schaff of Schaff Brothers Construction Co. Cedar from the Northwest is bringing more than $600 a thousand.

In one recent sale Japanese buyers, bidding against each other paid more than $1,000 a thousand board feet for Port Orford cedar on the stump.

In a Skagit County sale, timber appraised at $41.50 a thousand sold for $303 a thousand—more than seven times its appraised value. In Snohomish County, timber appraised at $72 a thousand sold for $293. In both sales Washington firms were the successful bidders.

In Aberdeen, Wash., 170 mill workers are jobless because their employer—Evans Products Co.—"couldn't compete in the lumber-buying market with Japanese buyers." An Evans salesman told how his sales had dropped 50 per cent because he couldn't guarantee delivery within a reasonable time period. "You can't sell something you don't have or may not get," lamented Chuck Schweitzer.

Earlier, not far away at McCleary, Simpson Timber curtailed operations at its veneer plant "due to a shortage of peeler-sized logs."

Closures and production cutbacks are all hinged to the same monotonous reason: Japanese buying, U.S. exporting.

One of the biggest arguments against log exports is that it takes two men to fell a tree; but it takes 40 men to turn this natural resource into a finished product here at home.

As one manufacturer put it: "We're not talking about selling timber, we're talking about 'selling out.' Exporting raw timber to a foreign land to be manufactured into products and imported back into the United States is a serious question. We need jobs and our natural resources should not be exploited at the public's expense."

Proponents of log exports contend that it produces a "healthy business climate and will help balance foreign trade which last year resulted in a $6 billion deficit."

President Nixon's recent devaluation of the dollar "favors Japanese exporters," declared one sawmill operator.

"Japanese buyers can purchase U.S. logs 10 per cent cheaper than the local sawmill. The Japanese can now pay $100 for logs that cost local mills $110. It doesn't make sense, but that's what the devaluation of the dollar means in timber country."

"The wood supply in the United States is critical," declared Darrell L. Robinson, president of a Portland, Ore., forest products firm.

Robinson is alarmed at shipments of logs over the last 10 months from Washington, Oregon, California and Alaska totaling 2.3 billion board feet compared to 1.4 billion board feet during the same period last year.

Sens. Alan Cranston, D-Calif., and Robert Packwood, R-Ore., disagree with any theory that log exports provide the answer to the balance of payments in foreign trade. They have asked President Nixon to ban timber exports to Japan.

Sen. Cranston says large exports of logs to meet Japan's housing needs "have been a major factor in driving up prices here at home." He noted that the 45 million log feet of timber committed to Japan for the first three months of this year, is four times more than the amount purchased during a corresponding period last year.

"Japan is consuming more than one-third of the timber production of California and the Pacific Northwest and the pace of their buying is accelerating," Cranston said.

Meanwhile, the Senate Committee on Banking, Housing and Urban Affairs is investigating "runaway inflation in the lumber industry."

Both Cranston and Packwood are members of the committee.

Hearings on a Packwood and Cranston bill calling for an extended embargo on the export of U.S. timber are scheduled in April.

EXPORT OF LOGS: "SOMETHING'S GOT TO HAPPEN"

(By Peter Toll)

"Something's got to happen or within 18 to 24 months this mill is going to close down," says a Coquille plywood mill manager.

"The benefits aren't $2 million a year, like the port says, but $10 million in my estimation," says the manager of a Coos Bay stevedore company.

The topic of their contradictary statements is the very complex subject of log exports and their impact on Coos County's people and economy.

It is a topic that makes Hank Dotter seethe with frustration. He is the manager of the Douglas Fir Plywood Co. mill, a subsidiary of Roseburg Lumber Co. employing some 570 people in Coquille.

He is blunt and to the point. "We can't compete with the Japanese" when it comes to bidding and buying timber. Normally, he said, his operation has a standing timber inventory for 24 months ahead. Today it has shrunk to 13 months.

Dotter's mill uses some 70 million board feet a year producing plywood and veneer. With market costs what they are, he said, his firm is at a 10 per cent profit margin. April 1, when the company's fiscal year begins, he predicts problems.

"If things continue we'll be losing 5 to 7 per cent instead of gaining 10 per cent. And if that continues very long we'll close down," he said frankly.

Dotter said his firm is in good shape if it can buy Douglas fir for some $100 a thousand board feet or as high as $130 a thousand. Today, with Japanese demand pushing the price up, Dotter said he bid at an "exorbitant $180 and still lost" the bidding.

"We haven't bought any timber for two months" in Bureau of Land Management auctions, he said. "I don't know what we're going to do."

Realistically, he has already had to cut back personnel. Thirty people have been layed off, reluctantly, in recent weeks. His mill had sales of $22 million last year but already the sales are slipping.

"I can see the handwriting on the wall," he laments.

Compounding the problem is the shortage of timber already, he explained, combined with the high prices ("the American public is going to go to other building materials") and a lack of controlling legislation.

"No other country in the world ships raw logs except us," he said. "And the longshoremen and stevedores think its great—which it is, for them. But our mill doesn't have enough timber and that means we don't produce plywood for domestic use."

Among those reaping benefits, as Dotter said, are the men who load those big ships in the Port of Coos Bay.

Steve Felkins, local manager for Brady-Hamilton Stevedore Co., admits "some of the small operators are being hurt. But Weyerhaeuser last week declared the biggest dividend in its history."

Felkins said he personally conducted a financial impact survey on the log export situation after a Port of Coos Bay Study indicated the exports produce $2 million in local revenue.

He estimates that Coos County income impact at $10 million. As an example, he telephoned Hertz at the airport "and they said about 25 per cent of their business is Japanese log buyers driving down from Seattle."

Felkins feels a good portion of the export logs, such as Port Orford white cedar, have no domestic market anyway. "But there are some fine logs going out of here, too," he added.

Miles Munson, general manager of Al Peirce Lumber Co. in Coos Bay, said his firm, which employs some 150, outlined some of the problems.

Quotas on exports, he said, have been enacted by Congress to cover export of logs from federal timber lands such as those administered by the Bureau of Land Management.

"So some companies sell their own supply for export and then use the federal timber for the domestic market," he said. In that way the export limitations become meaningless.

Revenue from timber sales on state-owned lands, he said, by Oregon law goes to pay for education. "So the educators are happy about the high prices for state timber," Munson said matter-of-factly.

Another factor, he said, is the balance of trade. "Japan has lots of U.S. dollars and Nixon would like to see them over here in our treasury again."

As for Al Peirce's fortunes in the current situation, he said the firm is on good footing. "We have some of our own timber to draw on." However, he added, "there's going to be a problem when prices fall."

Indeed, "there has never been any price control on logs," noted Wylie Smith Sr., vice president of Coos Head Timber Co. in Coos Bay.

Smith said "because of that, combined with the limited number of trees and the exports there is a real squeeze now."

Ken Rogge, owner of Rogge Lumber Sales Inc. in Bandon and Port Orford, said his firm "hasn't felt any effect yet but I expect it later."

He is concerned, he said, with the cuttable timber on federal land which is not being opened to logging. "There are acres and acres of timber out there getting rotten." He said the overripe timber rots and "the taxpayers are losing money."

Generally, however, Rogge is optimistic. The attitude at several other smaller companies seemed varied, according to an informal telephone poll by The World. The optimism is cautious, in some cases, and quickly turns to concern.

Dotter's concern is obvious. He thinks the state should limit exports to lumber and not logs. "That way everybody benefits," he said. "And I don't mean squared off logs; that's a subterfuge. I mean lumber."

To all observers, however, the solution is not at hand. And time will tell whether men like Dotter will have to close their mills or an arm of government steps in to put controls on the situation.

[From the San Francisco, (Calif.) Examiner and Chronicle, Mar. 11, 1973]

TIMBER EXPORTS, SHORT SUPPLY PUSH PRICES UP

(By L. G. Maatz)

Lumber prices are soaring, and the pinch is being felt by developer and contractor alike. Ultimately though, the one caught in the crunch will be the one paying the final bill—the consumer.

It's the old law of supply and demand. When you have a lot of something and nobody wants it, the price goes down. But when your supply dwindles and the demand rises, the prices can go out of sight. That's the current situation in the lumber industry.

Locally, prices of lumber and plywood have risen sharply over the past two months—20 to 30 percent in some cases—according to local lumber wholesalers.

"It's creating a lot of panic with our customers," says Ray Ryan, manager of J. E. Higgins Lumber here. "They're asking us when it's going to stop, and we don't have an answer for them. Lumber prices are a week-to-week proposition now.

EXPORTS UP

The biggest factor still seems to be exports to Japan, although rail car shortages and the drop of economic controls are certainly having their effect.

Increased seasonal demand has also taken its toll. Although heavy rains on the West Coast have hampered building starts here, unusually mild weather in the Eastern markets has kept demand high there. And starts nationwide are expected to be over two million again this year.

According to figures released by the National Association of Home Builders, some 45 million log-feet of American timber have been committed to Japanese firms for the first three months of this year. This is four times more than for a similar period last year.

And, according to a Wall Street Journal report, Japanese buyers are continuing to outbid their American competitors for lumber to supply the Japanese housing boom. In one month, the report quotes industry sources, prices on Douglas fir for export to Japan more than doubled—from $135 a thousand board-feet to $300.

American Plywood Association Vice President Joseph Leitzinger says "the Japanese are trying to buy everything in sight. The prices they are paying are ranging from four to five times the appraised value of the timber."

Rail car shortages are creating difficulties in getting lumber to domestic markets as well but the dropping of economic controls following the end of Phase II seems to be the next biggest factor.

CONTROLS OFF

Some industry spokesmen feel that the increase in prices is a result of prices being held down artifically during the recent freeze. And prices did jump significantly following the drop of price controls. Crow's Weekly Letter, an industry pricing service, indicated that ½ inch exterior plywood sheathing was selling at the mill for $156 a thousand square-feet on January 5, the Friday before the end of Phase II. Since then it has risen to $175 a thousand square-feet.

Emmett Clifford, Associated Home Builders president here, acknowledges that the dropping of controls is an issue. "There's no denying that prices went up immediately after the end of Phase II," he says, "but the mills claim that increased production costs were the factor, and they had no choice."

"Another factor," Clifford says, "is the cutback in government timber sales due to budget cuts and pressure from environmental groups. "The Forest Service just doesn't have the funds to build the roads into the timber areas, and without the roads, you can't get to the timber," he says.

In spite of sharply increased demand, Forest Service Sale of the allowable cut of National Forest Timber has declined by approximately 30 percent from fiscal 1970 to fiscal 1972. An increase this year appears unlikely.

But the main factor remains the export problem. "One third of our lumber production is going to Japan," Clifford says, "and with every overseas shipment of logs, the inflationary pressure on domestic housing costs increase."

Exactly what that increase is depends on who you talk to. Clifford estimates $800 to $1200 on a typical $30,000 single-family dwelling. Ray Ryan of J. E. Higgins estimates $1500, and Menlo Park's L. B. Nelson, president of the National Apartment Association, estimates $2000. And it's the consumer who will ultimately pay it, no matter what the amount.

EXPORT THE PROBLEM

The problem, then, according to various industry spokesmen, revolves around the export situation in the short run, and the overall supply problem in the long run, and attempts to remedy the situation have created some strange bedfellows.

An improbable alliance of homebuilder associations, contractors, the District Council of Carpenters and the Sierra Club have united to back a bill introduced by Senators Alan Cranston (D-California) and Robert Packwood (R-Oregon) calling for a more extended embargo on the export of domestic timber.

"For every $1000 increase in the cost of a house," Packwood says, "nearly 2,000,000 Americans are cut out of the home buying market, and that is too great a price to pay. It is time we stop the wholesale exploitation of our American home buyers to feed Japan's housing boom."

"The Nation's housing needs are too critical to allow this situation to continue," Cranston adds. "And the problem is not unique to the homeowner. It is also hurting the renter who will pay more for his apartment, the construction industry, the working man and everyone else who uses wood products."

Roger Mellem, a Sierra Club representative, says "when we export our logs, we are exporting our wilderness. We are asking for a total ban on all wood exports, unless it can be proven that after meeting all domestic needs on a sustained-yield basis there is a surplus left over for export."

Ralph D. Hodges Jr., executive vice president of the National Forest Products Association, national spokesman for a federation of 25 lumber, plywood and other wood product associations across the country, is urging Congress to take action to "prohibit the Forest Service from expending any further funds for making timber sales involving logs for export until the full allowable cut level is attained."

Addressing himself to Congresswoman Julia Butler Hansen (D-Washington) and her Subcommittee on Interior and Related Agencies, he said that prohibition of National Forest timber for export, until allowable cut levels are met, "will allow domestic mills dependent on Federal timber to have a reasonable opportunity to purchase timber which might otherwise move to export. It should also cause the Forest Service to concentrate its sale preparation activities on timber to be processed for market in the United States."

Two other West Coast congressmen are concerned over the rising export rate.

Representative Wendell Wyatt (R-Oregon) was on a fact-finding tour of Japan last week, and planned to "urge government officials and businessmen there to restrict their imports on a voluntary basis," according to his office. He would probably seek "corrective legislation" if the Japanese did not agree to limit their purchases, it was added.

Representative Al Ullman (D-Oregon), a member of the House Ways and Means Committee, has also urged the administration to warn the Japanese to cut down on their purchases.

Short-term remedies are available, if the Administration wishes to take advantage of them, but immediate action seems unlikely.

The Export Administration Act of 1969, according to Cranston, empowers the President to restrict exports, "to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce serious inflationary impact on abnormal demand."

Also, Ullman has advised the Administration that the President has the authority under the 1971 Revenue Act to declare logs to be in short supply and to impose an immediate ban on their export by Executive Order.

But whatever the individual solutions, the main problem remains the same—prices are at an all time high and rising, and no immediate respite appears likely.

And in the end, the consumer is paying the bill.

NASA'S CONTRIBUTION TO SCIENCE

Mr. MOSS. Mr. President, because of the immense technological achievement of the recently completed Apollo program, the scientific worth of the six successful Moon landings is sometimes not fully appreciated.

To be sure, the publicity that has attended our efforts to land men on the Moon has emphasized the hardware and the day-to-day events of the flight more than the scientific investigations and dis-

coveries revealed in the months following. But the scientific community—physicists, chemists, geologists, astronomers—can attest to the tremendous value of Apollo in increasing our understanding of our planet, solar system, and universe.

At the Fourth Annual Lunar Science Conference, held recently in Houston, Tex., Dr. Gerald J. Wasserburg of the California Institute of Technology presented a testimonial to the National Aeronautics and Space Administration on behalf of the Apollo Lunar Science Community.

More than 600 scientists from all over the world gathered at this conference to discuss the latest findings from Apollo investigations. At the opening session, Dr. Wasserburg called attention to the vast harvest of scientific data and lunar samples, and to the continuing information supplied by experimental stations still operating on the lunar surface. He praised NASA for its contribution to science, a contribution which, he noted, is really just beginning as the scientists analyze the first portion of the data returned from the moon.

I ask unanimous consent that the statement presented by the Apollo scientists to NASA be included in the RECORD.

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

TRIBUTE TO NASA

On behalf of the scientific community, we wish to congratulate the National Aeronautics and Space Administration upon the completion of the Apollo flight program. The conception, design and implementation of lunar exploration represents an extraordinary human and technological achievement—the first exploration of another planet by man. To attain this goal it was necessary to achieve many successive levels of technological capability and to surpass formidable barriers. This was accomplished brilliantly by the dedicated engineers and astronauts of NASA in conjunction with skilled management. On this technical base a new branch of science has been built.

The scientific aspects of the Apollo program also have evolved by stages, and not without some awkward moments. There was little precedent for interweaving the development of technical capabilities and the planning and execution of complex scientific experiments in the unfamiliar lunar environment. To interface the difficult flight problems and the growing scientific objectives, the NASA utilized the external scientific community in conjunction with their own administrative and engineering structure. This provided healthy and critical evaluations in which both parties learned to appreciate the common problems. A vital scientific enterprise grew and completed a wide variety of unique experiments on behalf of a worldwide scientific community.

As a result of the Apollo expeditions, there now exist a set of lunar observatories and a harvest of instrumental data and lunar samples which are of incalculable value. The preliminary evaluation of these observations has already revolutionized our models of planetary character and our theories of solar system evolution. The scientific information which is now being developed and the potential for understanding which still remains in the Apollo collections will constitute an ongoing testimonial to the success of the Apollo missions.

Our patricipation in the Apollo program has offered to each of us great scientific opportunities. We feel privileged to have been a part of these historic endeavors.

Sincerely,

THE APOLLO LUNAR SCIENCE COMMUNITY,
Convened for the Fourth Lunar Science Conference.

CHINESE SOCIAL PATTERNS AND INSTITUTIONS

Mr. FULBRIGHT. Mr. President, earlier this year Mr. James O. Powell, editor of the editorial page of the Arkansas Gazette, led a delegation of American journalists and authors on a visit to China.

During his stay in China and upon his return to the United States, Mr. Powell wrote a series of articles for the Gazette about his experiences and observations. The articles are among the most informative and thorough I have seen. Mr. Powell provides a close and fascinating look at Chinese social patterns and institutions.

I believe Mr. Powell's articles represent a major contribution to the development in this country of a better understanding of China and the Chinese people. I ask unanimous consent that a selection of the series of articles from the Arkansas Gazette be printed in the RECORD.

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

IN AN ANCIENT LAND WITH A NEW PURPOSE

(By James O. Powell)

CANTON, CHINA.—There are few unforgettable moments in personal experience but one of them for an American surely is the moment of entry into China, the vast ancient land of 800 million that is now resurgent in national spirit even as it begins reopening its doors to the west.

Eight of us, journalists and authors, have come into China on a visit arranged by the China-America Relations Society and have reached Canton in the subtropical south in a state of excitement that overwhelms the fatigue and jet lag. We came in by train from Hong Kong, crossing the border at Shumchun after some 30 hours of nearly continuous travel from San Francisco via Tokyo, gladly accepting the invitation that had come politely but suddenly from the Chinese Embassy at Ottawa.

On the instant of arrival at Shumchun, one is struck inevitably by the swift transition in the distance of a few yards from one society to another so dramatically different. On one side flies the Union Jack, presiding over the relaxed if bustling life of the crown colony; on the other side flies the bright red flag of the People's Republic, and as you cross the border you enter China to the sound of martial music. As you move through a series of checking stations (customs, health, money changing, etc.), you may hear, as we heard, the sound of children marching and singing in the street below. The dress of the people changes drastically as well: The varied attire of the Hong Kong Chinese is replaced by the simple garb featuring the Mao tunic, which is a sort of civilian uniform in the People's Republic. There are also many soldiers, members of the People's Liberation Army, who wear light olive uniforms with red trim and the ubiquitous red star on the cap.

Americans visiting the new China have been universally impressed with the drama of the crossing at Shumchun. Each visitor will have his own finding, however, on what kind of country he has come into. To this writer the overwhelming first impression at Shumchun and in a memorable first three days in China is one not so much of militance as of national purposefulness. China is the organized society certainly and the presence of the central personality, Mao, is sensed or seen everywhere. But what I have seen and heard upon entering the new China leaves the conviction that the Chinese people after the tragedies of the last hundred years are now indeed revitalized with an overwhelming sense of national purpose bolstered by a new confidence: They have places to go and they are certain that they are on their way.

There is certainly no militance in any case in the response of the Chinese people to the Americans, who are beginning to come into China now in a small but steady stream. Our group of eight has been received with unfailing courtesy and great warmth, after the fashion reported by others ranging from Kenneth Galbraith to Joe Alsop, not to mention Richard Nixon. Both our escorts and the people we encounter and interview give us unstinted welcome.

We came to Canton (or Kwang Chou if we use the city's official name) on a comfortable first class train that Amtrak would envy. (The conductors interestingly were all women.) We have been driven about this historic city set in the luxuriant green countryside of South China and have seen Canton's sights, including first of all its teeming masses of busy people, before proceeding to Peking. We have been introduced to the fabulous cuisine of Canton and have been entertained royally by the foreign Ministry and Hsinhua, the Chinese news agency, at a banquet with elaborate exchanges of toasts and pledges to renewed friendship between the Chinese and the American peoples. We are quartered in enormous rooms in Canton's East Hotel. In every way the Chinese, government and people, are hospitable and simpatico, plainly intent upon widening the new bridge to America.

It is plain that the Chinese want us as friends and that they have managed perfectly to accommodate the distinction Chairman Mao makes between governments and peoples. In the lobby of the East Hotel and in the stadia and other public places there are still the slogans denouncing imperialism, capitalism, American aggression, etc., but the slogans do not dampen our welcome in the slightest. Nor somehow does even the awareness of the terror bombing of North Vietnam affect our reception. Indeed, the bombing is a subject about which our hosts speak more politely in reference to the United States government policy than do we. It is clear too that what the Chinese want us to see most is what they have accomplished here—especially in the celebrated conquest of famine, plague and the desperate poverty that afflicted the China of Chiang Kaishek and the Manchus. They speak of how it was before the revolution and of how it is now and they are proud of what they have done. Their success as well as their pride is easy to understand to the Western visitor when he looks out upon this incredibly populated land and finds the people so furiously industrious and single minded in goals. This is China in 1973. What will it be like in 50 years?

WATCHING SURGERY UNDER ACUPUNCTURE

(By James O. Powell)

SHANGHAI.—No one really knows how acupuncture works, but there are at least nine more people who believe in it completely following an operation performed Tuesday upon Chang Tsung-hsi, a 40-year-old steelworker, in the Hsinhua (New China) Hospital here.

The eight new believers, in addition to the patient himself, are Americans in a visiting media group—made up of editors, correspondents and free lance writers—who watched Mr. Chang undergo a gastroectomy under needle anesthesia. We saw the operation and talked to Chang while the surgeons were sewing him up.

Begowned in best surgical style, we entered the balcony of the operating theater shortly before 9:20 a.m. Chang was already upon the operating table with his abdomen bare, needles protruding, four in all, from his chest, abdomen and left foot. His foot jerked regularly for an electrical impulse was being applied to the needle.

The surgery began straightway, with two surgeons, Dr. Wu and Dr. Ho, doing the work and Dr. Li serving as chief anesthetist. They made the incision and began delving into the stomach, swiftly locating the peptic ulcer which was the source of Chang's affliction. They proceeded for about a half hour tying off blood vessels, making preparations for removal of most of the stomach. As the work went on, Chang was perfectly conscious, his eyes open much of the time, speaking to the anesthetists. There was only one time when his face showed obvious pain and that was when the chief surgeon had his hand completely inside exploring the abdominal cavity.

At one point the anesthetists massaged Chang's earlobes. It is believed that the earlobes have nerve channels associated with pain and the relief of it.

Finally the preparations were complete and after about 40 minutes the surgeons, using what looked like a great vise and a pair of scissors, snipped off and lifted out the offending section of stomach. It was about the size of a small handbag. For practical purposes the operation was about over.

It had taken about 45 minutes. Two of us were allowed to go into the operating room to talk to Mr. Chang. He said through the interpreter that he had experienced discomfort but that he would be back in the steel mill in about "half a month". The stomach has a marvelous power of regeneration.

It was a morning to remember.

The Chinese are not dogmatic about their acupuncture. In this hospital they use it only about 30 per cent of the time for anesthesia, according to the type of case and the option of the patient. It is reported successful in 60 to 70 per cent of the cases. If it begins to fail during an operation, chemical anesthesia is applied.

The advantage of needle anesthesia is that the body does not undergo the shock of chemical anesthesia. In certain cases the patient even helps the doctor in finding a trouble point. Recovery is quicker under acupuncture. The whole affair is less traumatic.

What the Chinese are employing, in the case of anesthesia as in their whole medical science, is an amalgam of Western medicine and traditional Chinese medicine. They are convinced they have much to learn from the West and they have been learning well on the record of an extraordinary (in Western eyes) morning in Shanghai's Hsinhua Hospital, it seems plain that Western medicine has something to learn from the Chinese as well.

CHARM AND DISCIPLINE OF THE YOUNG CHILD

(By James O. Powell)

PEKING.—If a Westerner on his first visit to China is to understand the country and its people at all, he must begin with the concept of the group. It is the group, not the individual, that counts critically in the new China.

This is not to say that the Chinese are inconsiderate of the personhood of each other, for indeed they get along much better than one can imagine Americans getting along with each other if there were 800,000,000 of us rather than 200,000,000. But from the earliest stages the Chinese are taught that the individual must subordinate himself to whatever group (or groups) he belongs to. It starts in kindergarten for most Chinese children, at an age as low as three. The Chinese are especially proud of the kindergartens and show them gladly to foreign visitors, who are unfailingly charmed by what they see. Even Joe Alsop admitted to feeling avuncular after visiting a Chinese kindergarten.

Eight of us in a media group (editors, correspondents, free-lance writers) touring China under arrangement of the China-America Relations Society have visited kindergartens in Canton and Peking, and what impresses most is the striking unison in whatever the children do. It is plain that they have had much practice in receiving foreign guests but their togetherness is nonetheless remarkable. When we arrived at a kindergarten at Canton (the Chinese now call the city Kwang Chou), we were greeted at the street by a loud chant that sounded something like "so-so, ah-yi," "co-so, ah-yi" and what they said was "how do you do uncles and aunts." The drill was as perfect as our little hosts were adorable but there was more insight to the kindergarten's operation as we were told about the teaching and as we watched a series of short musical playlets put on by the children.

The head of the kindergarten, a Mrs. Tan, received the visiting Americans in the central parlor where we sat and had tea, ceremonially as is the custom everywhere in China on any kind of visit. We are surrounded by pictures of Mao, Lenin, Marx and Engels hanging on the walls. Mrs. Tan proceeded to instruct us enthusiastically on how and what the children are taught, which is first of all to act in accordance with the thought of Chairman Mao: They are, for example, to give up their own self-interests in yielding to others; they are taught, too, to love work and early on they are put to work weeding and watering the vegetable garden. Mrs. Tan and all the faculty were wearing their Mao buttons (although generally in China the Mao button is becoming much less ubiquitous, as the frenzy of the Cultural Revolution continues to wane).

In disciplining the children, the director said that physical punishment is never used but rather the remedy is reason, persuasion—and "criticism." It is such persuasion and criticism that are the instruments for bringing individualists, young or old, into line. (Mrs. Tan also said that boys and girls are treated exactly alike but it turned out, to the disillusion of Women's Liberation, that the boys are still occasionally naughty while the girls are not.)

It seems, however, that not much disciplinary action is required, and a performance put on by the children suggests why. Singing and dancing, the children staged for us a delightful series of playlets and each one had a Mao moral.

In one playlet the children sing lyrically of how they love to do their morning exercises but there is one little maverick in the group who barely goes through the motions (in the play). The others then proceed to reason with him and "criticise" him, in song, and in the end he is converted and exercises as passionately as all the rest. If the American with his devious penchant for contrariness may feel inclined to side with the maverick, that thought would not occur here.

Other playlets stress self-effacement and sharing toys with each other.

In the kindergarten yard the group spirit still prevails. There is a tug-o'-war but one little exemplar reminds us all loudly of Mao's maxim that "friendship comes before competition" (Tell that to Bear Bryant!). And in one class the children work together with little pieces of cloth, learning love of toil and preparing to be able to work early in the textile factory (Tell that to Bill Becker of the AFL-CIO!)

In all the phases of the kindergarten program the children are taught subordination to the group and a sense of community; the philosophy is implemented everywhere as they grow up, in the factory, on the communal farm, in the state-owned stores, in sports and recreation. Whenever one goes in China, the group concept prevails, as the visiting Westerner soon discovers for himself. Indeed the word "individualism" highly regarded in the West, translates into a bad word in Chinese.

The overpowering spirit of the group is not one that the Westerner, with his own scale of values, would care to take home with him, but in appraising the new China there is one critical rule: What works for one society may work poorly or not at all for another. And in China the overwhelming evidence indicates that the new system, Communist or not, has worked for China very well indeed, in eliminating hunger and plague, in raising life expectancy, and in giving the Chinese a new sense of pride and equality and purpose.

It is at least plausible to wonder if in a land where there are 800,000,000 people, most of them packed into an area half the size of the continental United States, the concept of the group is not the one that has to prevail.

CHINESE HAVE GAINED ELEMENTAL GUARANTEES UNDER MAO COMMUNISM

(By James O. Powell)

SHANGHAI.—The mystery of Mao Tse-tung, man and legend, may not be impenetrable after all when it is examined objectively in the light of what China has accomplished in the last 23 years.

What Mao and his Chinese Communist movement have done, according to overwhelming evidence, is to give the masses of peasants and workers—who make up a fourth of the world's population—certain elemental guarantees that they had neither under the emperors nor under Chiang Kai-shek.

First of all, in the simplest of terms, Mao's program of "socialist construction" has given the reality of adequate food, shelter and clothing to the masses of people. The standards of living in China are not remotely comparable to those prevailing in the West. Nevertheless it is clear that people no longer starve in China, nor freeze to death for the lack of shelter and clothing. Meeting these needs is the first and ranking achievement of Chinese communism.

Another new guarantee is a certain basic health care, which the Chinese have not really had before and which is being developed under revolutionary methods. In the same context, plague has been eliminated through programs of immunization and other preventive methods.

Finally the communism of Mao has given the peasant or worker a sense of personal worth, as well as security, that he never had before. Mao himself is of peasant stock and his brand of communism has glorified the peasant as the backbone of China. Historically the peasant has been grossly abused and held to be of little value.

Visitors to China must be fully aware that they can take away, on a short stay, no more than first-hand impressions. Nevertheless the overpowering impression in a 3½-week visit to China is to confirm the reports of old China hands like the late Edgar Snow, John Service, John McCook Roots, and Dr. George Hatem, on the way it is in China now and the way it was before 1949, the year that the Communists came to power and Chiang fled to Taiwan.

It is the comparison between China then and now that has to govern, no matter how Western values may be abraded by the Communist methods and philosophy. The comparison has been impressed vividly upon a group of American editors, correspondents and free-lance writers who have been tour-

ing China under arrangement of the China-America Relations Society, headquartered in New York.

Eight of us in this group have traveled thousands of miles in China and, in the course of our visit, have had numbers of interviews with Chinese who remember how it was before "liberation."

We are aware that the places we have visited are, usually, showplaces and we are aware that dissent is not discernible in China. Even so, there is unmistakable sincerity and conviction in the accounts that we have heard, which illustrate the nature of the Chinese accomplishment.

Consider the testimony of Chen Pao, 50, a peasant, head of a family of six living in a communal village outside of Shanghai which we visited one January afternoon. The commune is one of 197 that grow vegetables in the vicinity of Shanghai to help feed 10 million people living in and around the city.

Chen was a young man in what they called the "lower middle" peasant class in the years immediately preceding 1949. He owned a little plot of land and he rented a larger plot from one of the 40-odd landlords then living in the village. In a good harvest year, he said, he barely had enough to live on and in a bad year he had to borrow from the landlord at high interest. He and his family were often hungry and cold; they had little clothing and covered themselves with rags at night.

The revolution came and, in time, the "Rainbow Bridge Commune." Farm production on land in the area increased dramatically and now it was employed, in Mao's phrase, "to serve the people." Now, in 1973, the Chens live in a four-room house that is furnished with basic necessities (such as blankets); they are warmly enough clothed, although the heat in the house is only from coals carried into rooms from the stone stove in the kitchen. Last year, Chen said, the family of six had a combined income of 2,300 yuan (about $1,200). His daughter got married last year and he bought some furniture but he still has 700 yuan put away in savings. What's more, he has a watch which he showed us proudly.

If the Chen house seems depressingly spartan, vaguely evocative of a Southern tenant farm *circa* 1930, Chen has never lived so well or securely before.

Consider the testimony of Wang Cheng, a leading figure (something like the mayor) in a "production brigade" operating as part of a great commune about 60 miles from Hang-chou. We spent a day with Cheng and other leaders in the brigade, which has charge of villages and some large tracts of land in the hill country southwest of Hang-chou. The brigade is called Hsan Wang, and it has been a heralded success in China. The land has been intensively cultivated, with tea and wheat as the major crops. Barren hillsides have been turned into lush tea fields, through much labor and innovative irrigation from a beautiful mountain reservoir that overlooks the green and lovely countryside. The brigade has built some of the best homes that we saw in China. It has schools, a stock farm, a medical clinic, and new modern machinery for rolling the tea leaves which are its big money crop.

Wang told us that the village we were visiting had been very poor and unproductive before the day of "liberation." Nine of 10 people were working as hired hands for landlords.

In one year, 1934, more than 30 people died of starvation, he said.

Wang's account was supported in various ways by the word of others we talked to, at random, during the day. This is the sort of testimony that helps explain why one finds such feverish enthusiasm today in China for Mao and the revolution.

Indeed everywhere in China the people are fired up with zeal and collective ambition. The visitor can hardly fail to be impressed, moveover, with what appears to be *happiness* among the people. This is the hardest of human conditions to measure, certainly, but to be in China for a period of weeks is to feel this sense of collective well-being, even when material standards are so frugal compared to the Western standards and the way of life is so unsophisticated.

The Chinese have many statistics on what they have done in the last two decades (in truth they are the greatest statisticans this side of the American sports pages) and they have many new factories, and model towns, built since 1949. Possibly their most important statistic is in production of grain, the basic food. It is Mao's creed that China must be self-reliant and that the basic needs of the people must be met through agriculture.

In 1949, according to government figures, there were only 100 million tons of grain produced. In 1971 the total was 246 million tons; in 1972, 240 million tons. With a record such as this, and with progress in other lines of food production, you can understand why the Chinese appear to be philosophical about their population increase. They do not foresee any time in the near future when they can't feed their people.

The Chinese have come a long way with Chairman Mao in something less than a quarter century and they expect to go much further. They seem happy and secure and proud. The Western colonialists are gone, presumably forever, as are the Japanese invaders. But what counts even more is the change in the living conditions of the masses since the old days when corpses were routinely collected in the streets of the great cities each morning, while no one in authority appeared to care.

THE STREETS ARE SAFE BUT NECKING IS RARE

(By James O. Powell)

SHANGHAI.—An American abroad in the new China is struck by a thousand fascinating contrasts between the way of life here and the way of life in the United States. Neither society walks off with all the honors.

It is hard to pick a place to begin but the incidence of violent crime may be as good as any. Statistics on crime are difficult to get in China, as visiting newspapermen have found here in Shanghai, but the crime rate is very low, unquestionably. There are few warnings or restraints on walking the streets of Chinese cities, including Shanghai, which used to be known as the wickedest city since Sodom and Gomorrah. If it's safe streets you want, China's have to be among the safest (and cleanest) in the world.

China is also the Honest Society, insofar as material possessions are concerned. There is some theft, but not much, and the foreign tourist does not have to worry about his valuables, nor even bother necessarily to lock his hotel room.

Indeed American visitors often find it hard to get rid of odd things they would rather leave behind, as a group of eight American journalists and writers, currently touring China under arrangement of the China-American Relations Society, has learned in its turn. We have been pursued relentlessly by items ranging from dirty handerkerchiefs to used flashbulbs which had been left in hotel rooms or elsewhere, sometimes on purpose. In my own case, I tried in vain to leave an opened box of sweetcakes on the plane from Canton to Peking, and again in Peking airport, but in each case it followed me like the hound of heaven all the way to my hotel room.

There are no merchants in China, nor advertising, the bourgeoisie have been forcibly retired from business. There are no real estate dealers, since home ownership is allowed only in the rarest of instances. There are no lawyers, nor psychoanalysts.

What one misses most is the small shopkeeper, of the kind Napoleon said England was populated with. I do not suggest that the services in stores is not courteous, but to the unreconstructed free-enterpriser there is something melancholy in knowing that the person attending you in a little antique store, or grocery counter, is just a government clerk (of one variety or another).

After a while, too, old instincts may move the American visitor even to wish for some advertising other than the Mao posters. A flashy billboard advertising the Belchfire 8 or Old Bobcat would relieve marvelously the relentless parade of admonitions taken from the thought of the Chairman. Such is the depth of capitalist decadence.

The absence of lawyers is attributable to several factors. The Chinese aspire to a society so well intentioned and well ordered that law isn't needed. Moreover, they became disillusioned with some law that had been patterned after the Russian example. There is little written law left in China at this juncture.

There is a court system with three levels, we are told. The judges have court workers rather than lawyers, and the workers make extensive investigations of criminal charges and civil disputes; the court staff makes reports that are turned over to the judges to help them in their determinations and decisions.

Psychonalysis? It is frowned upon. The Chinese do not believe in it. Apparently they do not know that Western psychiatry has moved a good way past Freud and his theory of the omnipotence of sexual motivation. In any case there is no psychoanalysis and a general suspicion that it is a decadent capitalist divertissement. We did not see a mental hospital although we are told that there are some, even though the incidence of mental illness is described as low.

Ping pong is in in China, along with acrobatics (the Chinese are unparalleled in each field), but sex is out. What strikes all visitors is the Puritanism of viewpoint on sex. There is not a hint of it in public places and virtually no handholding on the streets, at least insofar as Westerners can determine. In one reckless moment in the popular ballet, "The White-haired Girl," the hero almost embraces the heroine (who is one of Communist China's favorite folk figures) but holds back just in time so that morality is preserved.

During the Cultural Revolution, which took place inthe late "60s, there was a surge of censorship in arts and crafts against sexual implications. For example it was forbidden to carve a figurine of a royal concubine emerging from the bath.

The dancing of couples is not practiced and, one gathers, musicians would not play for a boy and girl who tried it. Folk dancing by groups is approved for public performances. It is all evocative of fundamentalist religious restrictions in the United States.

I asked one of our interpreters about dancing. He was interested and amused by my report that in the United States young people sometimes danced until dawn on week ends, but he said in China it would interfere with their work.

The attitudes on sex bring to mind our own age of national innocence.

During the "Spring Festival" in early February (it used to be the Chinese New Year) our media group spent a week end in Hang-chou, the garden spot of China. Two members of the group reported that after dark there was much necking in the park near the hotel. It seems that the word had gotten around among the young people, in spite of all.

The Chinese air service is still in a basic stage, with airport navigational devices apparently 30 years out of date. The pilots are very careful in their flight practices and planes don't fly if the weather is bad.

There are a scant few automobiles but millions of bicycles. The bicycle is the national mode of personal transportation. There are so many bicycles and so many pedestrians that the automobile drivers, in the memorable expression, drive with their horns. The autos are owned by one agency or another of government.

There is no real problem from automobile pollution but the Chinese cities have a pollution problem of their own, some of it from industrial plants and some of it from millions of coal-burning stoves in the cities. In the winter in Peking the coal-burners make a smog as bad as anything in the United States. China needs natural gas.

The Chinese certainly know how to run railroads. We rode the trains 700 miles from Peking to Sian, the old capital in the heartland, and 900 miles from Sian to Shanghai, and to nearby Hang-chou for a week end. The trains are comfortable, and they run on time. The food on the diners is excellent.

In the new China there is an institution called the "May 7 school" where people go to do hard work and repent and meditate on how they learn to do better. After riding the trains of China and enjoying them, an American may swiftly conclude that what the directors of Amtrak, and each of the American railroads, need is to go to a May 7 school on railway management. The Chinese could show Amtrak how to organize one.

Radical Innovations in Chinese Health Care

(By James O. Powell)

Health care in the People's Republic of China has stirred intense interest in other parts of the world, especially in the United States where the American people in general and the medical profession in particular have been fascinated by (1.) acupuncture, (2.) the reported elimination of venereal disease in China, and (3.) the innovative "delivery" system of Chinese medicine.

Acupuncture is so dramatic and mysteriously successful that it has attracted the most widespread attention. In anesthesia it unquestionably works, in many cases, as an increasing number of Americans can testify. In Shanghai I watched surgeons remove most of a man's stomach while he was conscious, under anesthetic acupuncture. Previously James Reston of the New York Times submitted to acupuncture in connection with an appendectomy, and, later, a nameless Middlewestern editor received acupuncture in treatment of an awesome hangover, which he had incurred in a toasting duel employing the fearsome 120 proof Maotai liquor.

There is more skepticism about the reported total conquest of venereal disease but there is good reason to believe that the claim is true. In the first place the Chinese now have a comprehensive program of preventive medicine working against contagious disease generally. As for venereal disease, the Chinese Communist moral code is in itself a powerful preventive force. Prostitution is considered reprehensible in the new China and the whole social atmosphere is designed to discourage promiscuity and premarital relations (and early marriage, as well).

In Peking I talked with Dr. George Hatem, an American who went to China in the thirties as a young doctor and remained. Dr. Hatem is a skin specialist and was formerly engaged in the prevention and treatment of venereal disease. He is one of the respected "old China hands" and he indicated in his conversation with me that he finds no evidence to dispute the Chinese claim to having wiped out venereal disease.

In the broader context of medicine and health care, the Chinese have developed radical methods to meet a radical need. In Peking an American media group, including this writer, had a long dialogue with a leading figure in the Ministry of Health who outlined the staggering dimensions of the health problem that the Chinese faced in 1949, year of the "liberation."

The health official, Dr. Chen Hai-feng, said that before "liberation" there were only 18,000 doctors in China and the entire system of treatment and prevention was pitifully inadequate. He said that the number of doctors had multiplied 26 times now but, in any case, what has made the Chinese system distinctive is the radical use of paramedical workers, including the celebrated "barefoot doctors." There has been no other way that the Chinese could build a system of health care to serve such a massive population, now estimated at around 800,000,000.

We were told that four principles have guided Chinese medicine under the people's Republic:

(1.) The goal is to serve "the workers, peasants and soldiers."

(2.) Prevention is the main task.

(3.) Western medicine and the traditional Chinese medicine (which depends heavily on herbs) must be integrated to use the best of both systems.

(4.) The medical program will be integrated with the mass movement of the revolution. "We must mobilize the masses" (in health care), Dr. Chen said.

It is in this fourth principle that the Chinese found an answer to their own peculiar dilemma. A conventional system of medical training could not have been built on anything resembling the massive scale necessary for such a population.

There are four levels of skill in the Chinese system:

At the top, the fully qualified doctors.

Next, the nurses, midwives and pharmacists.

Next, the "barefoot doctors," who receive brief, intensive training and are sent out into the countryside to minister to the peasants, who make up 80 per cent of the population.

Finally, the part-time workers, numbering millions, who are taught certain limited auxiliary skills.

We were told that there are 1,200,000 "barefoot doctors." They receive three to six months training to start, and are then sent out into the country prepared to diagnose and (ordinarily) treat 100 common maladies. They distribute birth control literature and devices, and disseminate information on disease prevention, they inoculate the peasants against communicable disease.

In a communal village about 60 miles from Hangchou, we visited a little clinic and talked one day to a "barefoot doctor," a responsive young man in his twenties.

He said he had spent two years training in the county hospital. (This was much longer than the training period cited in Peking, but perhaps he had started his practice at the village with less training than he has now.) On questioning, he said that when he found symptoms that he could not recognize, or could not treat successfully, he would send the patient to the regular doctor in a larger clinic or hospital. He uses both Western medicines—antibiotics—and the Chinese herbal remedies.

The basic theory with the "barefoot doctors" is that they recognize the limits of what they believe to be their competence, and refer a case to a higher level if it is complicated.

If there are few Americans who would settle for diagnosis and treatment by a "barefoot doctor," the health problem faced in China, with such an enormous population and starting with the scantiest of medical establishments, was not remotely comparable to the health problem in the United States.

In public health, as in so many other contexts, what's good for China, is not necessarily good for the United States, and vice versa.

No Concept of Freedom in the People's Republic

(By James O. Powell)

Peking.—China has achieved equality and fraternity in its new society but the individual liberty so cherished in the West does not exist. Nor is there any prospect that it will come into being except through some long and highly speculative revolutionary process.

An American visiting the China of Mao Tse-tung may find much to approve of, as previous dispatches in this series have indicated. What he will find forbidding is the regimentation of thought and expression, and the absence of the political rights that are so deeply rooted in the law and tradition of the Western democracies. The disciple of Voltaire and Thomas Jefferson may understand why the system in China has developed as it has, but he will find the system nonetheless in conflict with his own fundamental convictions.

In the early sixties Mao issued one of his poetic pronouncements that set off intense speculation and offered promise of new freedoms. It was his famous appeal to "let 100 flowers bloom" in the development of the new society; he said the flowers, or ideas, should "contend" and then be weeded for the best selection. The promise was illusory. In practice there has been much weeding, little blooming and contending. In point of fact the concepts of free press, free speech, free assembly, and academic freedom have no standing in China today. What everyone strives for is not the free blooming of ideas but the "correct" line of ideas, in accordance with the thought of Mao and of Lenin and Marx.

The newspaper correspondent or editor will find the most obvious issue in the Chinese concept of the role of the press. The Chinese are perfectly candid about their own view. An American media group visiting China, under arrangement of the China-American Relations Society, had an early (polite) confrontation with the Chinese system in long conferences here with representatives of the Hsinhua (New China) news agency. One group listened at length to Hsinhua's leading figures.

The first leading figure told us at the outset of purported grave errors into which the Chinese press had fallen in the years immediately ahead of the Cultural Revolution. He said that in those years the line of Liu Shao Chi, then China's second most powerful figure, proclaimed that newspapers should serve "all the readers," rather than "the workers, peasants and soldiers." Liu has since been retired into disgrace and oblivion because of many such heretical "revisionist" ideas.

To the Westerners, the thought of serving "all the readers" seemed unexceptionable enough but the Hsinhua leader explained that the Chinese believe it is impossible to serve the laboring and bourgeoise as well.

The speaker proceeded to report that Liu had also favored printing all the news whether it was for or against socialism. He said that he knew that Western correspondents believed in Lieu's "objectivity" principle in news reporting but that this concept was rejected by the Chinese press, now that the "correct" line had been established.

A second Hsinhua speaker subsequently developed further the Chinese Communist principle on expression of ideas. He said that in a socialist society the workers and peasants should not be exposed willy nilly to literature that came from a feudal society. In this concept books are carefully screened and even some books that are "historically good" are placed in limbo, he said, citing "Dream of a Red Chamber"—a famous literary work in China—in illustration.

The criterion is whether a book is "beneficial to socialism;" if it clearly is not it is described as "poisonous" and it is "criticized," the speaker added.

On this and other occasions in our tour of China there has been the familiar theme: What counts is whether an expressed idea is "correct" and whether it is "beneficial to socialism." The rule applies in literature and in the performing arts as well. The classic Chinese opera, for example, has been placed in limbo, pending a careful process of judgment.

In the universities, from all indications, the concept of academic freedom has been throttled since the Cultural Revolution.

The most common lament of Western journalists visiting the new China has been in the context of academic freedom. Ross Terrill, the Australian journalist and author, a good friend of China, has voiced his deep concern over what has happened to academics in China. Directors of the American Society of Newspaper Editors, on their tour of China last fall, were disturbed by a confession session they experienced at Peking University. Professors recanted their errors and sins in an abject fashion which the editors found appalling.

In the course of our own winter visit to Peking, our media group asked to see Peking University but was told that it is "much visited." We did not see Peking University. Perhaps it was coincidence but one suspects that Chinese officials have been reading all of their press notices including the critical ones.

Finally, in China, the individual who is accused or who has some civil grievance has very little idea of what he may expect from the system of justice. There is very little written law left in the People's Republic since the Cultural Revolution. There are no lawyers.

The theory is that China would like to have a society so well ordered that law isn't needed. It sounds grand but in application it simply means that the individual does not have the kind of guarantees in the courts that only formal, explicit law can provide. Justice demands a rule of law.

China has accomplished much in the last quarter century in giving its people equality and security and pride. The recognition of such accomplishment does not mean that the West—for its own part—will find much, if anything, to emulate in the political concepts of the Chinese socialist system.

THE ORGANIZED SOCIETY HEWS CLOSE TO THE LINE

(By James O. Powell)

Way back in the mists of the early forties there was an eminent school for political scientists in the United States who approved of what they saw developing in China under the tutelage of Mao Tse-tung but thought, naively or cynically—whichever way it was—that Mao was not so much a Communist as an "agrarian reformer."

They were quite wrong, not in realizing that Mao offered China more than Chiang Kai-shek offered but rather in their idea that Mao's principal objective was just to break up the estates and give the land back to the people.

He broke up the feudal estates, all right, but he also proved himself to be a dedicated Communist, apparently more intent than his contemporaries on keeping his country hewing to the ideological line. Indeed in the ideological argument between China and the USSR, now bitter enemies, it is Russia that accuses China of dogmatism and China that accuses Russia of revisionism.

An American visiting China is constantly impressed with the knowledge of what kind of political-social system obtains in the land. There are Marxist and Maoist slogans everywhere, and in the conference rooms of most institutions, kindergartens or factories or whatever, there is a ubiquitous quintet of pictures on the walls. Mao takes precedence, of course, but the other four are Marx, Lenin, Engels and—yes—Stalin. (The old butcher is still rated in China because, whatever he did in Russia, he was always helpful to China; it was Khrushchev who drove the opening wedge between the Red colossi.)

Certainly Mao's Communism puts emphasis on the peasant—China's population is 80 percent peasant—but Mao's dedication is such that in the mid-sixties he threw China into a violent upheaval, the Cultural Revolution, because he saw creeping revisionism eroding his idyll. In the Cultural Revolution various leaders in the Communist cadres were accused of a range of revisionist heresies: They were said to have encouraged the personal incentive in economic production, and to have established a bureaucratic elite rather than a classless society; they had also let "objectivity" slip into the reportage of current history even as they had grown soft on the bourgeoisie, or so it was alleged. Liu Shao-chi, the chief revisionist, had been Mao's apparent successor but he was removed from power and banished to obscurity. He is presumed to be alive somewhere in China—the Chinese do not "purge" their ranks in the brutal Stalinist fashion—but he has become virtually a non-person at the same time that his name is used everywhere as a symbol of revisionist error.

One institution for preserving the ideology and the fervor of the movement is the famous May 7 school. The concept of the May 7 school is somewhat misunderstood in the United States but if you visit one of the schools, as I did while on a midwinter tour of China, it seems something less than sinister.

As I interpret the purpose of the May 7 school, it has two main goals. One of them is to get urban types, especially bureaucrats, out in the country where they can gain or regain closeness to the earth, from which China's sustenance springs. The "students" at a May 7 school do hard work with their hands and nothing is too menial, including hauling night soil from the city on occasion. The other purpose is to give as many people as possible a study course or refresher course in Mao and Marx and Engels and the rest. They say that there are long waiting lists of applicants for May 7 schools, and I am prepared to believe it. In one sense it affords city dwellers a sort of working vacation in the country—and the one thing that the Chinese are not afraid of is work.

The parallels between Chinese Communism and religious movements are often remarked but in visiting a May 7 school outside of Peking I was struck with the sense of visiting a Southern Baptist retreat. The students were there to repent and study, and while they were so engaged they seemed to be having a good time as well.

In the circumstances let no one resurrect the idea that the Chinese are "agrarian reformers." They are Communists and probably better Communists than their bitter critics across the Sino-Soviet border.

In implementing the thought of Marx and Mao, the Chinese have going a completely organized society. Eight of us in a visiting American media group spent most of a month looking at the way the system works, from the ground or street level up, and it is fascinating to behold.

Every function or service in the society is organized into an agency but the fundamental units appear to be the farm commune, the factory, and the neighborhood (street) committee.

Some of the communes are enormous enterprises, managing lands and villages that once were mostly owned by landlords. Communes are divided into brigades, and one brigade may manage two or more villages and hundreds upon hundreds of acres of land. Communes and factories are organized as much as possible into complete social units, with schools and clinics, cafeterias and housing accommodations. In the cities there are street committees which are the basic governing units for neighborhoods; they manage the local governing functions and in addition, they organize little neighborhood factories in which housewifes (those who aren't going to work elsewhere) make small consumer items. In Shanghai we visited a street committee where everyone was engaged in one wholesome activity or another. In a neighborhood that once was one of the most notorious red light districts in the old, wicked-Shanghai, we found everybody engaged, as it were, in beating the reformers' drum.

The totality of organization in the Peoples Republic may appear formidable to the Westerner, especially the American, but then the American has no concept of what it's like to be one of 800,000,000. What's more, the Chinese have a sense of community which, for whatever reasons, may be beyond the comprehension of the West.

The organized society in China has unmistakable triumphs to its credit. One of them is in food production. China is the first Communist country that has become truly successful in agriculture, which is to say successful in feeding its own people.

There are only a few Westerners around who remember first-hand what it was like in the old China when famine and pestilence ravaged the land, while no government in a long succession had both the strength and the will to find an answer.

A LONG DAY'S VISIT TO A PLA CAMP

(By James O. Powell)

China and the United States have come a long way in the year since President Nixon made his historic trip to Peking. The progress may be measured in several ways but it was dramatically illustrated, in any case, in a visit that eight Americans, including this writer, made last month to a People's Liberation Army camp in South China.

As it happened the army unit that we visited was a much-honored regiment the 372nd, of a division, the 124th, that had fought Americans in the Korean war. We received a memorable briefing from the division's political officer, who recited the division's various exploits against the Nationalists, the Japanese and the "American imperialists in Korea" without embarrassment to either him or us. Thus far have we come from the state of open hostility that so recently was the norm in relations between Americans and the mainland Chinese.

We motored up one morning to the PLA camp, situated in the mountains about 60 miles from Canton, and spent the day as the guests of the 124th Division. We were treated rather like visiting Congressmen are treated on a visit to a U.S. Army camp. We toured the reservation, inspected its varied facilities, reviewed an exhibition of weapons fire on the range, and swapped rounds of toasts at an elaborate lunch (all Chinese meals are elaborate when there are guests) with much expression of wishes for good will between the Chinese and American peoples.

The Peoples Liberation Army is world renowned for its distinctiveness, and for the record it has made in a fairly short history. It was born in effective guerrilla war against the Japanese and in the Chinese civil war, in which it finally overcame the Nationalist forces of Generalissimo Chiang Kai-shek. Volunteers from the PLA were a formidable foe for the U.S. Army in the Korean War. What has intrigued world opinion, however, is the PLA's dismissal of rank. There are no generals or colonels or captains, nor fancy uniforms bedecked with fruit salad. Discipline and authority are strict but there is an egalitarianism in the PLA that enlisted men and former enlisted men the world over can savor especially.

It was an instructive day we spent with the 124th Division.

At the outset we were briefed by our leading escort, the political officer, and other cadre members. Then we were driven to the parade ground and weapons range. It was a picturesque scene with the mountains overhanging and low-flying clouds hiding the peaks. We watched, from a reviewing stand, a target practice that began with rifle fire and proceeded through exhibitions with the 75 mm. recoilless rifle, the 40 mm rocket launcher, the 82 mm. mortar, the conventional mortar, and machine guns. The target zones for the larger arms were chalked up on the mountainside, where the great puffs of smoke from the shell merged into the low clouds. The marksmanship was impressive and the squads manning the guns were superbly drilled. In addition to the target practice the PLA troops put on a show of mock hand-to-hand fighting.

After lunch we toured support and auxiliary facilities and paid a visit to the Fourth Company, the one which made the breach in crossing the 38th parallel in the Korean War.

A PLA camp is not quite like any other army camp in the world. The soldiers work as farmers on the side—we visited the company's truck garden and pig sties—and the wives of the cadre work six days a week in a little flashlight battery factory on the base. We visited the battery factory and were told that the output wasn't too important but that it kept the wives busy and productive.

We did not see any women soldiers in the camp. It seems that reports of women participating in the PLA have been exaggerated, although women are prominent in most other activities in the Peoples Republic, even to the hardest of labor in the fields and on construction projects.

The soldiers of the PLA are thoroughly indoctrinated with the philosophy of Mao and Marx. They have continuing political classes in which they study the works of the Communist heroes, and so do the cadre's wives. Here and there about the camp are Mao billboards proclaiming the need to struggle and work and carry on the revolution.

We visited barracks (which are alike the world over) mess halls, and the medical clinic. The PLA clinic is unique, for it employs herbal medicine as well as Western antibiotics. The clinic administrator showed us through a herb garden in which hundreds of varieties of herbs were being grown for medicinal purposes.

When they are especially needed, the PLA soldiers work on the communal farms nearby and are available to help the people in the countryside in any sort of emergency. In its agricultural production the Chinese Army is much like the Israeli army, although the Chinese would hardly care to admit it, such is their hostility to Israel.

In summing up thoughts on the PLA, one can assert that the PLA seems to be living up to its reputation for being, in fact, a popular army. In 26 days of visiting about China, it was my impression that the army is unobtrusive in the civilian life, even if no one has any illusions about the army's power.

The PLA is not much on swagger but it is inculcated with a concept of service that is not limited to defense. They say that the young Chinese are eager to be selected for the army, and I know of no reason to dispute the claim.

HIGH QUALITY MEDICAL CARE

Mr. DOMINICK. Mr. President, for those who have been concerned with finding ways to reduce the cost and improve the accessibility of high-quality medical care, two recent articles published in the prestigious New England Journal of Medicine merit our attention. One is an editorial by Claude E. Welch, M.D., chairman of the Massachusetts Medical Society's committee on publications, which publishes the New England Journal of Medicine. In comparing foundations for medical care, which provide comprehensive services on a prepaid basis while at the same time permitting reimbursement of physicians on a fee-for-service basis, with closed-panel group practice-type HMO's, Dr. Welch notes that:

There is a great deal of evidence not only that fee-for-service is more acceptable to the majority of physicians but that it is economically more sound. The astronomical start-up costs of recently founded HMO's are a matter of record. Examples of less personalized attention to HMO patients than to regular private patients in the fee-for-service sector have been noted, and many people do not wish to purchase such expensive "complete" health services.

He concludes that:

Foundations for Medical Care are more flexible than standard HMO's since they can engage in capitation forms of payment and modified risk sharing while at the same time retaining an incentive reimbursement form of payment to the physician. They are ideal models for Professional Standard Review Organizations (PSRO's) because of their emphasis on peer review and quality control. At the same time they ensure continued physician leadership and control of the health-care management system. Is the FMC the preferred health-care system and the name for the future?

The second article is by Richard H. Egdahl, M.D., at the Boston University Medical Center. Dr. Egdahl traces the development of the foundation movement and highlights some of the innovative things foundations are doing in the area of peer review, cost and utilization control, and improvement in the organization and accessibility of medical services. After carefully analyzing the characteristics of foundations for medical care, and their relation to other components of the health care system, he concludes that their performance to date indicates great potential for improving our medical care delivery system. He states:

Foundations for Medical Care can have a major impact in the health field because of their goals, structure and experience to date. One result is the definition of quality standards in health care and the development of methods to ensure that at least minimal standards of high-quality health care are available to all citizens.

. . . A principal challenge to the leadership of organized medicine during the next few years will be the necessity to develop administrative mechanisms to co-ordinate the practice of medicine in a manner that is acceptable to physicians, provides ready access to high-quality health care for the public and is financially responsible. The FMC represents one such mechanism.

In the course of debate on health maintenance organization legislation, I have contended that Federal support should be available to a variety of models for providing comprehensive services on a prepaid basis—including foundations. I have also emphasized that the foundation movement represents an effort to improve our health care system rather than an effort to preserve the status quo. These articles provide strong support for both points. 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:

[From the New England Journal of Medicine, Mar. 8, 1973]

WHAT'S IN AN ACRONYM: HOM OR FMC?

(By Claude E. Welgh, M.D.)

The term HMO (Health Maintenance Organization) was coined by Ellwood, and the concept supported by the present Administration in 1972. In last week's issue of the *Journal* the varying definitions and development of this system were reviewed in an authoritative fashion by MacLeod and Prussin.

Prepayment on a capitation basis by subscribers for health care (including costs of office visits, hospital and professional services by a group of physicians) designates the essential feature of the system. Deductibles and copayments may exist; preventive medicine is emphasized. Though future developments obviously are far from certain, it seems quite probable that eventually fee-for-service will be discouraged and reimbursement will resemble the British System in which general practitioners receive capitation payments and hospital specialists are on salaries.

If HMO's can produce the economies listed by the authors, why do most members of the medical profession view this new development with skepticism? An important factor is resistance to change, but more fundamental criticisms must be listed.

In the long run success or failure will depend upon financial stability. Certainly, at the outset the sponsors of any plan will assume a severe financial risk. Individual HMO's, even if ultimately successful, will lose money for several years. The present emphasis in economy in Washington will make developmental grants somewhat dubious, so that the underwriters of any such plan will incur important obligations. If doctors are to assume such risks to any great degree and upon personal HMO fails, the result could be catastrophe.

Major economies in a health system can be achieved only if physicians assume a share of the financial risks for otherwise there is no stimulus to economize on services that are rendered particularly in hospitals. But simultaneously many states are deeply in debt to their voluntary hospitals. Physicians are now blamed for their own fees; they are unlikely voluntarily to assume even greater risks that are involved in more vigorous support of hospitals and consequent conflict with the state reimbursing agencies. Incipient financial solvency could lead to a diminution in services for subscribers. Let us suppose for example that an HMO faced a severe deficit in September; to complete its fiscal year without staggering losses to the underwriters it is only reasonable to assume that elective operations such as cholecystectomies or hernias would be treated by surgeons in the following January rather than in December. It is hard to argue that this serves the best interests of patients.

On the other hand, let us suppose that a certain HMO returned a huge profit to the underwriters. Although one result would be a reduction in premiums for the subscribers the following year, it is far more likely that profits would be taxed and that in the following year, this favored HMO would be faced with the problem of financial insolvency that possibly could become the hallmark of HMO's just as it is with all hospitals today.

The medical profession is also piqued by the fact that it is often held responsible for "unhealthy" social habits such as alcoholism. Thus, many hospital wards would be empty if the ravages of excessive use of alcohol could be eliminated. Obesity, cigarette smoking,

drug dependence, lead poisoning and many other health hazards are often preventable. It hardly seems fair to make the doctor responsible for these illnesses of a well informed but headstrong society. He certainly should not have his personal financial security linked to an improvement in his patients' drinking or smoking habits.

Other reservations could be cited. The free choice of physician or medical institution would be lost. Any referrals to world-famous clinics, even if requested by the patients, would incur additional financial losses for the HMO and surely would be discouraged. If several HMO's existed in one geographic area, the ethics of the marketplace would almost surely replace the professional status that the medical profession desires to maintain. Many people prefer to pay for what they receive; the nebulous cost of preventive services must be balanced against the payment for definitic services received, and there is a great deal of evidence not only that fee-for-service is more acceptable to the majority of physicians but that it is economically more sound. The astronomical start-up costs of recently founded HMO are a matter of record. Examples of less personalized attention to HMO patients than to regular private patients in the fee-for-service sector have been noted, and many people do not wish to purchase such expensive "complete" health services.

In 1969 there were 396 medical groups with prepayment plans in the United States. However, only 85 of them provided over 50 per cent of their services on a prepaid basis, and only 18 stated that 100 per cent of services were prepaid. Thus, the attitude of the medical profession has been one of watchful waiting; with the exception of several large successful groups (e.g., Kaiser and Ross-Loos) the track record of other prepayment groups has not been established on a firm enough basis to invite enthusiastic response.

This combination of prejudice, logic and, perhaps, nonlogic has made most members of the medical profession somewhat slow to approve the promise of HMO's. On the other hand, pilot projects are observed with great interest.

Meanwhile, Foundations for Medical Care (FMC), described in this issue by Egdahl, provides a potentially attractive way for the physician who desires to continue practicing in a fee-for-service setting under a cost-effective management. FMC's are more flexible than standard HMO's since they can engage in capitation forms of payment and modified risk sharing while at the same time retaining an incentive reimbursement form of payment to the physician. They are ideal models for Professional Standard Review Organization (PSRO's) because of their emphasis on peer review and quality control. At the same time they ensure continued physician leadership and control of the health-care management system. Is the FMC the preferred health-care system and the name for the future?

CLAUDE E. WELCH, M.D.

FOUNDATIONS FOR MEDICAL CARE

(By Richard H. Egdahl, M.D.)

(Abstract Foundations for Medical Care are management systems for health-services delivery, set up and run by physicians. "Claims-review" Foundations for Medical Care restrict themselves to peer-review activities consisting of reviewing payment claims that fall outside of established norms and are referred by fiscal intermediaries. "Comprehensive" Foundations for Medical Care, on the other hand, set minimum benefits packages and process all patient-services payment claims for peer review when appropriate. Significant cost reductions have been demonstrated by comprehensive Foundation peer review. Additional savings have been realized by adding hospital certification to the process. Some comprehensive Foundations have assumed a portion of the underwriting risk for a defined population and have provided comprehensive health services for a fixed annual sum on a capitation basis, thereby qualifying as Health Maintenance Organizations. Foundations for Medical Care have potential as a cost-effective management mechanism for the delivery of health services with a high level of quality assurance.)

"The Foundation for Medical Care (FMC) is a management system for community health services," says Mr. Boyd Thompson,[1] executive director of the American Association of Foundations for Medical Care. A Blue Cross Association monograph on the subject [2] states that "A Foundation for Medical Care is an autonomous corporation sponsored and organized by a local (state or county) medical society concerned with the quality and cost of medical care." Dr. George Himler [3] has said of Foundations for Medical Care (FMC) that "They create a group-practice setting for physicians who prefer to remain in individual private practice. They make it possible for such physicians to participate in capitation prepayment programs and meet requirements for peer or professional service review." Taken together, these definitions summarize the features of the FMC movement. FMC's have spread rapidly across the country during the past few years from their origins in California counties and are now a nationwide phenomenon. The recent passage of HR–1 (PL–92–603) has given a further major stimulus to physicians who must set up organizations to carry out professional standards review. My purpose is to trace the development of the FMC's and to analyze their relation to key features of America's health-care delivery system.

ORIGINS

The first FMC was formed in San Joaquin County, California, in 1954 [4] to provide comprehensive health services to labor groups dissatisfied with their previous medical-care arrangements. A paper written in 1960 [5] pointed out that the medical profession and labor groups alike were very pleased with the medical care delivered by the San Joaquin FMC. The article goes on to state, "This experience raises the question as to the reasons for the success of the system in San Joaquin County. Organizational innovations of this type depend on the appearance of the appropriate personal leadership at a time when external circumstances are pressing for a change from established practices." The stimulus to the development of the San Joaquin Foundation was the potential threat to the local physicians of losing patients to the Kaiser system, which reportedly had made overtures to the local labor groups and represented a centralized administration and salaried physicians. A key feature of the FMC movement is its dedication to an incentive reimbursement system for participating physicians in which income is received in direct proportion to the amount of medical services delivered (i.e., fee-for-service). The county-medical-society charters did not permit them to carry out the wide range of health-service activities that were needed, and the societies therefore set up separate corporations, which were the first FMC's.

DESCRIPTION OF FMC OPERATIONS

There are basically two different types of FMC: a "comprehensive" and a "claims-review" type. Both have similar legal charters, do peer review and have an intense interest in problems of access, quality and cost of medical care in their communities. Both are formed by the state or county medical societies and have a predominance of physicians on their governing boards. There is a recent trend toward having consumer members on the policy boards of FMC or setting up separate advisory consumer boards. Both types of FMC are concerned with providing some regulation of physician fees from within the profession and have committees that assess the appropriateness of the local physician fee structure.

Despite superficial similarities, the differences between the two types of FMC are fundamental. Comprehensive FMC's have two principal functions, the first to design and sponsor prepaid health-insurance programs, and the second to carry out peer review on health-care quality. Each FMC sets up a minimum standards committee, which determines the ambulatory and hospital coverage that must be included in the insurance benefit package. The FMC will then negotiate with fiscal intermediaries such as Blue Cross or commercial insurance companies, which will provide these benefits in an FMC program. In addition, a quality and cost committee develops criteria of patient care, including such features as length of stay, treatment routines, and appropriateness of drug use. The FMC also has a committee concerned with fees, and in California, physician members of foundations have agreed to accept the California relative-value study (CRVS) and the conversion factors that are agreed upon for each local area. Participating physicians are expected to bill their usual fees, and payment is made according to the relative-value system.

It is obvious that in setting up a prepaid health-service activity, some type of control of payment to physicians is necessary, and since the comprehensive FMC is dedicated to the fee-for-service principle of reimbursement, no program can be actuarily sound without agreement by physicians on maximum fees coupled with appropriate peer review to prevent overutilization of treatments and procedures. Comprehensive FMC's review all physician-generated claims according to their peer-review criteria, and in the development stages of new FMC's, up to 20 per cent of the claims are forwarded for peer review by physicians. As experience accumulates and physicians adjust their practices to conform to peer-review guidelines, the percentage of claims reviewed by physicians is considerably decreased. If a claim is not approved by an individual physician reviewer, it will be referred to a panel of physicians. About 1 or 2 per cent of all claims are reviewed by the full peer-review committee. Physicians who carry out peer review are paid an hourly fee. Final appeals are made to the full committee and ultimately to the county or state medical society or state health unit.

Manual data processing by clerical personnel was carried out in the early experiences of the foundations. Computer methods have recently been developed to process greatly increased claims volumes, making it possible for the foundations to preserve the rapid turn-around time from claim receipt to check writing that is so important to the participating physicians.

In the comprehensive FMC the fiscal intermediary applies its experience rating to insurance groups or individuals, sets and collects the premiums, and promotes, markets and underwrites the health program. The FMC sets standards for medical coverage, receives, processes, and reviews all claims and may issue checks to the providers. The FMC charges the fiscal intermediaries 2.5 to 4 per cent of the total premium for these administrative functions and approximately 0.5 per cent of premium if the FMC checks the eligibility of the subscriber. These percentages are not additive but are part of the normal administrative costs. Hospital utilization review may add another 1 per cent.

As experience accumulates, the comprehensive FMC has the capability of sharing a small portion of the underwriting "risk" on

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the prepaid benefits package. The physicians involved in "at-risk" programs have an extra incentive to exercise cost control since they share in the financial obligations of delivering services to their consumer public for a fixed annual sum. Any tendency to deliver fewer services than are desirable in an "at-risk" program is prevented by a very comprehensive peer review set up to control underutilization as well as overutilization of health-care services.

When the California FMC's were established, they first had to sign up the majority of physicians in the area who were willing to accept CRVS and the principle of conversion factors, as well as the general concept of the FMC. Next, the minimum standards committee defined the benefit package that suited the needs of its patient population, and the FMC then made available its plan to local groups who bought health insurance for their membership, including businesses, school systems and unions. The basis for consideration of the FMC plan by various employers is the potential for receiving health care of better quality at a lower cost. The fiscal intermediary that accepts the risk is designated the carrier for the FMC plan by the insured group, and obviously has carefully investigated the actuarial and financial aspects of the plan, including potential savings on peer review by the FMC, before making a bid.

The advent of Medicare and Medicaid has added a large new group for the FMC to negotiate with on comprehensive health-care benefits. This "government business" now constitutes the majority of many FMC activities, including even the original California FMC's. Whereas a few trained clerical personnel were adequate to process claims on the "commercial businesses" of a typical California comprehensive FMC, it is now not unusual to have more than 10 times as many personnel to handle the government business. This has led to the development of computer technics to aid in the screening process and to the development of "model treatment profiles" with which to contrast individual and group physician performances.

In contrast to the comprehensive FMC, the claims-review FMC does not design and sponsor prepaid health programs or set minimum benefits of coverage. Instead, it seeks to provide peer review by physicians to the numerous fiscal intermediaries involved in its area, including the ones processing Medicare and Medicaid. Review of claims processed by the insurer falling outside established norms is carried out by the physician peer-review committee of the claims-review FMC. Although the claims-review FMC may undertake other educational and administrative activities in the health-care field, it does not seek to become involved in the operation of health-care programs, but rather is a partner to the insurance companies and Blues, which carry out the bulk of the work involved in claims processing and initial screening. It does not have ready access to the total data base. The Foundation for Health Care Evaluation of the Minneapolis-St. Paul area represents a claims-review FMC model. The physicians in this area, acting through the FMC, have developed a "book of norms" that is used by the fiscal intermediaries to perform the initial screening process before they send on to the FMC claims that fall outside the norms.

In some states, several different county medical societies are activating FMC's, both of the comprehensive and of the claims-review type. In Massachusetts, for example, Barnstable and Hampden Counties are developing comprehensive FMC's, whereas some of the county medical societies of the Greater Boston Area currently appear to favor the claims-review type. FMC's are also being established at a state level and especially in the larger states are called Institutes and function as co-ordinating bodies for the various county FMC's. The state FMC's have an appeals function on peer review and often sponsor statewide programs such as claims review or hospital certification of Medicaid patients. There has not been a trend in the statewide FMC's toward sponsoring prepaid health programs, or setting minimum benefits as is true of the comprehensive county FMC's.

CURRENT NATIONAL PICTURE

There are currently 18 FMC's operating on a statewide level and 43 on the county-medical-society level, in 27 states.[6] Most of the other states have made plans for establishing FMC's at the state level, and in each of the states where there are not currently active county FMC's, considerable ferment exists about the appropriate role of the county medical society in health-care quality and cost review. This activity has been increased greatly as a result of the passage into law of HR-1, with its requirement for Professional Standards Review Organizations. The foundation movement now has a national society, the American Association of Foundations for Medical Care. To assist developing FMC's, the Association has set up the "Medical Administrative Technology Service,"[7] which can be approached by medical societies and other groups that would like information on how to set up a foundation, or about details of FMC operations.

PERFORMANCE RECORD OF FMC'S

Peer review

Peer review has been defined as "evaluation by practicing physicians of the quality and efficiency of services ordered or performed by other practicing physicians."[8] Comprehensive FMC's in California have many years of experience with intensive peer review, which has produced important savings in medical costs with no decrease, and often appreciable increases in, quality of care. A recent article in the Wall Street Journal[9] describes the New Mexico FMC peer-review procedure and emphasizes the point that only a tiny portion of savings on Medicaid payments results from reviews of physicians' fees, in contrast to the much larger amounts saved by discouraging excessive or unnecessary utilization of high-cost medical facilities. One weakness inherent in current hospital-utilization committees is eliminated in FMC peer review through use of panels of respected and competent physicians who review work of physicians across a far broader range than one institution. The criticism that it is difficult for a group of doctors to police itself appears to be true only when the group is particularly inbred, and examples abound of FMC peer groups, even in relatively small communities, exerting strong leverage towards change in practice patterns of physicians who deviate from accepted methods of diagnosis and treatment.

A recent article in Business Week[10] quotes the executive claims officer of the San Joaquin FMC as describing only about 1.5 per cent savings on fee review, but between 12 and 15 per cent savings on the total premium involved by cutting down on overutilization. Computerized technics and the use of model profiles have greatly improved the ability rapidly to spot aberrations in standard treatment regimens. The comparison of Medicaid costs in the California counties of San Joaquin and Ventura (which contains roughly the same population mix but has no FMC as San Joaquin does) revealed an average annual patient cost per day of around $52 in San Joaquin as compared with $63 per day in Ventura.

Although it appears convincingly demonstrated that peer review works well in preventing overutilization of physician services and laboratory work, criticism has been voiced that physicians who share in the underwriting risk of a prepaid health plan may be biased to underutilize desirable services, and that this practice is very difficult to detect. Sophisticated computer programs, however, provide the possibility of ferreting out patterns of diagnosis and treatment procedures according to standards of good medical practice in the community. Such programs require a very adequate data base on the health of the patient population served.

The model treatment program being tested in San Joaquin incorporates physicians' services, surgical procedures, laboratory and radiologic services, injections, inpatient care, medical supplies and drugs.[11] The computer looks at the diagnosis made by the physician, pulls the treatment criteria associated with that diagnosis from the model treatment system, and then matches the patient's diagnostic and treatment history with the model treatment. Cases that appear to fall outside the acceptable bounds of medical practice are referred for peer review to individual physicians or to the full committee if the individual physician reviewer thinks that step is indicated. The major advance of the model treatment system is its ability to be used in any area of the United States with modifications based on local practice, and then to be applied to patient-care practices of individual physicians in that area.

Although the claims-review FMC also has panels of physicians reviewing claims referred to them by the fiscal intermediaries and falling outside the "book of norms" or other practice standards, there are no published data indicating the degree of savings that have been achieved by this form of peer review. Experience over the next several years will answer the very basic question whether possible savings from the claims-review FMC can approach the ones that have been achieved by the comprehensive FMC's over the past several years. The fundamental differences in motivation, in range of review content, and in authority between the two types may indicate a considerable difference in end results.

Hospital certification of medical necessity

Another form of peer review by comprehensive FMC's is hospital certification of patient admissions. Retroactive denial of payment claims for hospitalization leads to much bitterness on the part of both the patient and the physician. To alleviate this problem, the Certified Hospital Admission Program was implemented by the Medical Care Foundation of Sacramento in the fall of 1969.[12] The Program was the result of a co-operative effort between the California-Western States Life Insurance Company and the Medical Care Foundation of Sacramento to develop a ". . . comprehensive private health insurance plan that could be presented at a reasonable premium, that allows for freedom of choice of physicians and hospital, that is adaptable to various consumer groups and that would be supported by both the insurance industry and the medical profession." The Program approach to utilization was based on experience in the Medical Care Foundation's peer-review mechanism, which showed that any effective hospital utilization plan of control must be carried out before and during hospitalization and not after discharge. No claims were paid on hospital charges for patients whose admission was not certified as necessary before hospitalization. The potential for decrease of unnecessary hospitalization and reduction in average hospitalization time led Dr. Earl W. Brian,[13] Secretary of Health and Welfare of the State of California, to institute a statewide prehospital certification program for all Medi-Cal patients in 1970. During a nine-month study period, overall hospital utilization by Medi-Cal patients decreased by approximately 16 percent, and admissions by 11 per cent. The average length of stay was only slightly decreased, and it was believed

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that a more profound effect was masked by the elimination of some short-stay, unnecessary admissions. The reduced hospitalization reversed a trend that had been developed under Medi-Cal since 1968. Dr. Brian concluded that the effect of the controls was primarily to deter unnecessary hospitalization and that alternative explanations for the reduced utilization were not satisfactory.

Favorable experience in the Sacramento FMC with the Certified Hospital Admission Program led to the development of other FMC hospital-certification programs, the largest of which is the Hospital Admission and Surveillance Program in the state of Illinois.[14] The primary purpose of this program was to produce cost savings by cutting down unnecessary hospitalization, and a secondary purpose was to provide for concomitant improvement in the quality of medical care being received by Illinois Medicaid beneficiaries. The Chicago Tribune [15] reports a drop of 2.2 days in the hospital for the average welfare patient and savings to the taxpayers of 1.7 million dollars a month. The administrative costs of the program are about $300,000 a month. The article also asserts that no one has yet complained that any Medicaid patient was discharged before he was healthy enough to go home. Some members of the Illinois Hospital Association, however, believe that the program costs more than would be necessary to carry out the same program with use of utilization review procedures that already exist.[16]

Other criticism has been expressed about the program's approach by members of the Council of Medical Staffs, a group of physicans who do not think that here is a crisis in health care costs and are opposed to governmental financing of health care and especially to attemtps to regulate quality and costs of medical care purchased by those federal funds. If accumulating evidence continues to indicate that hospitalization certification programs do not adversely affect medical care but do result in large savings in medical costs, a careful re-evaluation of the numbers of hospital beds needed in each community will be necessary. It is possible that increased utilization of intermediate-care facilities and nursing homes and the broad range of social services will occur as a result of careful prehospital peer review of admissions and strict peer review of length of hospitalization. Spurred on by the success with the Certified Hospital Admission Program, the Sacramento FMC has recently become involved in advanced screening of admissions to nursing homes.[17]

DRUG PEER REVIEW

Peer-review procedures can also be applied to patients' utilization of prescription drugs.[18] A special drug-utilization review committee that has been operative in San Joaquin since 1970 consists of four community pharmacists and one physician. Profiles that the computers provide on physician drug-utilization patterns assist this group in the evaluation of different cases and problems. Drug peer review has led to an average FMC prescription drug cost of $4.50, as compared with a statewide average of $5. Careful screening of the records enables the FMC to save the State about 12 per cent of the total 1.9 million dollar drug bill in the FMC area. In addition, usage patterns involving inordinately large numbers of barbiturate and amphetamine prescriptions suggesting possible serious drug abuse are easily detected.[19] Finally, incorrect dosages or other inappropriate usage patterns are easily detected by the computer profile and made available to the peer-review committee for transmission personally to the prescribing physician. Projection of the premium savings of 12 per cent in San Johquin to the national drug bill of 8.5 billion dollars suggests that a total of 1.03 billion dollars of unnecessary expenditures in the cost of medications alone might have been saved by effective drug-surveillance programs and peer review.[20]

ACCESS TO HEALTH CARE OF DISADVANTAGED PATIENTS

The comprehensive FMC offers a mechanism whereby various groups disadvantaged with respect to health care can work out their problems. Four California FMC's have developed a multiphasic screening program for the Cannery Worker's Uuion. Monterey FMC has established a clinic in King City for Mexican-American farm workers that has brought care to a very impoverished group with little access to care previously. The San Joaquin FMC has developed stationary and mobile clinics that care for 22,000 migrant workers. The same foundation provides care for 48,000 Medicaid patients,[21] including the blind, disabled and families with dependent children whose welfare payments are inadequate for independet sustenance. In Atlanta a Spanish-speaking switchboard was established by the FMC. As Dr. Dowda, of the Georgia FMC, has said,[22] "The important thing is the ability to survey a community and then provide what the people there need, namely a way to get into the medical care system, and once they're in the assurance of quality care delivered in the most appropriate and least expensive setting." The Georgia Foundation has set up various outreach clinics and special programs for the underdoctored rural areas of Georgia that have brought health care to many persons who previously have not had access to physicians' services. These programs have all been carried out by the Georgia FMC by means of a combination of financing mechanisms, but building on one of the basic FMC goals of providing whatever services the community needs.

HEALTH SERVICES RESEARCH

Many of the comprehensive FMC's are carrying out health-services research using planning grants for the development of Health Maintenance Organizations or Experimental Medical Care Review Organization grants, which are designed to obtain experience with various approaches to professional-standards review.[23] The computerized model treatment profiles developed by FMC's should be of great value in the assessment of the quality of medical care. Certainly, FMC's have the qualifications to be among the leaders in providing appropriate national guidelines for standards of medical diagnosis and treatment.

HEALTH MAINTENANCE ORGANIZATIONS AND FMC'S

Ellwood,[24] MacLeod [25 26] and others have described the conditions under which FMC's can qualify as Health Maintenance Organizations. They must give comprehensive health care to a defined population on a prepaid basis. An example is the Foundation Community Health Plan developed by the Sacramento FMC, which has a contract with the State of California to provide comprehensive health-care coverage for up to 56,000 Medi-Cal recipients. Enrollment is proceeding on an individual basis at a weekly rate of approximately 2000. Physicians share in the risk, and the program has the enthusiastic support of various state officials because of its potential for further cost savings, in addition to those achieved from a combination of high-qulaity peer review and prehospital certification. The physicians are reinsured by an insurance company for 90 per cent of the risk, so that their personal share of the risk is about 10 per cent.

FEE FOR SERVICE

One fundamental operating procedure of the comprehensive FMC's is their utilization of the fee-for-service payment to physician providers. Debate has sharpened during the past few years over whether it is possible to preserve a true fee-for-service system within the framework of a capitation payment in which fixed dollars are available for comprehensive health services. An article in Medical World News on December 3, 1971,[27] quotes the AMA's Executive Vice President, Dr. Ernest B. Howard, as being very much afraid that fee for service will not survive under capitation arrangements. Dr. Howard mentions the San Joaquin FMC in his quoted remarks and states, "but if the money runs low at the end of the year, the doctors must take reduced fees." Indeed, this is exactly what happened in an "at-risk" program in a comprehensive California FMC a few years ago. After one year in which there were surpluses that were applied to various health programs, the second year was followed by a period in which funds were not available to pay physician providers at the terminal part of the year. However, experience with this and other prepaid programs with a risk component for the physician providers has provided the actuarial and other background for such "at-risk" programs as are now successfully being carried out in Sacramento and San Joaquin.

There seems to be no reason why a planned comprehensive health program involving known utilization patterns and agreement on the use of fee schedules could not develop reasonably accurate figures for capitation payments for the area's population. Indeed, a combination of careful scrutiny of utilization patterns, vigorous peer review, agreement on fee schedules, and maximal use of health-care technology and allied health personnel appears to be the basic mechanisms through which it will be possible to regain control of presently runaway health-care costs. The role of risk sharing by providers is not yet clarified in terms of cost savings and quality of health care, but it appears to have potential if underutilization can be prevented. Many physicians in this country desire to be reimbursed on a fee-for-service basis, and the comprehensive FMC provides about the only responsible vehicle available whereby they can achieve this objective, and at the same time participate in an organized, cost-effective, high-quality, health-care delivery system.

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS AND FMC'S

The recent signing into law by the President of H.R. 1, creating Public Law 92-603 [28] establishes Professional Standards Review Organizations that will monitor the quality of health care paid for by the government under Medicare and Medicaid. These organizations, to be set up and run by physician groups at least until 1976, must certify that health services are necessary, that quality meets professionally recognized standards of care and that the type of facility used is the most economical in keeping with medical needs. The legal requirement for the Review Organizations has provided a major stimulus to county, state and national medical societies that have been holding back on becoming involved in health-care delivery-system management. The comprehensive FMC's provide a unique resource in terms of experience in professional-standards review. Much of the language and detail in PL 92-603 was tailored after the foundations' experience, and Senator Bennett,[29] who introduced the Review Organization amendment to H.R. 1, stated "It is no secret that much of the concept embodied in the Bennett amendment came from the foundation movement."

RELATIONS TO OTHER COMPONENTS OF HEALTH-CARE SYSTEM

The comprehensive FMC movement has not occurred without the development of a moderate amount on controversey and friction between the FMC's on the one hand,

Footnotes at end of article.

and the rest of the health-care industry on the other. This dispute is exemplified perhaps most directly by the attitude of the major insurance companies toward the Foundation for Health Care Evaluation in the Twin Cities on the one hand, and the comprehensive FMC's in California on the other. As has been described, the Twin Cities Foundation does not undertake to set minimum benefits, or to review all claims, but serves as an adviser on standards to the insurance companies and carries out peer review on a referred basis. Comprehensive FMC's, on the other hand, during the course of establishing minimum benefits packages, reviewing all claims, and expanding health-care services in a variety of ways, have development to a greater or lesser extent data bases, computer operations, some actuarial strengths and, in the Sacramento FMC, considerable individual marketing capabilities, all of which appear to be invading management territory that was formerly the exclusive prerogative of the fiscal intermediary.

These are other obvious potential trouble areas involving the insurance companies and the comprehensive FMC's. If, for example, a comprehensive FMC processes all claims for review, the insurance company becomes involved in a quite dependent relation with the FMC, If, on the other hand, the insurers decide that the per-review procedures of the claims-review type of foundation are not needed, they can simply terminate their procedures. Furthermore, the development of actuarial, marketing, and sophisticated data storage and computer technics by the comprehensive FMC's makes it possible for these FMC's to underwrite directly business with large corporations that self-insure their employees. This gives the FMC's considerable latitude in directly approaching any group they want and offering a competitive package of comprehensive health benefits involving a large panel of FMC physicians. The Blue Shield organizations have often criticized the comprehensive FMC's in the same way as the insurance companies have.[30]

The American Hosptial Association recently published a manual entitled "Quality Assurance Program for Medical Care in the Hospital."[31] This manual emphasizes hospital trustee responsibility for quality of care of the institution and suggests that the physicians, although they may belong to an FMC, must answer to the trustees for the quality of care in the hosiptals they practice in. Although it is probable that leadership of the Association will accept established comprehensive FMC's as the Professional Standards Review Organization leaders in their areas, it is much less clear what position the hospitals will take on the structure of the Review Organizations in areas where comprehensive FMC's have not been developed.

Fortunately, there are examples of co-operation between FMC's and the providers that may provide the basis for effective co-operating inter-relations among the private sector. For example, the San Joaquin FMC has joined together with the Hospital Council of Central California to form the Big Valley Foundation for Medical Care. A similiar close collaboration between hospitals and physicians exists in Clackamas County in Oregon, where for many years a comprehensive FMC arrangement has existed, although it has not been called a foundation. Another collaborative relation is developing between the University of Southern Alabama in Mobile and the Mobile Foundation for Medical Care. The charter of this FMC is written to include close working relations between the developing Medical School at the University of Southern Alabama and members of the practicing medical profession that have formed the FMC. It is to be expected that other medical centers will become involved in FMC activities as increasing experimentation on quality assurance is carried out as part of attempts to develop vigorous and effective Professional Review Organiaztions.

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CRITICS OF FMC'S

As Mr. Harry Schwartz, of the New York Times, stated on January 2, 1972,[32] "Foundations are under attack by doctors of the right and left." He goes on to declare, "the most individualistic physicians see it as a step towards socialization and they particularly resent the idea that any committee of physicians should have the right to review any doctor's bill or his method of treatment. Proponents of the Kaiser scheme argue that the foundation is too loose in organization and therefore, shares many of the inefficiencies of the ordinary solo practitioner method of medical practice."

Some physicians believe that "The review function can only exist when it is performed by the medical profession. It ceases when third parties are involved. Contamination of the peer review by the introduction of the primarily financial interests of the third party destroys the very nature of the function."[33] It is obvious that society's demand that means be taken to ensure high-quality and patient-oriented health care at the most reasonable cost are on a collision course with physicians who believe that fees, hospitalization costs, and quality standards are confidential matters that do not involve the public.

DISCUSSION

FMC's can have a major impact in the health field because of their goals, structure and experience to date. One result is the definition of quality standards in health care and the development of methods to ensure that at least minimal standards of high-quality health care are available to all citizens. Although the principal thrust of peer-review programs has thus far been in both a voluntary and educational direction, the Professional Standards Review Organization part of HR-1 creates a federal regulatory mechanism for health-care quality assurance. If physicians do not create leadership positions for themselves in the Review Organizations other nonphysician leadership unquestionably will emerge. The spending of increased dollars for health by the federal government is increasingly accompanied by demands from the public for accountability with respect to health services on the part of the medical profession.

Modifications of both the comprehensive and claims-review FMC's will be necessary to satisfy Professional Standards Review Organization legislation. In addition, mandated Review Organizations will provide the basis for resolution of problems involving access to data by FMC's and fiscal intermediaries, and lead to a clear-cut delineation of the roles for each of the components involved in the delivery of health services. With respect to quality assurance, it appears, therefore, that the claims review FMC's, with some major modifications to include review of all claims and development of complete data on Medicare and Medicaid patients, may be able to become central figures in Professional Standards Review Organizations, as can comprehensive FMC's with rather minor modifications.

In addition to peer review, comprehensive FMC's have the potentiality of improving the management, services and financing of the country's health-care delivery system. A comprehensive FMC, by definition, is concerned with the benefit packages involved in health insurance carried by its patients, and as a result, becomes an active participant in designing health-care programs that are both high quality and cost-effective. Thus far, only a few FMC's have shared the underwriting risk with the fiscal intermediaries in these plans, but where they have, additional savings have been achieved beyond those associated with peer review alone. A very basic question that must be resolved out of the experiences of the next few years centers around the importance of "risk sharing" by the physicians in achieving maximal cost effectiveness in health services delivery programs. In other words, it is adequate for well managed comprehensive FMC's to design minimum services benefits that are underwritten and marketed by fiscal intermediaries and result in comprehensive health care to patient populations, or is it necessary to have the physician share in the underwriting risk to maximize physician cost consciousness? And if the physician does share in the financial risk, is it possible to carry out effective peer review for underutilization?

Another approach to health-services cost effectiveness has been taken by the advocates of closed-panel prepaid group practice, as illustrated by the Kaiser health-care system. In the Kaiser plans, a limited number of full-time salaried physicians deliver comprehensive health services in a centrally coordinated practice environment, as contrasted to the large open panel of physicians reimbursed on a fee-for-service basis in a relatively unstructured practice environment in the comprehensive FMC's. The Kaiser financing mechanisms are so designed that there is no built-in momentum toward expensive hospitalization for diagnostic work-ups—for example, as has often been the case with private insurance plans. In addition, the Kaiser physician shares financially to some extent by means of a year-end bonus if the costs for delivering health care to his patients are less than premium income. In a sense, because his total income varies somewhat depending on the success in keeping the patient population healthy, the Kaiser physician might be said to be at a small partial risk for the total cost of health care for his patients.

This analysis of risk sharing by physicians in prepaid health plans is especially important because of the fiscal intermediaries and their role in health-services delivery. As long as comprehensive FMC's limit their activities to the design of health-benefits packages and vigorous peer review of claims, it is possible to imagine a relatively satisfactory symbiotic relation between the carriers and the FMC. On the other hand, if it becomes apparent that maximal productivity is only achieved when physician providers are at some risk, a potentially much more troublesome interface exists between physicians and carriers. In addition, the development of physician-run Professional Standards Review Organizations, with extensive data-processing capabilities, has the potential for further exacerbating the problem. The basic fear of the carriers is that physicians, stimulated by the need for their personal satisfaction concerning the actuarial soundness of "at risk" programs, taken in combination with their involvement in peer review, could either totally bypass or incorporate on their own terms fiscal intermediaries of all sorts. If these fears were realized, comprehensive FMC's, with "at-risk" programs, could design, underwriter and market their own prepaid comprehensive health-services programs, with quality assurance carried out by the same physicians through the Professional Standards Review Organization. Of course, the fiscal intermediaries would have the same concern about the Kaiser type of prepaid group practice. It is essential, because of the great fiscal, actuarial, and marketing strengths of the fiscal intermediaries, that mutually satisfactory relations be worked out with the medical profession.

Today, the FMC's and Kaiser-type group practices involve only a relatively small percentage of the nation's physicians. However, the future of unorganized fee-for-service practitioners is uncertain because of the difficulty in achieving cost effectiveness without an overall management mechanism such

as the FMC. A principle, challenge to the leadership of organized medicine during the next few years will be the necessity to develop administrative mechanisms to co-ordinate the practice of medicine in a manner that is acceptable to physicians, provides ready access to high-quality health care for the public and is financially responsible. The FMC represents one such mechanism.

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BRITAIN'S WHITE PAPER FOR NORTHERN IRELAND

Mr. KENNEDY. Mr. President, on Tuesday of this week, the Government of Great Britain announced its long-awaited White Paper for Northern Ireland. As I indicated on Tuesday, I believe the proposal is a small but constructive forward step in Britain's policy toward Ulster, and I welcome it as perhaps the most solid foundation we have seen so far on which to build a realistic policy for the future.

But it is only a foundation. The new Northern Ireland assembly, based on proportional representation, is a hopeful beginning but it cannot be allowed to become the high water mark of British policy. Almost all of the details of shared legislative and executive power in Northern Ireland are left for future resolution, including the status and powers of the Council of Ireland, on whose reality the hopes and dreams of the minority so much depend.

At least, however, the foundation has now been laid, and men of good will on both sides can begin to build their future. If Britain and the people of Ulster use the opportunity to create a future of peace and evenhanded justice in Northern Ireland, then the promise of the white paper will be met, and the legitimate aspirations of both sides will be fulfilled.

Mr. President, I believe that the white paper will be of interest to all of us concerned with seeing an early end to the tragedy in Ulster, and I ask unanimous consent that the white paper may be printed in the RECORD.

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

NORTHERN IRELAND CONSTITUTIONAL PROPOSALS

(Presented to Parliament by the Secretary of State for Northern Ireland by Command of Her Majesty, March 1973)

PART 1—THE SEARCH FOR CONSENSUS

The Paper for discussion

1. In October 1972 the Government published "The Future of Northern Ireland: A Paper for Discussion". This Paper reviewed the background, set out the proposals made up to that time by the Northern Ireland parties and other interests, together with the wide range of theoretical options, established the basic facts—political, economic and security—which would have been taken into account in moving towards a settlement, and stated the criteria which firm proposals for the future must meet.

2. These fundamental criteria were set out in paragraph 79 of the Paper as follows:

(*a*) In accordance with the specific pledges given by successive United Kingdom Governments, Northern Ireland must and will remain part of the United Kingdom for as long as that is the wish of a majority of the people; but that status does not preclude the necessary taking into account of what has been described in this Paper as the "Irish Dimension."

(*b*) As long as Northern Ireland remains part of the United Kingdom the sovereignty of the United Kingdom Parliament must be acknowleged, and due provision made for the United Kingdom Government to have an effective and continuing voice in Northern Ireland's affairs, commensurate with the commitment of financial, economic and military resources in the Province.

(*c*) Any division of powers and responsibilities between the national and the regional authorities must be logical, open and clearly understood. Ambiguity in the relationship is a prescription for confusion and misunderstanding. Any necessary checks, balances or controls must be apparent on the face of a new constitutional scheme.

(*d*) The two primary purposes of any new institutions must be first to seek a much wider consensus than has hitherto existed; and second to be such as will work efficiently and will be capable of providing the concrete results of good government: peace and order, physical development, social and economic progress. This is fundamental because Northern Ireland's problems flow not just from a clash of national aspirations or from fritction between the communities, but also from social and economic conditions such as inadequate housing and unemployment.

(*e*) Any new institutions must be of a simple and businesslike character, appropriate to the powers and functions of a regional authority.

(*f*) A Northern Ireland assembly or authority must be capable of involving all its members constructively in ways which satisfy them and those they represent that the whole community has a part to play in the government of the Province. As a minimum this would involve assuring minority groups of an effective voice and a real influence; but there are strong arguments that the objective of real participation should be achieved by giving minority interests a share in the exercise of executive power if this can be achieved by means which are not unduly complex or artificial, and which do not represent an obstacle to effective government.

(*g*) There must be an assurance, built into any new structures, that there will be absolute fairness and equality of opportunity for all. The future administration of Northern Ireland must be seen to be completely evenhanded both in law and in fact.

(*h*) It is of great importance that future arrangements for security and public order in Northern Ireland must command public confidence, both in Northern Ireland itself, and in the United Kingdom as a whole. If they are to do so they must be seen in practice to be as impartial and effective as possible in restoring and maintaining peace and public order. In any situation such as that which obtains at present, where the Army and the civilian police force are both involved in maintaining law and order and combatting terrorism, it is essential that there should be a single source of direct responsibility. Since Westminster alone can control the Armed Forces of the Crown this unified control must mean Westminster control. For the future any arrangements must ensure that the United Kingdom Government has an effective and a determining voice

in relation to any circumstances which involve, or may involve in the future, the commitment of the Armed Forces, the use of emergency powers, or repercussions at international level."

Developments since publication of the Paper for Discussion

3. Exceptional measures were taken to ensure that the Paper for Discussion would be as widely circulated and read as possible, particularly within Northern Ireland itself. In all 12,650 copies had been sold there, through H.M. Stationery Office and other Government offices, by 31 January 1973 and in addition 200,000 leaflets based on the Paper had been distributed, and a tabloid summary circulated with newspapers is estimated to have reached 1,209,000 readers.

4. There were full parliamentary debates, in the House of Commons on 13 November 1972 and in the House of Lords on 5 December 1972. Following these debates the Secretary of State for Northern Ireland has had extensive discussion on the basis of the Paper with political parties, leaders of the Churches, and other bodies and individuals in Northern Ireland. Although a very wide range of views was expressed, there was a considerable measure of agreement, not only within Northern Ireland but in the rest of the United Kingdom, in the Irish Republic and in overseas countries that the Paper for Discussion provided a thorough, fair and objective basis for considering the very complex problems of Northern Ireland.

5. The extensive consultations which both preceded and followed the publication of the Paper for Discussion have not produced any single, agreed set of proposals for a constitutional settlement. Indeed, given the wide range of views and the complexity of the issues, it would have been surprising if they had. Many significant differences of opinion remain. Nevertheless, the consultations have been useful, indeed essential, in throwing up very significant areas of agreement:

(*a*) Whatever their views on sovereignty and citizenship, most of those consulted (although not all) have favoured the restoration of some kind of developed institutions of government in Northern Ireland.

(*b*) There has been a wide area of agreement that the central feature of these institutions should be a single-chamber elected legislative assembly of 80–100 members.

(*c*) There has also been a broad measure of agreement that a significant role within such an assembly should be allocated to a structure of powerful committees (although the specific proposals for such a structure show considerable variations).

(*d*) There has been general agreement that a new settlement should in some way or other make provision for the protection of fundamental human rights and freedoms.

(*e*) Almost all the parties are prepared to accept new institutional arrangements for consultation and co-operation on an all-Ireland basis, although some make their agreement conditional or limited.

None of these courses is in any way inconsistent with United Kingdom policies or interests.

6. These consultations have shown that there are important aspects of a new constitutional settlement which can be based directly upon the views and the proposals of Northern Ireland parties and interests.

7. There have been a number of other significant developments since the publication of the Paper for Discussion. First, on 1 January 1973 the United Kingdom and the Republic of Ireland both became member countries of the European Economic Community, a development which is bound to have an ever-increasing impact upon the lives of all who live in these islands.

8. Second, the then Government of the Republic of Ireland introduced, and the Oireachtas carried into law, new legislation designed to cope with terrorist activity, and the authorities of the Republic have subsequently brought before the courts under these new powers some of those persons involved in the organisation and direction of IRA terrorism throughout Ireland.

9. Third, the Government has accepted in principle the report of Lord Diplock's Commission (Cmnd. 5185), recommending various changes in the arrangements for the administration of justice in Northern Ireland so as to make it possible to bring before the courts more of those engaged in terrorist activities in Northern Ireland, while pointing out that in some cases there is no substitute for procedures such as those prescribed by the Detention of Terrorists Order 1972.

10. Finally, on 8 March 1973, a poll was held throughout Northern Ireland, in accordance with the Northern Ireland (Border Poll) Act 1972. The result, declared on 9 March 1973, was that 591,820 electors voted in favour of the first proposition

"Do you want Northern Ireland to remain part of the United Kingdom?" while 6,463 electors voted in favour of the second proposition

"Do you want Northern Ireland to be joined with the Republic of Ireland, outside the United Kingdom?"

PART 2—CONDITIONS FOR A SETTLEMENT

Essential conditions

11. Successive United Kingdom Governments have affirmed that Northern Ireland will continue to be part of the United Kingdom unless and until its people decide otherwise, and a majority of the people in Northern Ireland have voted in favour of the present status of Northern Ireland is part of the United Kingdom. It is the responsibility of the United Kingdom Parliament to determine how Northern Ireland shall be governed as a part of the United Kingdom.

12. There is a three-fold pattern of obligations:

(*a*) The United Kingdom as a whole has an obligation to those of its citizens who live in Northern Ireland to afford them the fullest protection of the rule of law; to secure their fundamental rights and freedoms; and to work towards the realisation for them of United Kingdom standards of living, employment and social conditions.

(*b*) Those who live in Northern Ireland as part of the United Kingdom have an obligation to respect the decisions of the Crown in Parliament and to play their part in creating and in upholding an equitable political settlement.

(*c*) Those who wish to see the achievement of Irish unity, which can only be on a basis of consent, have an obligation to accept that such consent does not at present exist, and—without prejudice to their aspirations—to assist in the achievement on a constitutional basis of peace, equality and prosperity.

13. Any significant advance towards a settlement in Northern Ireland at this stage must be consistent with this pattern of obligations. In deciding what the shape of a settlement should be, the United Kingdom Government has refrained from seeking to impose on Northern Ireland a rigidly defined and detailed scheme for its future which could not be done at the present time without assumptions about the wishes of its people. This approach requires that no interest in Northern Ireland should refuse constructive co-operation in working out the details of such a scheme. The United Kingdom Government for its part must have regard to the interests of all the peoples in the United Kingdom including the communities in Northern Ireland. All these interests must be brought as nearly as possible into a state of reconciliation. The true interests of the whole community in Northern Ireland require that the majority should not fail in fairness and generosity towards all their follow citizens and that the minority should play a truly constructive part which it is the United Kingdom Government's firm determination should be made available to them.

14. The need for movement towards a settlement cannot be divorced from wider considerations. At a time when new opportunities and new challenges are posed by membership of the European Economic Community, no area—let alone an area with special economic and social problems—can afford to be handicapped by continuing strife and instability. The results of failure would not be confined to Northern Ireland. The heavy burden upon the whole United Kingdom is self-evident; and Northern Ireland and the Republic of Ireland have an obvious common interest in finding a basis for their relationship that will encourage the democratic forces in the whole island. Terrorism is a danger to them both.

15. In determining the broad nature of a settlement, it has to be constantly borne in mind that the situation in Northern Ireland is complex. Constitutional proposals clearly have a significant part to play in the restoration of stability, because the institutions of government touch at one point or another the lives of all the people, and condition wider attitudes towards authority. Moreover, in Northern Ireland the clash of national aspirations heightens interest in, and concern about, the machinery of government. Yet the problems extend in one way or another into countless aspects of the life of the community—into patterns of education, housing and employment; into general social attitudes and responses; into history and culture and tradition. Thus, the solution to "the Northern Ireland problem" is not to be found in any set of political proposals of institutions alone. However skillfully and fairly framed, these can do no more than provide opportunities which the people of Northern Ireland themselves may take or fail to take; and even with the utmost goodwill, the patterns of generations cannot be changed overnight.

16. It would be impossible to devise a prescription for all the problems of Northern Ireland during a twelve-month period of direct rule. Many of the steps which remain to be taken will be for new Northern Ireland institutions, and many more will be outside the field of government altogether. There cannot be a "government settlement", only a "community settlement"; and its full achievement will be a matter of years. What can be done is to make a good start; to set off in the right direction.

The problem of violence

17. There has been, and remains, no more urgent or compelling task than to bring the present state of violence to an end. Much progress has been made in combatting the IRA terrorist campaign, and, at the same time, the activities of Protestant extremists, both by the normal processes of the criminal law and by the provisions of the Detention of Terrorists Order. The Army will remain for so long and in such strength as the situation requires, but it is vitally important to strengthen the police and to improve their numbers, equipment and training. The progress which has already been made is shown by the increasing number of arrests and convictions. In addititon, continued and effective action against the terrorists has been, and will be, sought from the Government of the Republic of Ireland.

18. But law and order cannot be restored merely by the action of the security forces. In the United Kingdom, the maintenance of the peace is a responsibility which rests not upon Government alone but upon every citizen. The role of the police is traditionally to assist the community; but they can only do so if the community itself accepts re-

sponsibility for upholding the law and, at the same time, gives its full co-operation to the police. Where an absence of public co-operation makes police work difficult or impossible, countless evils flourish. The great majority of the people neither like these developments nor have any say in relation to them, but fear and intimidation cause the communities to consolidated themselves. The ignorance, suspicions, fear and even hatred of the "other side" is, among many in some areas, intense; and those who wish to see mutual tolerance are prevented by intimidation from making their views known. Inroads can only be made into this situation of chronic mistrust and suspicion by a restoration of law and order and this is a central problem which must be, and will be, solved.

19. Under the scheme of devolution proposed in this White Paper, responsibility for the security of Northern Ireland in the existing circumstances will continue to rest with the United Kingdom Government. Because this White Paper is principally concerned with the future arrangements for government in Northern Ireland, this is not the place to develop in detail the means by which the pressing law and order problems will continue to be tackled. But the people of Northern Ireland, and indeed of the United Kingdom as a whole, can rest assured that there is no purpose to which the Government is more firmly committed than the restoration of the rule of law in Northern Ireland, and whatever means are necessary to that end will be made available.

Education

20. The re-creation of inter-communal confidence is bound to be a long and slow affair. There is no single means by which it can be accomplished. But the Government is convinced that, if the tragic events of recent times are not to recur, means must be found to create a greater sense of community in the minds of the rising generation. One of the obvious factors in the situation is the high degree of educational segregation. This is not of itself in any way peculiar to Northern Ireland. The importance which, in the United Kingdom and in many other countries, certain of the Churches place upon their own blood systems stems from deep conviction about the need for an underlying religious basis to all teaching. While, in Northern Ireland, it is the Roman Catholic Church which maintains a separate system, it is by no means to be assumed that, in practice, all Protestant parents would be happy to see a completely integrated school system, involving as it would the teaching of Protestant children by Roman Catholic teachers, some of them members of religious orders. To make the educational system itself the scapegoat for all the ills of Northern Ireland would obscure problems whose origin are of a much more complex character.

21. There are, however, some encouraging indications of a new consciousness of the need to promote real and continuing points of contact and mutual interest between all the children of Northern Ireland. It is significant that the five new Education Area Boards include representatives of "maintained" (largely Roman Catholic) schools as well as "transferred" (lagely Protestant) schools as full members of these education authorities, together with representatives of other interests including the teaching profession drawn from all sections of the community. It will be a vital task of government in the future to facilitate, to encourage and to promote these points of contact. Unless, in the future, a greater sense of community can be fostered amongst the young people of Northern Ireland, it is difficult to see how this mutual distrust can be broken down.

Economic problems

22. With its comparative remoteness from its principal markets, its lack of raw materials (except in agriculture) and its considerable concentration of employment in industries which have had special difficulties, Northern Ireland has had to make immense efforts to maintain its employment position, let alone to improve it. A skillfully and vigorously conducted programme of industrial development, relying heavily on external investment, has achieved a marked diversification of the industrial base, a steady rise in productivity, and real increases in living standards. By these standards Northern Ireland has some substantial economic achievements to its credit.

23. In comparative terms, however, Northern Ireland has remained the poorest region of the United Kingdom, with the highest levels of unemployment. Moreover, within Northern Ireland itself there have been areas of much higher unemployment, both within Belfast and in provincial towns. This has clearly been a factor in the violence and instability of recent years.

24. Thus, the problem has been both to raise the level of economic activity overall, and to ensure its more even distribution over the community, to the extent that this is compatible with the physical, economic and industrial realities.

25. It is the policy of the United Kingdom Government to work within the European Economic Community for the development of effective regional policies, conducted both by national governments and by Community institutions. These policies will provide the broad economic framework within which the special problems of Northern Ireland will be tackled by the United Kingdom Government and the institutions of Northern Ireland working and planning together.

Social problems

26. In many respects Northern Ireland is most fortunate: its relatively unspoiled countryside and its uncluttered roads should again be an attractive regional and national asset once stability has been restored. But there is much thoroughly inadequate housing which must be replaced, and in Belfast and certain other places there is a serious lack of amenities.

27. Northern Ireland is by no means unique in this respect, either in the United Kingdom or elsewhere. In any part of the world an inadequate social environment breeds boredom, aimlessness, alienation from society, vandalism and even violence. In Northern Ireland all these evils may be compounded by high unemployment and deep political resentments. The need is to create a positive community life in such areas; to do everything possible to provide other outlets than violence for the energies of the people; to demonstrate that authority can be a helpful as well as a coercive influence on their lives.

28. These then are the fundamental problems in Northern Ireland. It is against this background that the Government's constitutional proposals must be considered.

PART 3—THE CONSTITUTIONAL PROPOSALS

29. This Part sets out the proposals which the Government will bring before Parliament at an early date.

Renewal of temporary provisions

30. The Government's proposals will involve the presentation to Parliament of a comprehensive new constitutional Bill for the government of Northern Ireland, to replace the arrangements temporarily set aside by direct rule, which were based mainly upon the Government of Ireland Act 1920. The Government is seeking the approval of Parliament for the extension of the provisions of the Northern Ireland (Temporary Provisions) Act 1972 for a further period of one year from its expiry date at the end of March, but the subsequent constitutional Bill will provide that new permanent arrangements may be brought into operation, and the Temporary Provisions superseded, and it is the intention that this should be done as soon as possible.

Northern Ireland bill

31. Consistent with thorough scrutiny, the Government will seek the assistance of members of both Houses in devising a programme to pass the Bill into law without undue delay so as to allow elections to an Assembly to be held as soon as possible. Paragraphs (32) to (89) below describe the main provisions which it is intended should be contained in the Bill.

United Kingdom status of Northern Ireland

32. Because the Bill will provide for the replacement of the Parliament of Northern Ireland by new institutions, the declaratory provision relating to Northern Ireland's constitutional status incorporated in Section 1 (2) of the Ireland Act of 1949, to the effect that in no event will Northern Ireland or any part thereof cease to be part of the United Kingdom without the consent of the Parliament of Northern Ireland, will need to be replaced. Successive United Kingdom Governments have assured the people of Northern Ireland that there will be no change in the basic constitutional status of the Province as part of the United Kingdom without their consent, and accordingly other means must be found to give expression to that commitment. The Bill will, therefore, include a statutory declaration that Northern Ireland remains part of the United Kingdom, and will not cease to be part of the United Kingdom without the consent of the people of Northern Ireland.

33. Northern Ireland will maintain its existing representation, that is 12 Members, in the United Kingdom House of Commons.

Devolution of powers to Northern Ireland institutions

34. The process of devolution will involve the following stages:

(*a*) election of a new Northern Ireland Assembly;

(*b*) development by that Assembly of its own rules and procedures in accordance with broad provisions laid down in the Bill;

(*c*) discussion between representatives of the Assembly and the Secretary of State to arrive at an acceptable basis for the formation of an Executive and the devolution of powers; followed by

(*d*) devolution of extensive powers to the new Assembly and Executive, and termination of the present direct rule arrangements.

A Northern Ireland Assembly

35. The first necesary step is to create a representative forum of Nothern Ireland opinion. The Parliament of Northern Ireland elected in February 1969 and prorogued in March 1972 can no longer be regarded with confidence as such a forum. The significant developments since 1969, both in the general situation and in the structure and organisation of parties, have totally changed the political scene. The need for new elections is widely acknowledged throughout the Northern Ireland community.

36. It has been argued that such elections should be to a purely consultative Assembly, with which the Secretary of State for Northern Ireland should undertake a further round of consultations before any specific constitutional proposals are formulated. But Northern Ireland has been the focus of speculation and uncertainty for a prolonged period already, and there can be little doubt that as long as such uncertainty continues to exist, it will be exploited by those who seek to prey upon the fears of the communities.

37. For this reason the Government has decided not to propose a consultative Assembly. It is nevertheless desirable to associate the elected representatives of the people of Northern Ireland with the detailed working-out of those new structures which they will subsequently operate. The legislative and other procedures to be used in an Assembly, to take but one example, would best be formulated in detail by its own members; and, more generally, there are the strongest

arguments for genuine local involvement, within a framework which effectively safeguards vital principles.

38. Most of the Northern Ireland parties have argued for a single-chamber legislature and, taking this into account, together with the new responsibilities falling upon central government under the "Macrory" reorganization and the desirability of operating a highly developed system of committees, have recommended a membership of about 80–100. The Government agrees with this view as to size, but such an increase in membership over the 52 seats of the Northern Ireland House of Commons involves either drawing a new pattern of constituencies or adopting a multi-member system tied to an existing pattern of electoral boundaries.

39. Any process of establishing a new pattern of single-member constituencies could not properly begin until Parliament had enacted the constitutional Bill. Under the simple majority vote system using single-member constituencies, the drawing of demonstrably fair electoral boundaries is of such crucial importance that it could only be done by an impartial Boundary Commission procedure, with provision for representations, hearings, etc. This would rule out any elections this year. These are technical difficulties. But there are arguments against this system at present even if it could be introduced in time. If the Assembly is to play a significant part in working out new structures and procedures, it is of particular importance that its membership should reflect the wishes of the community as accurately as possible. It has been decided that there shall be an Assembly of about 80 members, and that the system of election best suited to this occasion is the single transferable vote (STV) method of proportional representation, applied to the 12 Westminster constituencies. Members will be paid a salary of £2,500 p.a. together with a secretarial allowance of £600 p.a.

40. Elections to the Assembly will be held as soon as possible on a date to be prescribed by Order by the Secretary of State for Northern Ireland.

41. The initial term of the Assembly will be for the period from the first day of its meeting up to and including 30 March, 1974; but if an Order-in-Council has been made between those dates for the devolution of legislative powers, it will serve for a period of four years from the date on which the Order takes effect. The four-year rule will also apply to future Assemblies.

42. It will be for the Assembly to elect its presiding officer and to prepare Standing Orders for the regulation of its own business, including the procedures to apply to the conduct of its legislative business when legislative powers are devolved to it.

43. The Government believes it to be right that the Assembly itself should work out its own detailed methods and procedures, subject to the minimum necessary provision, to permit, for example, both general debate with an opportunity to vote on the general principle of legislative proposals, and detailed consideration and scrutiny, with an opportunity to vote on the specific detail of these proposals.

Committees of the Assembly

44. The new scheme for the legislature must be designed to create a strong link between the Assembly and the Executive, to involve majority and minority interests alike in constructive work and to provide for the active participation of all members. It is envisaged that a member of the Assembly will act as the Head of each Department of Northern Ireland and that those Heads collectively will form the Executive (see paragraph 73). The responsibility of such Heads will be to administer their Departments within the framework of existing law and policy. But provision will also be made for the Head of each Department to be chairman of a functional committee, with a membership reflecting, as far as possible, the balance of the parties in the Assembly. He will be required, when proposing new legislation or policy, to bring the members of his committee into the fullest consultation. Provision will be made for a "pre-legislation" stage so that detailed proposals for new law will be considered by a committee before presentation to the Assembly as a whole. The objective of the new committee structure will be to associate members of the Assembly with the development of policy, as well as with the review of departmental activities.

45. There will be no obligation upon the Assembly to follow either the procedures used at Westminster or those hitherto used at Stormont. Indeed, it would be desirable that they should adopt much simpler and less formal procedures and methods which will also need to take account of the fact that the new Assembly will be unicameral.

46. While the Assembly is undertaking these initial tasks, the Secretary of State for Northern Ireland will continue to be responsible for all those matters which, before 30 March 1972, were the concern of the Government of Northern Ireland, and laws previously within the field of competence of the Northern Ireland Parliament which are essential during this period will continue to be made as appropriate by Westminster Act or by Order-in-Council subject to parliamentary approval at Westminster.

Northern Ireland Commission

47. It would be anomalous that, after the people of Northern Ireland have elected an Assembly to represent them, but before powers have been devolved, the Secretary of State should continue to be advised, in relation to Northern Ireland legislation and generally, by a Commission detached from the Assembly. Those who have served on the Northern Ireland Commission since direct rule was introduced have made a signal contribution to the life of the community; but during this interim period, and so as to assist an easy transition, the Secretary of State will ask the present members to make way for representatives from the Assembly.

Secretary of State for Northern Ireland

48. There will continue to be a Secretary of State for Northern Ireland who will be a member of the United Kingdom Cabinet. His role will naturally be different from what it has been under direct rule during which the Secretary of State has had executive responsibility for the full range of public services. He must, however, continue to have charge of a Department, with offices both in London and in Northern Ireland, so organised as to discharge his responsibilities both to Parliament and to Northern Ireland itself.

49. It is of the greatest importance, in a situation where wide powers are to be devolved upon Northern Ireland institutions and others reserved to Parliament and the United Kingdom Government, that the two sets of authorities should not work in separate compartments or to conflicting objectives. The best interests of the people of Northern Ireland will only be served if, from the start, their duties are regarded as complementary in character.

50. Accordingly, the Secretary of State will have the following main areas of responsibility in relation to Northern Ireland:

(*a*) he will undertake the necessary consultations with the elected representatives of Northern Ireland to determine how an acceptable basis for the devolution of powers may speedily be achieved.

(*b*) thereafter, he will exercise direct ministerial responsibility in relation to certain reserved services administered either by his own Department or, where appropriate, by Northern Ireland Departments acting as his agents.

(*c*) he will represent Northern Ireland's interests in the United Kingdom Government, both generally and in relation to the allocation of financial resources to Northern Ireland.

Conditions for devolution of powers

51. As soon as the Assembly has been elected, the Secretary of State will discuss with representatives of the parties how devolution on a basis of government by consent may take place. Hitherto, the executive dispositions in Northern Ireland have been made by the Governor under the Act of 1920 and in accordance with the current British constitutional conventions. But those conventions have been applied to Northern Ireland in a situation where:

(*a*) the same party has been the majority party after each General Election; and

(*b*) that party has never returned to Parliament in the course of half a century a member from the minority community which comprises more than a third of the population.

It is from this situation that there flows the problem, as described in the Paper for Discussion, of "binding the minority to the support of new political arrangements in Northern Ireland".

Formation of the Executive

52. There is no future for devolved institutions of government in Northern Ireland unless majority and minority alike can be so bound. This is not to say that any "right of veto" can be conceded to violent, subversive or unconstructive elements determined, if they can, to undermine any new system from the outset. But the Government does not believe that this is the wish of the overwhelming majority in either community. What has to be found—through their representatives—is a system of exercising executive power in Northern Ireland which is broadly acceptable to them. One important means of ensuring this will be more effective participation by the Assembly as a whole, through its structure of committees, in the development of policy; but it is the view of the Government that the Executive itself can no longer be solely based upon any single party, if that party draws its support and its elected representation virtually entirely from only one section of a divided community. The Executive must be composed of persons who are prepared to work together by peaceful means for the benefit of the community. Members of the Executive will be required to take an appropriate form of official oath or make an affirmation on taking up their appointment.

53. It is this central issue which, after the election of the Assembly, the Secretary of State will urgently discuss with its elected leaders. The objective of the discussions will be to seek an agreed understanding which the United Kingdom Government can with confidence recommend to Parliament as a fair and viable basis for the devolution of power. When the Government is satisfied:

(*a*) that the procedures of the Assembly and the proposed method of exercising executive powers will, taken together, be a reasonable basis for the establishment of government by consent (that is to say, with substantially wider support from the community as a whole than would necessarily be indicated by a simple majority in the Assembly);

(*b*) in particular, that executive powers will not be concentrated in elected representatives from one community only; and

(*c*) that any proposed arrangements will represent not just a theoretical framework for fair and acceptable government, but a system which can and will be worked effectively by those concerned,

it will seek the approval of Parliament for the devolution by subordinate instrument of extensive law-making powers to the Assembly, and for a broadly corresponding devolution of executive powers to a Northern Ireland Executive, which will be constituted in accordance with the arrangements that have been agreed.

Legislative powers

54. Whatever powers to legislate may be devolved upon a regional law-making authority in Northern Ireland, it must and will be made clear that such devolution does not diminish in any way the right of the United Kingdom Parliament to legislate for Northern Ireland, as for any other part of the United Kingdom, in relation to any matter whatever. In practice, it is to be expected that, in the context of an acceptable and smooth-running scheme of devolution, Parliament would legislate for Northern Ireland within the field of wholly devolved powers only in the most rare and exceptional circumstances or at the request of the Northern Ireland Executive; but there can be no room for ambiguity about the right to do so.

55. In considering the scheme for the devolution of law-making powers, full advantage can be taken of the experience gained in operating the Act of 1920. In order to keep the 1920 constitution operating in the face of changing circumstances, numerous constitutional amendments, enablements and savings had to be made. Difficult questions arose about the constitutional competence of the Northern Ireland Parliament to legislate, which had to be determined by the courts. Artificial drafting contrivances had to be used to prevent a specific "invasion" by Westminster of a field transferred to Stormont from debarring any future Stormont legislation in that field. What is required for the future is a more flexible scheme which will allow Northern Ireland measures, subject to appropriate ministerial and—in suitable cases—parliamentary scrutiny, to have, when finally approved, the same force as an Act of Parliament, and a like freedom from questioning, as distinct from interpretation by the courts (save in the special case of measures alleged to be of a discriminatory character).

56. The scheme which is now proposed will have the following features:

(*a*) *"Excepted" matters* (i.e. those in respect of the substance of which the Assembly may not in any circumstances legislate).

Within this category will be various matters of national importance inappropriate for consideration other than by Parliament, e.g. the Crown, foreign affairs, the Armed Forces and honours and titles. These were outside the competence of the Northern Ireland Parliament. To this category will be added a further list of matters in respect of which the Northern Ireland Parliament had some degree of legislative power but which are now considered appropriate for permanent exclusion from the Assembly's law-making powers. These will include certain powers of taxation, special powers of the kind hitherto taken under the Civil Authorities (Special Powers) Acts, prosecutions, elections and the franchise and the appointment of magistrates and judges.

(*b*) *"Reserved" matters* (i.e. those excluded for the present from the normal legislative competence of the Assembly but in respect of which the Assembly may exceptionally legislate with the agreement of the United Kingdom Government).

Within this category will be certain matters within the field of law and order, including the criminal law, the courts, penal institutions and the establishment and organisation of the police.

(*c*) *"Transferred" matters* (i.e. all other matters not covered in categories (*a*) and (*b*) above and in respect of which the Assembly will have unrestricted competence to legislate).

57. All measures passed by the Assembly will have the force of law when approved by the Queen in Council and the channel for submission to the Privy Council will be the Secretary of State. If he is of the opinion that any measure either deals substantially with a "reserved" matter, or touches incidentally on an "excepted" matter, he will cause it to be laid before Parliament together with his recommendations relating to it, so that an opportunity will be offered for the will of Parliament to be made known. If, however, he is of the opinion that the measure relates solely to a "transferred" matter and does not run contrary to statutory restraints, e.g. on legislation of a discriminatory nature (see paragraph 63), he will cause it to be submitted directly to the Privy Council.

Legislation to deal with violence and subversion

5. Following the publication of the Report of the Diplock Commission (Cmnd. 5185), which conclusively showed how terrorism strikes at the root of the fundamental freedom to live in peace and, by fear and intimidation, impedes the ordinary machinery of justice in dealing effectively with it, the Government believes it has a responsibility to bring before Parliament necessary provisions for the more effective combatting of terror and violence. Parliament will be asked to approve legislation for that purpose.

59. This legislation will give effect to the recommendations of the Diplock Commission for improving the administration of justice at times when it is put under strain by the effects of terrorism. The provisions will have effect only when Parliament agrees that they are necessary because of circumstances in Northern Ireland.

60. The Bill will also contain proposals based on the results of the Government's review of the Special Powers Act. That Act and the Regulations made under it were created at varying times to deal with problems then current. They are open to the criticism, above all, that, in spite of their far-reaching character, no provision has existed for their regular review to see whether they remained justified by the special needs of the situation. The Bill will propose the repeal of the Special Powers Act and the re-enactment into law only of strictly necessary provisions which, like those provisions implementing the Diplock report, will be operative only during an emergency and with the approval of Parliament.

61. The procedures for detention are at present contained in the Detention of Terrorists (Northern Ireland) Order 1972, which was introduced as an interim measure pending the Report of the Diplock Commission. That Report made it clear that so long as intimidation continued some such form of detention would be necessary. The new Bill described above will, therefore, make provision for detention, as at present laid down in the Order, but, like the other provisions in the Bill, it will remain operative only while Parliament is satisfied that the situation in Northern Ireland requires it.

62. All the provisions in the Bill will apply only to Northern Ireland, since they arise entirely out of the special needs of the situation there.

Restraints upon devolved legislative powers

63. The constitutional Bill will include a general provision to the effect that, in the exercise of any responsibilities devolved upon it, the Northern Ireland Assembly shall not have power to make any law of a discriminatory character. This is one component of a complex of proposals designed to afford protections and safeguards amounting to a charter of human rights. This subject is comprehensively discussed in Part 4.

64. The Bill will also provide that, in the exercise of powers devolved upon it, the Assembly may not impose upon any member of an appointed body, or upon any person paid out of public funds in Northern Ireland, as a condition of his appointment, service or employment, any requirement to make any form of oath or declaration save when such an oath or declaration is required in comparable circumstances in the rest of the United Kingdom. In the meantime, a draft Order-in-Council under the Northern Ireland (Temporary Provisions) Act 1972 will be prepared, amending existing Northern Ireland legislation so as to bring it in this respect into line with that in the rest of the United Kingdom; in particular, it will remove, in time for the forthcoming local government elections, the requirement for a statutory declaration of allegiance to be made by a Councillor on acceptance of office.

Executive powers

65. As already described, the scheme of legislative powers will be of a flexible character. It is, however, not possible to provide for the same degree of flexibility in the exercise of executive powers, since it must be clear beyond doubt precisely where ministerial responsibility lies in respect of any matter. It must lie either with the United Kingdom Government through one of its Ministers or with the Northern Ireland Executive through the political Head of one of its Departments. But if executive responsibility does not permit of a flexible approach, administration certainly does. To reserve a responsibility to a United Kingdom Minister, either permanently or for the time being, is by no means to stand in the way of a high degree of local involvement in administration, through an agency arrangement for the performance of functions by a Northern Ireland Department, or the allocation of advisory or managerial responsibilities to elected or statutory bodies in Northern Ireland or in other ways.

66. Those functions of the United Kingdom Government in Northern Ireland which under direct rule have been the responsibility of United Kingdom Ministers other than the Secretary of State, such as the Chancellor of the Exchequer and the Secretary of State for Defence, will remain so.

67. The general intention in the devolution of executive powers will be to transfer to the Northern Ireland Executive those responsibilities exercised before direct rule by the Government of Northern Ireland with the following principal exceptions:

(*a*) responsibility for the appointment of county court judges, magistrates, coroners and a limited number of other appointments of a quasi-judicial nature will be reserved to the Lord Chancellor; and responsibility for the administration of the courts and tribunals in question will be reserved to the Secretary of State.

Hitherto there has been a division of responsibility, in that the Lord Chancellor has made appointments to the Supreme Court of Northern Ireland and has been answerable to Parliament for the administration of that Court, whereas other judges, magistrates, coroners and members of various quasi-judicial tribunals have been appointed by Northern Ireland Ministers, who have been responsible to the Northern Ireland Parliament for the administration of these courts and tribunals. It is the view of the Government that all judicial appointments should be made by or on the recommendation of the Lord Chancellor, and that there should be a unified administration of the courts for which the Secretary of State should be answerable to Parliament.

(*b*) ministerial responsibility for the conduct of public prosecutions will remain vested in the Attorney-General.

The Director of Public Prosecutions for Northern Ireland will, therefore, remain responsible to the Attorney-General in the United Kingdom Government.

(*c*) ministerial responsibility for all matters connected with elections or the franchise will be reserved to the Secretary of State.

The Government believes that, as a matter of principle, Ministers should be answerable to Parliament for arrangements for central and local government elections in

Northern Ireland as in other parts of the United Kingdom, but the detailed arrangements for such elections in Northern Ireland will continue to be made by an independent statutory officer, the Chief Electoral Officer, and his staff.

(*d*) ministerial powers under any legislation empowering the Executive to take exceptional measures in the law and order field to cope with an emergency situation (e.g. the legislation to replace the Special Powers Act), will also be reserved to the Secretary of State.

68. Certain other powers previously exercised by the Northern Ireland Government and Ministers will be reserved to the United Kingdom Government and Ministers because of the current security situation in Northern Ireland, and accordingly will not be devolved in present circumstances. In particular:

(*a*) ministerial powers in relation to the police will be reserved to the Secretary of State;

(*b*) ministerial powers under any legislation concerned with "public order" (e.g. control of unlawful assemblies, offenses involving riot, injury or intimidation, and the control of firearms and explosives) will be reserved to the Secretary of State, as will ministerial responsibility in connection with the Royal Prerogative of Mercy; and

(*c*) ministerial powers under any legislation concerned with penal establishments and the treatment of persons in custody will be reserved to the Secretary of State.

Law and order

69. The reservation of broad "law and order" powers for the time being must not exclude Northern Ireland involvement in matters of great concern to its people; and, indeed, many of the practical problems in relation to policing and other matters cannot be solved without a high degree of public co-operation and goodwill. The interest will be fully acknowledged in the new structure in a number of ways. First, the Northern Ireland Executive will be invited to act as an advisory committee to the Secretary of State in relation to those responsibilities reserved to him. He will therefore have an opportunity to discuss matters of general public concern and interest with the elected leaders of the Northern Ireland community, and to take their views fully into account.

70. Second, democratic participation in restoring to all parts of Northern Ireland the full benefits of a normal police service is essential. The Police Authority, which will continue to have a statutory responsibility for the management of the police service, will be re-constituted following consultations with the Assembly so as to introduce into it an element drawn from elected representatives. In addition, the new District Councils which will come into being in October, will be able to form the basis of local committees with advisory responsibilities in relation to the policing of their districts. They could, for example, invite the local police commander to attend meetings so that they could keep themselves informed of the way their district was being policed; they could explain problems and put forward suggestions; they could offer advice; they could help to promote recruitment; they could encourage local citizens to help prevent intimidation, vandalism, etc.; they could provide links with tenants' associations and other groups whose co-operation was important to good relations in this district; and they could take special interest in such matters as road traffic and road safety.

Transferred executive powers

71. All other powers previously exercised by the Government and Ministers of Northern Ireland which include such matters as the health service, social benefits and welfare, employment and training, education, agriculture, industrial development and the planning and development of the regional infrastructure, will be available for devolution to a Northern Ireland Executive. Broadly these amount to all the powers hitherto exercised through the existing Northern Ireland Departments except those in the law and order field.

Appointment of Heads of Departments

72. The constitutional Bill will provide that formal appointment of persons to be the political Heads of Departments in Northern Ireland for the purpose of administering services under the devolved executive powers will be effected by the Secretary of State. These Departments will include a central secretariat whose political Head will lead the Assembly and preside over the Executive. This is a power of appointment analagous with that conferred upon the Governor by Section 8 of the Government of Ireland Act 1920, but when an agreed understanding on the formation of an Executive is reached in discussion with elected representatives, it would be the intention to make appointments in accordance with that understanding.

73. Collectively, the Heads of Departments will form a body to co-ordinate the policies and activities of the administration as a whole, and to determine financial and other priorities. This body will constitute the Executive of Northern Ireland. The Heads of Departments and the Head of the central secretariat will receive appropriate salaries in those capacities. The Government will seek the advice of the Review Body on Top Salaries on what these salaries should be.

74. Devolved services will continue to be administered by the established Northern Ireland Departments and reserved services can, in suitable cases, be performed by a Northern Ireland Department on an agency basis. The arrangements for the administration of services reserved for the time being will, as far as possible, be such as to permit a later devolution at some appropriate stage to Northern Ireland institutions. Some of the services concerned, for example in the penal field, must in practice be closely co-ordinated with other social services and in such cases the argument for an agency arrangement is strong. In other cases, the service may be more appropriately administered by the Secretary of State's Office in Northern Ireland, but arrangements can be made for secondment to that Office of suitable Northern Ireland officials.

75. Existing powers under Northern Ireland law to make Transfer of Functions Orders should be adequate to cope with any departmental re-organization in Northern Ireland which the Executive and Assembly consider desirable after the new arrangements take effect; and, of course, the powers of the Northern Ireland Assembly would include the power to legislate for departmental organisation.

The civil service of Northern Ireland

76. The Civil Service of Northern Ireland will remain a distinct service under the Crown. Since the broad pattern of services to be carried out in Northern Ireland, whether under devolved institutions or otherwise, will remain the same, its officers need not fear any deterioration in their career prospects or conditions of service. It will, however, be the concern of the Government to ensure that, even in isolated individual cases, the interests of members of the Northern Ireland Civil Service are protected. Throughout the crises and upheavals of recent years their loyalty to the Crown and to the concept of service which they share with their United Kingdom colleagues has been a vital stabilizing factor in a difficult situation. They have continued to operate, under whatever ministerial direction the law provided, those services upon which the life of the community depends.

Restraints upon devolved executive powers

77. The Bill will provide that, in the exercise of devolved executive powers, no Department of Northern Ireland may act in a discriminatory way. This statutory bar to any form of discriminatory action will also apply to any authority, body or agency in Northern Ireland which is subject to investigation by the Parliamentary Commissioner for Administration, the Northern Ireland Parliamentary Commissioner for Administration, or the Northern Ireland Commissioner for Complaints, and to the Post Office.

Replacement of existing institutions and constitutional provisions

78. Under the new arrangements the Northern Ireland Assembly will replace the Parliament of Northern Ireland. A proper acknowledgement is due to the work of that Parliament and its Members and Senators. The pension rights of members of the Northern Ireland House of Commons will be safeguarded.

79. At Stormont, as at Westminster, provision has in the past been made by specific legislation for the payment of pensions to persons who have served in the office Speaker of the House of Commons. The Secretary of State will, in due course, seek the approval of Parliament for an appropriate pension provision in respect of the present Speaker of the Northern Ireland House of Commons.

80. Due regard must also be had to the interests of the career officers of Parliament, the Clerk of Parliaments and his staff. While the new Assembly must obviously be free to make its own dispositions in this respect, it will no doubt wish to make full use of the expertise which exists amongst these professional servants of Parliament. Their interests will, however, be protected.

Links with the Crown

81. There will be no weakening whatever in Northern Ireland's links with the Crown. All executive power in Northern Ireland as in Great Britain will continue to flow from Her Majesty The Queen. In general, where executive power is not devolved to the Northern Ireland Executive, it will be exercised either by The Queen in Council or by Her Majesty's Government. There will cease to be an office of Governor of Northern Ireland. Her Majesty's Lieutenants and Deputy Lieutenants to the counties in Northern Ireland will carry out those duties performed by such officers elsewhere in the United Kingdom. Her Majesty's Government pays tribute to the present Governor, Lord Grey of Naunton, and to Lady Grey, for the outstanding service they have given to Northern Ireland during a most difficult period.

Northern Ireland Privy Council

82. No further appointments to the Privy Council of Northern Ireland, or to its Executive Committee (the Cabinet of Northern Ireland) will be made; but existing members of the Privy Council will retain their existing rank and style and obligations. Alternative arrangements will be made for the performance of those acts—principally the making of Orders—which various statutes require to be done in Council. Hitherto, Ministers of Northern Ireland, in protecting the confidentiality of Cabinet and other business, have been bound by the Privy Counsellor's Oath; for the future, all persons discharging executive responsibilities in Northern Ireland, including the Heads of Departments, will be bound by the Official Secrets Act. It would be right for those who have the custody of the records of the Executive Committee to apply to them the criteria accepted in the United Kingdom on a change of Administration; that is to say, records may be consulted by those who were present at particular meetings, but will not be made available to an incoming Administration.

Financial arrangements

83. The broad scheme of the financial provisions, which will be considerably simpler

in form than those in the Act of 1920, will be as follows:

(a) The Northern Ireland Assembly will not have power to legislate in the field of taxation with the exception of those taxes such as rates and licence fees for which the agreement of the United Kingdom Government has been given;

(b) after devolution of powers, the revenue required to meet the cost of devolved services will be derived from the product of taxes levied locally (e.g. the rates); from certain non-tax revenue which accrues locally; from the yield of the "attributed taxation" of Northern Ireland, to be paid out of the Consolidated Fund of the United Kingdom into that of Northern Ireland; supplemented, if necessary, by an annual sum voted to the Secretary of State for Northern Ireland for that purpose.

(c) the existing arrangements will continue for loans from the United Kingdom National Loans Fund to finance capital expenditure programmes in Northern Ireland.

84. There will be some exceptions to this broad scheme. The Agricultural Remoteness Grant will continue to be paid separately and arrangements for the National Insurance, Industrial Injuries and Redundancy Payments Schemes will be maintained as heretofore (i.e. inter-fund transfers will continue). The Joint Exchequer Board will be abolished, and no provision will be made in the new scheme for the payment of an "Imperial Contribution".

85. The financial relationships between the United Kingdom Government and the Government of Northern Ireland have hitherto been regulated not only by statute but by a whole pattern of agreements, arrangements and understandings. Apart from the broad constitutional provision which must be made the two significant questions to be answered are:

(a) if Northern Ireland's attributed revenue is to be supplemented out of voted moneys, how is the need to be measured?

(b) what scope is there, in the context of such financial arrangements, for the development in the Northern Ireland Assembly of the politics of choices and priorities?

86. The Government believes it to be right that the broad objectives by which the financial requirements of Northern Ireland will be judged should be clearly stated. These are:

(a) to accomplish as rapidly as possible, once violence has ended, the task of physical reconstruction and rehabilitation created by the disorders of recent years;

(b) to create a sound base for the economy and to encourage external industrial investment;

(c) to work progressively towards the achievement in Northern Ireland of those standards of living, employment and social conditions which prevail in Great Britain.

87. The overall level of public expenditure in Northern Ireland will be determined in the light of these objectives and will be compatible with public expenditure policies for the United Kingdom as a whole. The total for Northern Ireland, which will have to be acceptable to the Government and Parliament at Westminster, can continue to be settled through the existing arrangements of the Public Expenditure Survey. Within this total, however, Northern Ireland will enjoy a large measure of freedom of decision as regards its choice of priorities and policies in advancing towards the objectives stated above.

88. When the new institutions in Northern Ireland have been formed, the Government will discuss with them how these arrangements should be operated in detail so as to ensure the large measure of freedom of decision which the Government wishes to devolve. This will involve discussing how to divide expenditure (excluding expenditure on law and order, which will be reserved) into two broad categories. The first could consist of the cash social services, assistance to industry and employment as well as agriculture and fisheries. For these services certain limitations upon local freedom of decision will be inevitable. In the case of the cash social services, such as family allowances, unemployment and sickness benefit and pensions, it is difficult to envisage anything other than exact parity with Great Britain. In the case of assistance to industry and employment, consultation with the United Kingdom Government will be necessary to ensure that regard is paid to the general industrial and fiscal policies of the United Kingdom Government and to the problems of the Development Areas in Great Britain. Moreover, the United Kingdom Government cannot abrogate responsibility for the application in Northern Ireland of regional policies which will be the subject of negotiation with the European Economic Community in their application to the United Kingdom as a whole. Somewhat similar considerations apply also in the case of policies for agriculture and fisheries. But the intention will be within agreed guidelines to give Northern Ireland the widest possible measure of discretion and latitude in day-to-day operations.

89. The second category could embrace all other services, including, amongst others, education, health and personal social services, housing, roads, the nationalised fuel industries and local environmental services. These services account for well over half of Northern Ireland's public expenditure. For these services, Northern Ireland would have a high degree of freedom and discretion to determine relative priorities, to reallocate funds from one programme to another and to pursue distinctive policies different from those obtaining in Great Britain, provided always that they are directed towards the broad objectives stated in paragraph 86 and that their cost is kept within the annual totals for this category of expenditure. Within the Northern Ireland administration the Ministry of Finance would continue to play an essential role in co-ordinating and regulating total expenditure and approving individual programmes.

PART 4—A CHARTER OF HUMAN RIGHTS

90. This part examines the constitutional proposals from the standpoint of the individual. It outlines comprehensive provisions which will constitute a charter of human rights for Northern Ireland. In particular, these provisions will supplement existing safeguards with specific statutory restraints against the abuse of legislative and executive powers, with a commitment to establish effective machinery to deal with job discrimination and with the establishment of a Standing Advisory Commission on Human Rights which will keep the whole field under continuous surveillance.

The requirement

91. In any society the average individual, the "man in the street", is probably less concerned with the detailed definition of authority and the law than with its effectiveness in ensuring certain basic standards. These may be summarised as:

(a) the right to freedom within the law, including freedom to advance any political or constitutional cause by non-violent means;

(b) the right to protection under the law, so that freedom is not taken away or diminished by violence, oppression or intimidation by others; and

(c) the right to equality of benefit and opportunity, so that society will deal in an equitable and even-handed way as between one citizen and another, without bias or prejudice.

92. But this pattern of rights has to be matched by a balancing pattern of obligations:

(a) freedom to advance one's own ideas involves a comparable freedom for others to advance theirs, and an acceptance that a minority has no right to force it views upon a majority, as distinct from seeking to convince them;

(b) the right to protection under the law can only be maintained by a willingness to observe the law, including laws with which the individual may disagree, and to support the authorised agencies of law-enforcement;

(c) the right to equality of benefit and opportunity is incompatible with abstention, non-participation or the avoidance of such communal obligations as paying, through taxation or otherwise, for public services available to all.

93. A fundamental problem since the earliest years of Northern Ireland's existence has been the disagreement not just about how Northern Ireland should be governed, but as to whether it should continue to exist at all. Those in Northern Ireland who have supported its continued membership of the United Kingdom have seen themselves as faced by an unremitting campaign to discredit and dismantle the constitutional system. Their opponents, on the other hand, have claimed that valid political opposition has been treated as subversion, and used as a pretext to exclude them from any share of real power or influence in Northern Ireland's affairs.

94. The essence of the new constitutional and other arrangements is fairness; equality of treatment and of opportunity; the absence of bias of any sort. Any person in Northern Ireland, whatever his political beliefs, may advance them peacefully without fear. But no person or organisation can expect to be allowed to claim to be acting politically at one moment and then, given what appears a favourable opportunity, to turn to violence and subversion.

Protection of human rights

95. The protection of fundamental human rights in Northern Ireland will henceforth flow from a number of different sources. The principal protection is that afforded by our parliamentary democratic tradition and by the common and statute law. In addition, the United Kingdom, including Northern Ireland, has accepted the Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. But because important areas of government will be devolved to subordinate institutions, and this involves written constitutional provisions, it is practicable to legislate for the protection of human rights in a way which cannot readily be done elsewhere in the United Kingdom. Thus the constitutional Bill will embody safeguards against religious or political discrimination in the use of the Assembly's law-making powers. The Secretary of State will not recommend Her Majesty in Council to give any discriminatory proposal the force of law; and even if it were to be enacted, its validity could subsequently be considered by the courts.

96. These safeguards will be matched by equally stringent checks against any abuse of the executive power. Any action of a discriminatory character by a Government Department, a local authority or a public body could be made the subject of court action, and the whole range of legal remedies is available to the litigant.

97. Moreover, these specific legislative safeguards are complementary to existing provision in the public sector. In Northern Ireland, as in the rest of the United Kingdom, alleged maladministration by Government Departments can be investigated by a Parliamentary Commissioner for Administration who in some respects has a wider remit than

his United Kingdom counterpart; but in addition Northern Ireland has a unique office—that of the Commissioner for Complaints—responsible for investigating alleged maladministration, including discriminatory practices) in the public sector outside Government, i.e. local authorities and public bodies. To these provisions there will be added appropriate arrangements with an independent element for *ex post facto* reviews of the handling of complaints against the police to conform with those which the Government is planning to introduce in Great Britain.

98. Every public authority is required to operate under a fair employment code; an anti-discrimation clause (policed on an extra-statutory basis by the Parliamentary Commissioner for Administration) is written into all Government contracts, and a breach of its requirements can involve removal for a period from the Government contract list; and the allocation of publicly-provided housing, formerly a matter of much controversy in Northern Ireland, is now the responsibility of a central Housing Executive, with a broadly-based membership and working to objective criteria.

99. A further significant point is that, when on 1 October 1973 the re-organisation of local services associated with the Macrory Report becomes fully effective, the area of public activity outside the control or influence of "central government", as represented either by the Government of the United Kingdom or the Northern Ireland Executive, will be greatly diminished. (As noted in the Paper for Discussion, the preponderant part of complaints of discrimination in the public sector was in the past concentrated against certain activities of a relatively few local authorities.) Moreover, the overall nature of the new constitutional arrangements will be a safeguard in itself, for it is inherent in the entire argument of this White Paper that devolved powers can only be exercised in the future on a broadly acceptable basis. Taken together, the general form of the settlement and the specific constitutional safeguards incorporated within it should amply guarantee fair and unbiased law-making and administration.

100. In the private sector there have been allegations of job discrimination on religious or political grounds. The Government has taken the view that it is essential to proceed in this matter with the goodwill and co-operation of the representative bodies on both sides of industry which have consistently demonstrated their concern for the social responsibilities of industry as well as for the economic well-being of Northern Ireland. Accordingly, the Northern Ireland Regional Council of the Confederation of British Industry, the Northern Ireland Chamber of Commerce and Industry and the Northern Ireland Committee of the Irish Congress of Trade Unions were invited to nominate representatives to join with representatives of Government, under the chairmanship of a Minister of State at the Northern Ireland Office (first Mr. Paul Channon, M.P., and subsequently Mr. William van Straubenzee, M.P.) to consider and report upon the problem. The Secretary of State has now received from the chairman of the Working Party a letter conveying interim conclusions, which are substantially reproduced in the following paragraphs.

101. The Working Party has agreed that its fundamental aim is to promote full equality in all aspects of employment opportunity within the private sector, and has formed the view that such equality of opportunity requires strict fairness and impartiality in all aspects of recruitment, appointment and promotion procedures including, where necessary, programmes of affirmative action designed to promote such ends. Affirmative action may, for example, include enlargement of the traditional field of recruitment or other positive steps designed to demonstrate commitment to full equality in employment practice; but it does not imply the introduction of a formal quota system.

102. With this central objective in mind, the Working Party proposes to recommend three inter-related and mutually reinforcing steps. These are:

(*a*) a declaration of principle and intent which in the first instance would be signed jointly by representative employer and trade union organisations and then promulgated by them for adoption throughout industry and commerce;

(*b*) the preparation and issue of a Guide to Manpower Policy and Practice, based on manifestly fair principles and sound management procedures, for use by all those concerned with recruitment and employment;

(*c*) the establishment by statute of an Agency with powers *both* to investigate individual complaints of discrimination in employment on religious or political grounds, which would be made unlawful, *and* itself to initiate in certain circumstances inquiries into patterns of employment in particular companies or industries or among categories of workers. The Working Party envisages that the Agency should discharge an important advisory and educational role in addition to its functions of investigation or inquiry. Where it was satisfied on inquiry that an unlawful discriminatory practice existed, the Agency would seek, through conciliation and other administrative procedures, to secure voluntary compliance with the law; but it would be able, as a last resort, to apply to the courts for a range of *civil* remedies.

103. The Working Party point out in their letter that the representatives of the interests cannot bind their organisations, and that full consultation will therefore be essential when the final report is published. Nevertheless, the Government regards the interim conclusions of the Working Party as a most significant advance towards effective action in a most important area with the co-operation of responsible organisations on both sides of industry, and, when the necessary consultations have been carried out, will propose to Parliament comprehensive legislation in this field.

104. The assurance of fairness and equality of opportunity, not only in employment but across the whole field of public and private activity, cannot be secured by the work of any single body or agency. Northern Ireland already has its Community Relations Commission and its Parliamentary Commissioner for Administration and Commissioner for Complaints. Now, in addition, a statutory Agency concerned with fair employment practice is envisaged. If further protections at any time prove to be necessary, the right course could be to modify, adapt or use some of this existing machinery or to create new machinery or law. What is important is that there should be effective coordination of the activities of all the agencies working in this field, and that the United Kingdom Parliament and Government should have a continuous flow of information enabling them to discharge their responsibilities for human rights in Northern Ireland, as in every other part of the United Kingdom. To that end, provision will be made in the constitutional Bill for the Secretary of State to appoint a Standing Advisory Commission on Human Rights for Northern Ireland, charged with the duty of keeping in touch with the activities of all public agencies active in the field of human rights and of producing an annual report, to be laid both before Parliament and the Northern Ireland Assembly, including recommendations as to any further statutory provision which it considers should be made. The Commission would have a relatively small but high-level membership, including the Chairman of the Community Relations Commission and of the proposed fair employment Agency, and the holder or holders of the offices of Parliamentary Commissioner for Administration and Commissioner for Complaints.

The acceptance of obligations

105. In circumstances where the individual will be protected by a comprehensive charter of human rights, the community as a whole can properly seek from him an acknowledgement of its own rights. He has the obligation to bear his share of the collective burdens which are a part of civilised life. He cannot continually call for "law and order", yet be reluctant to observe laws he dislikes and hostile to those who protect public order. He cannot demand every benefit which society can offer, yet fail to play his part in paying for those benefits. Private armies; failure to co-operate with the police by withholding information on violent crime; civil disobedience; rent and rates strikes—all of these developments are incompatible with an equitable pattern of rights and obligations as between society and the citizen. A prompt end to these practices is the contribution which the individual can make to the success of the settlement.

PART 5—RELATIONS WITH THE REPUBLIC OF IRELAND

106. When the Paper for Discussion referred to the "Irish dimension" of the Northern Ireland situation, it was not making a political judgment but acknowledging an evident fact; that Northern Ireland is affected in numerous ways by what happens in the Republic of Ireland, and that the reverse is equally true.

107. At this point it may be appropriate to set out again the conclusions reached in Paragraph 78 of the Paper for Discussion:

"Whatever arrangements are made for the future administration of Northern Ireland must take account of the Province's relationship with the Republic of Ireland: and to the extent that this is done, there is an obligation upon the Republic to reciprocate. Both the economy and the security of the two areas are to some considerable extent inter-dependent, and the same is true of both in their relationship with Great Britain. It is, therefore, clearly desirable that any new arrangements for Northern Ireland should, whilst meeting the wishes of Northern Ireland and Great Britain, be so far as possible acceptable to and accepted by the Republic of Ireland, which from 1 January 1973 will share the rights and obligations of membership of the European Communities. It remains the view of the United Kingdom Government that it is for the people of Northern Ireland to decide what should be their relationship to the United Kingdom and to the Republic of Ireland; and that it should not be impossible to devise measures which will meet the best interests of all three. Such measures would seek to secure the acceptance, in both Northern Ireland and in the Republic, of the present status of Northern Ireland, and of the possibility—which would have to be compatible with the principle of consent—of subsequent change in that status; to make possible effective consultation and co-operation in Ireland for the benefit of North and South alike; and to provide a firm basis for concerted governmental and community action against those terrorist organisations which represent a threat to free democratic institutions in Ireland as a whole."

108. These conclusions received a general welcome from widely representative spokesmen of political and other interests in the Republic of Ireland. It is now possible to make progress in a way which could significantly reduce or eliminate any remaining points of friction in the relationship between the peoples of these islands.

109. It is noteworthy that virtually all the Northern Ireland political parties have envisaged some sort of scheme for institutional arrangements between North and South

which many described as a "Council of Ireland", although there were different concepts of such a Council, and in some cases an emphasis upon conditions which would have to be met before it could operate successfully.

110. As far as the United Kingdom is concerned, it favours and is prepared to facilitate the formation of such a body. The constitutional proposals would permit the new Northern Ireland institutions to consult and co-ordinate action through a Council of Ireland. There are undoubtedly many matters of substantial mutual interest such as tourism, regional development, electricity and transport.

111. The widespread interest which exists in the idea of a Council is a firm basis for moving to a specific discussion of the matter. There have been arguments that the Government should at this stage, in consultation with the Republic of Ireland, write into the constitutional Bill for Northern Ireland a complete scheme for such a Council. These arguments are, however, unrealistic. If a Council is to be set up not merely as a statutory concept, but as a useful working mechanism in North-South relations, it must operate with the consent of both majority and minority opinion in Northern Ireland, who have a right to prior consultation and involvement in the process of determining its form, functions and procedures. There are clearly a number of different levels at which such a Council might operate, including the inter-governmental and the interparliamentary.

112. True progress in these matters can only be achieved by consent. Accordingly, following elections to the North Ireland Assembly, the Government will invite the Government of the Republic of Ireland and the leaders of the elected representatives of Northern Ireland opinion to participate with them in a conference to discuss how the three objectives set out in the Paper for Discussion may best be pursued, that is:

(*a*) the acceptance of the present status of Northern Ireland, and of the possibility—which would have to be compatible with the principle of consent—of subsequent change in that status;

(*b*) effective consultation and co-operation in Ireland for the benefit of North and South alike; and

(*c*) the provision of a firm basis for concerted governmental and community action against terrorist organisations.

113. These objectives are inter-related. If and when firm agreements are reached, consideration can be given to the means by which they should be formally adopted as between sovereign states. But, consistent with the principle of consent, the first stage clearly must be discussions involving all the parties.

114. Under the proposals of this White Paper, certain important functions of government in Northern Ireland will be reserved to the United Kingdom Government rather than developed to new institutions in Northern Ireland. Some of these relate to matters on which consultation and agreed coordinated action (e.g., in relation to the suppression of terrorism) is of the first importance, and this will involve consideration as to how the United Kingdom authorities can best be associated with discussion of these subjects either within a Council of Ireland concept or otherwise. Moreover, even within the area of powers devolved to Northern Ireland institutions, there will often be United Kingdom interests or repercussions, relating for instance to the provision of finance from United Kingdom sources or to international obligations, including those arising from membership of the European Economic Community.

115. It may be said that these proposals leave much unresolved; and so they do. But it would require either exceptional vision or exceptional foolhardiness to forecast the future development of relationships involving North and South in Ireland, the United Kingdom, and the British Isles and Europe. But there is much which can usefully be done to defeat terrorism by concerted action throughout Ireland, and to serve the economic and social interests of all the people, North and South.

PART 6—SUMMARY AND CONCLUSION

Summary of Proposals

116. There follows a broad summary of the detailed proposals made in this White Paper.

(i) A comprehensive constitutional Bill will be presented to Parliament with the objective of bringing new permanent arrangements for the government of Northern Ireland into effect within the second year of the direct rule provisions of the Northern Ireland (Temporary Provisions) Act (para. 30).

(ii) The Bill will declare that Northern Ireland will remain part of the United Kingdom for as long as that is the wish of a majority of its people (para. 32).

(iii) As part of the United Kingdom, Northern Ireland will maintain its existing representation of twelve Members in the United Kingdom Parliament (para. 33).

(iv) There will be a Northern Ireland Assembly of about 80 members elected on this occasion by the single transferable vote method of proportional representation applied to the twelve Westminster Constituencies (para. 39).

(v) Elections to the Assembly will be held as soon as possible (para. 40).

(vi) The Assembly will have a fixed term of four years (para. 41).

(vii) The Assembly itself will elect its presiding officer and work out its own detailed methods and procedures (paras. 42 and 43).

(viii) There will be committees of the Assembly, whose members will reflect the balance of parties, associated with each Northern Ireland Department. The Chairman of these committees who collectively will form the Executive will be the political Heads of the Departments and the committees will be associated with the development of new law and policy (para. 44).

(ix) Between the election of the Assembly and a devolution of powers the advisory functions of the Northern Ireland Commission will be undertaken by a committee composed of members of the Assembly (para. 47).

(x) There will continue to be a Secretary of State for Northern Ireland who will be a member of the United Kingdom Cabinet. He will undertake the necesary consultation leading to the devolution of powers, administer certain services reserved to the United Kingdom Government and be responsible for United Kingdom interests in Northern Ireland (paras. 48–50).

(xi) The purpose of the Secretary of State's consultations with parties in the Assembly will be to find an acceptable basis for the devolution of powers which will meet prescribed conditions, in particular as to the formation of an Executive which can no longer be solely based upon any single party, if that party draws its support and its elected representation virtually entirely from only one section of a divided community. Members of the Executive will be required to take an appropriate official oath or make an affirmation (paras. 51–53).

(xii) The United Kingdom Parliament will continue to have the power to legislate in respect of any matter whatever in Northern Ireland (para. 54).

(xiii) The Assembly, after a devolution of powers, will be able to legislate in respect of most matters affecting Northern Ireland. There will, however, be a limited range of matters on which it may legislate only with agreement and certain others which, because of their national importance, will be excluded from its legislative competnce. Where agreement is required, a measure, having been passed by the Assembly, will be laid before the United Kingdom Parliament (paras. 56 and 57).

(xiv) Measures of the Northern Ireland Assembly will have the force of law when approved by the Queen in Council (para. 57).

(xv) Since the Government has no higher priority than to defeat terrorism and end violence, Parliament will be asked to approve specific emergency legislation for the more effective combating of terrorism, including giving effect to the recommendations of the Report of the Diplock Commission. This will make possible the repeal of the Special Powers Act and the re-enactment by the United Kingdom Parliament of those provisions which are regarded as essential (paras. 58–62).

(xvi) The constitutional Bill will debar the Assembly from passing legislation of a discriminatory nature and from legislating to require an oath or declaration as a qualification for employment, office, etc., where this is not required in comparable circumstances in the rest of the United Kingdom. An Order-In-Council will shortly be brought forward to remove existing obligations which conflict with this principle (e.g. in relation to the requirement for a statutory declaration of allegiance by local government councillors) (paras. 63 and 64).

(xvii) The Bill will provide for the discharge of executive functions in Northern Ireland on the following broad basis:

(*a*) in general United Kingdom Ministers other than the Secretary of State will retain their existing responsibilities in relation to Northern Ireland (para. 66);

(*b*) certain matters previously the responsibility of the Northern Ireland Government will be permanently reserved to the United Kingdom Government (that is, the appointment of certain judges, magistrates, etc.; the conduct of public prosecutions; elections and the franchise; and exceptional measures in the law and order field to cope with emergency situations) (para. 67);

(*c*) certain other matters, notably in the "law and order" field, will be reserved to the United Kingdom Government because of the current security situation. Arrangements will, however, be made to secure the effective representation of local interests in relation to such matters, including a general advisory role for the Northern Ireland Executive itself, the addition of elected representatives to the Police Authority and the creation of links between District Councils and the police in their areas (paras. 68–70); and

(*d*) responsibility for all other matters will rest with the Northern Ireland Executive (para. 71).

(xviii) The Executive of Northern Ireland will consist of the political Heads of Northern Ireland Departments (including a central secretariat whose Head will preside over the Executive). Their formal appointment will be effected by the Secretary of State in accordance with any agreed understanding as to the formation of the Executive (paras. 72 and 73).

(xix) The Northern Ireland Civil Service will remain a distinct service under the Crown (para. 76).

(xx) The constitutional Bill will forbid executive action of a discriminatory nature by central and local government and other public bodies (para. 77).

(xxi) There will be no weakening whatever in Northern Ireland's links with the Crown. Where executive power is not devoted to the Northern Ireland Executive, it will be exercised either by The Queen in Council or by Her Majesty's Government. There will cease to be an office of Governor of Northern Ireland (para. 81).

(xxii) No further appointments will be made to the Privy Council of Northern Ireland para. (82).

(xxiii) The Bill will include financial provisions of a straightforward character de-

signed to accomplish as rapidly as possible the task of physical reconstruction, to create a sound base for the economy and to help Northern Ireland achieve those standards of living, employment and social conditions which prevail in Great Britain (paras. 83–86).

(xxiv) The Government will discuss with the Northern Ireland institutions what arrangements can be made to provide them with a large measure of freedom to determine expenditure priorities (paras. 88 and 89).

(xxv) The Bill will include proposals to provide the individual with the safeguards and protections of a charter of human rights. The statutory safeguards against abuse of legislative and executive powers have already been described (para. 95).

(xxvi) Appropriate arrangements will be made for *ex post facto* reviews of the handling of complaints against the police, with an independent element, to conform with those which the Government is planning to introduce in Great Britain (para. 97).

(xxvii) The Government will present to Parliament proposals to deal with job discrimination in the private sector (paras. 100–103).

(xxviii) The Bill will provide for the appointment by the Secretary of State of a Standing Advisory Commission on Human Rights (para. 104).

(xxix) In the context of the provisions constituting a charter of human rights, society is entitled to expect an acceptance by individual citizens of their obligations to the community as a whole (para. 105).

(xxx) The Government favours, and is prepared to facilitate, the establishment of institutional arrangements for consultation and co-operation between Northern Ireland and the Republic of Ireland (para. 110).

(xxxi) Progress towards setting up such institutions can best be made through discussion between the interested parties. Accordingly, following the Northern Ireland elections, the Government will invite representatives of Northern Ireland and of the Republic of Ireland to take part in a conference to discuss how best to pursue three inter-related objectives. These are the acceptance of the present status of Northern Ireland, and of the possibility—which would have to be compatible with the principle of consent—of subsequent change in that status; effective consultation and co-operation in Ireland for the benefit of North and South alike; and the provision of a firm basis for concerted governmental and community action against terrorist organisations (para. 112).

(xxxii) The United Kingdom Government must be associated with discussion of subjects touching upon its interests (para. 114).

Conclusion

117. Under the proposed settlement, Northern Ireland will continue to have a greater degree of self-government than any other part of the United Kingdom. While benefitting in full measure from all the practical advantages of the British connection—for the proposals embody political, financial and economic arrangements which are in general both flexible and generous—Northern Ireland will continue, to a very large extent, to make its own laws and administer its own services, particularly in relation to such crucial issues as employment, housing, development of the regional infrastructure and education.

118. These proposals are designed to benefit the law-abiding majority in both communities, who may have conflicting views on the ultimate constitutional destiny of Northern Ireland, but who seek to advance those views by peaceful democratic means alone, and have strong mutual interests in making social and economic progress. The proposals provide an opportunity for all such people to stand together against those small but dangerous minorities which would seek to impose their views by violence and coercion, and which cannot, therefore, be allowed to participate in working institutions they wish to destroy.

119. To all those who support the continued union with Great Britain, the proposals offer firm assurances that this union will endure and be defended, for as long as that is the wish of a majority of the people of Northern Ireland. They seek to strengthen the democratic institutions of Northern Ireland by winning for them that wide-ranging consent upon which the government of a free country must rest. They commit the whole United Kingdom to a major effort to narrow the gap in standards of living, employment and social conditions between Northern Ireland and Great Britain.

120. To all those who seek the unification of Ireland by consent, but are genuinely prepared to work for the welfare of Northern Ireland, the proposals offer the opportunity to play no less a part in the life and public affairs of Northern Ireland than is open to their fellow citizens.

121. To all, whatever their religion or their political beliefs, the proposals extend effective protection against any arbitrary or discriminatory use of power.

122. These, then, are the Government's proposals to Parliament, to the country, and above all to the people of Northern Ireland themselves for a way forward out of the present violence and instability. At every point, they require the co-operation of those people themselves if they are to have any prospect of success. They can be frustrated if interests in Northern Ireland refuse to allow them to be tried or if any section of the community is determined to impose its will on another. It should now be perfectly clear that there are prescriptions for disaster. The Government believes, however, that the majority of the people of Northern Ireland have an overwhelming desire for peace and that they will accept the opportunity which these proposals offer.

SENATOR HOWARD BAKER DISCUSSES THE EVOLUTION OF ENVIRONMENT PROTECTION LEGISLATION

Mr. BUCKLEY. Mr. President, the distinguished ranking Republican member of the Committee on Public Works, Mr. BAKER, spoke last week at the annual convention of the American Paper Institute in New York City.

Senator BAKER's remarks concentrated on an explanation of the evolutionary development of pollution control legislation in the Congress, culminating in the passage of the Clean Air Act Amendments of 1970 and the Federal Water Pollution Control Act Amendments of 1972. In addition, Senator BAKER discussed several possible options in the Federal approach to the control of solid waste pollution, a challenge that will consume much of the Public Works Committee's efforts later in this session of the Congress.

Mr. President, because of the significance of Senator BAKER's remarks on these subjects, as well as his evaluation of differences between the Congress and the executive agencies, I ask unanimous consent that a copy of the speech be printed at this point in the RECORD.

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

EXCERPTS OF REMARKS BY U.S. SENATOR HOWARD BAKER TO THE AMERICAN PAPER INSTITUTE ON TUESDAY, MARCH 13, IN NEW YORK CITY

It will, no doubt, be recorded that the United States in the twentieth century achieved a degree of technical expertise and industrial capacity that improved the material well-being of our citizens.

It must not also be said that in doing so we squandered our natural resources, and in raising our standard of living we contributed to lowering our quality of life.

Only in this decade has environmental quality truly become a cause of national concern. Through the nearly two hundred years of our history, we have depended primarily on the natural recycling system of our air and water to absorb the large quantities of the pollutants as by-products of our industrial development.

Our growing population and burgeoning industrial economy has in this century put strains on our natural purification system. The bill for years of neglect is now coming due, itemized in the headlines chronicling eco-catastrophes.

With the growing, almost universal awareness of the problems of the environment, it might seem that the solutions are simple and well defined. Being against pollution is just about as easy and inevitable as being for the traditional embraceables of apple pie, motherhood, and the American Flag.

Recent public opinion polls show that the American people find it easier to agree about the necessity of combating pollution than about any other public issue, so making real headway on such a vital issue might seem to be a hopeful prospect.

Unfortunately, agreement in principle doesn't always translate into agreement in practicalities. Hard choices must be made by all segments of our society if environmental awareness is to have any real impact on our society.

Television commercials and slick magazine advertisements citing corporate concern over the environment are all very nice, but they must be accompanied by even greater outlays for pollution abatement.

While substantial sums are involved, the expenditures for environmental action are far less than the costs of continued pollution. We must channel the growth of technology to produce not further environmental problems, but new and better solutions.

I have been most encouraged by the significant and sustained efforts of the paper and pulp industry to act affirmatively in improving pollution control.

Nearly half of all capital expenditures at primary mills last year went for pollution abatement. The industry's annual budget for controlling pollution grew from $138 million in 1969 to $203 million in 1971, and rose to $414 million in 1972.

A special study published last year by the Council on Economic Priorities—a respected independent group that has certainly proven to be no drum beater for the paper industry—reported that paper and pulp manufacturers are "years ahead of other industries" in making progress against pollution.

The paper and pulp industry was one of the first which had to confront the challenge of massive environmental clean-up. The reasons were many, and so were the incentives.

Because pollution from mills is often highly visible and objectionally odorous, paper became a focal point of public and governmental demands for improvement. Because the industry's future is contingent on continual renewal of its raw material and an abundant supply of other natural resources, it had a special concern for improvement. Because the technology of pollution control is largely available and proven in many areas where it is most effective, it can be applied with relative speed and efficiency.

While there are still significant problem areas, especially when older plants are considered, impressive strides have been made to meet environmental goals.

More than 90 percent of paper mills now provide effluent treatment on site or in a municipal system. Other advances include ex-

panded recovery capacity for emission control, improved treatment for odorous gas, and upgrading of water quality protection facilities.

The paper industry has taken the lead in increasing the recycling of waste material and in self generation through the utilization of process wastes to augment external fuels. All these expenditures represent a tangible investment in a better environment.

I believe that the progress of the paper industry must be related to the other factors in the environmental complex, factors involving the interrelationships of government, individuals, and industry.

What I would like to do is discuss for a few minutes the philosophy of the approach of Federal law on pollution control. I believe this is important because there has been a significant shift recently—an evolutionary shift away from ambient controls toward effluent controls.

We in the Congress have recognized that there is no readily definable linear relationship between a particular effluent source and the quality of the air or water.

The water quality standards program is limited in its success. After five years, many states do not have approved standards. Officials are still working to establish relationships between pollutants and water uses. Time schedules for abatement are slipping away because of failure to enforce, lack of effluent controls, and disputes over Federal-State standards.

The Committee adopted this substantial change because of the great difficulty associated with establishing reliable and enforceable precise effluent limitations on the basis of a given stream quality. Water quality standards, in addition to their deficiencies in relying on the assimilative capacity of receiving waters, often cannot be translated into effluent limitations—defendable in court tests, because of the imprecision of models for water quality and the effects of effluents in most waters.

Under this Act, the basis of pollution prevention and elimination will be the application of effluent limitations. Water quality will be a measure of program effectiveness and performance, not a means of elimination and enforcement.

I would like to explain why Congress moved in the direction it did. From a practical point of view, I recognize that in some cases such a change may have no effect whatever on the level of control required at one of your plants. In other cases, the effect may be vast. I hope I will be able to lay down some of the thinking and reasoning that went into this new approach.

When I came to the Senate in 1967, the approach of the Federal Government toward pollution control can best be summed up as one of guidance. The Federal Government undertook a lot of research, it issued criteria documents, it approved State plans for abating pollution, and it provided some relatively modest sums—at least in today's multi-billion dollar terms—toward the construction of waste water treatment plants. This set of laws left to the States the basic responsibility of deciding how clean they wanted to make their air and water.

A marked change in the Congressional point of view began to evolve in 1970, with the adoption of the Clean Air Act Amendments. Until that point, air quality decisions had been based essentially on ambient air quality, rather than emission levels. In other words, the concern of the Federal Government, both in the Congress and Executive, was to see to it that the air we breathed in each of our cities and rural areas was relatively free of pollutants, not to necessarily impose any restrictions on any particular source.

That general approach was continued in the mandating of national ambient air quality standards for stationary sources. But toward the conclusion of our development of the bill in the Senate, we came to realize that the ambient approach contained many unfair aspects, and was far from an assured tool to achieve a specific goal. It requires elaborate air-quality modeling that in many cases was often imprecise at best. And I need not point out to you the imbalances that such an approach causes to industry, where a plant in a heavily polluted city must have to install very strict controls, while a rural competitor might not have to install any controls whatsoever.

Title II of the same bill mandated, as most Americans know, a 90% reduction in the pollution level of the 1975 model-year automobiles. This approach quite obviously is an entirely different one from the approach on ambient air standards. It says that all new cars—whether their owners live in urban Los Angeles or the windswept plains of central Kansas—must be built to the same level of emissions control.

From a practical point of view, it was an easy new direction to take. The auto industry had been working under a less stringent national emissions standard, and the industry stated it did not want to have to meet five or six differing pollution control standards. And since cars are mobile and Kansas cars are driven to Los Angeles, it was logical to set the standard at the most stringent level.

Personally, I thought in 1970 that it would have been far more practical and rational if we had established national emission standards on all stationary, as well as mobile, sources.

Having laid that framework from an evolutionary shift, the Congress moved relatively rapidly to implement it in the development of the 1972 amendments to the Federal Water Pollution Control Act. That 1972 bill received as much attention as any piece of legislation in recent years. In that broadest possible terms—the bill says that industry must install abatement systems sufficient to control pollution to the best possible extent, although over a phased period of time. The first phase involved the installation of the best practicable technology by 1977. The second was the attainment by 1983 of the best available control technology.

I know there is a lot of controversy that continues over the bill's stated goal of no discharge by 1985. That goal and its ramifications for industry and the public will be given very careful attention by you, by the Administration, and by many concerned citizens in the years ahead. I can assure you that as a member of that 15-member National Study Commission, established by the 1972 Act to evaluate the technical, economic, social, and environmental implications of the 1983 standard, that we shall also seek to evaluate the 1985 goal.

It is fair to say, I believe, that there is a philosophical split between the Congress and the White House on many of these issues. Certainly that difference was demonstrated in part by the President's decision to veto the water pollution bill last Fall. But I believe that the difference is a more basic one: where responsibility should be placed. Should pollution control be essentially a local responsibility, or should it involve the imposition of strong Federal requirements, together with major infusions of Federal money.

Such a philosophical division can probably best be shown in the handling of solid waste pollution. The Congress this year intends to re-evaluate the Federal program to handle solid waste pollution. There are a variety of options that we in the Public Works Committee and in the Senate as a whole, have to evaluate.

First, there is the Administration proposal which the President discussed in his recent environmental message, and which I was honored to introduce last week. This bill sets up a regulatory framework for controlling the disposal of the most hazardous wastes—arsenic, mercury—but it does not seek to handle the problems of municipal trash. From the point of view of the paper industry it would seem to me that this bill would have a relatively modest regulatory impact, at least outside of your processing plants.

A second approach is a bill that my colleague Senator Ed Muskie is developing. This bill will in general take an entirely different approach—seeking tight regulation on a broad range of wastes. While I cannot speak for Senator Muskie, I know that many of you have seen copies of earlier versions of this bill, which would set national standards for packaging materials used for food, beverages, and some other consumer products, useful life standards on automobiles and other types of major consumer products, plus a major new Federal loan program to assist communities in the construction of municipal waste recycling facilities.

Some of my friends in the tin-can and plastics industries tell me that the Muskie packaging-standards language would effectively eliminate all but paper packaging, an allegation you might want to ponder.

A third approach is the brainchild of another of my colleagues on the Public Works Committee, Senator Bob Stafford of Vermont. His concept in its most simplified terms is this: If you made it, you've got to take it back in its waste stage.

Carried to an extreme, such a proposal might require a paperboy to pick up yesterday's used newspaper when he delivers today's fresh paper. In a less extreme form, there might be some logic to requiring that the auto industry, the tire industry, the appliance industry and others be responsible for the ultimate disposal of recycling of its consumer products once they have outlived their usefulness.

A fourth approach might involve the changes in the tax system, which indisputably favors the industrial use of virgin materials instead of recycled materials. While taxes are outside the realm of the Committee of Public Works, I believe such an evaluation merits careful attention.

Recycling may not be the wave of the future, but it certainly carries with it many advantages in resource management and the enhancement of our environment.

We have a great opportunity, for example, to utilize refuse as a fuel, I believe. A pound of municipal garbage contains as much as 5,000 BTU's of energy, over 25 percent of the heat energy in a pound of fuel oil, or as much as 40 percent of the heat energy of a pound of coal.

The Environmental Protection Agency recently published an important study on resource recovery. Using figures compiled by the Midwest Research Institute, EPA came to the conclusion that for the paper industry, the manufacturing of 1,000 tons of pulp from repulped waste paper would mean 61 percent less water pollution, 70 percent less air pollution, and a 70 percent reduction in energy consumption, compared with the manufacturing of a similar 1,000 tons of unbleached kraft pulp.

A similar range of savings are available in other industries. To make 1,000 tons of steel, the steel industry could reduce its energy use by 75 percent, its air pollution by 86 percent, and its water pollution by 76 percent, if it used exclusively scrap steel rather than virgin ores.

We in the Congress have some tough decisions ahead. We must encourage recycling without disastrous impact on our basic industries.

We must act not because of any desire to impose punative restrictions, but because the need to plan more effectively for the better management of our resources and our pollution. We must not act in haste, but we cannot turn our backs on the assumption that the challenge will solve itself.

I want to thank you for this opportunity to be with you and to discuss with you the role of industry and government in controlling pollution. The pulp and paper industry has made an excellent beginning in cleaning up our environment. Your continued good corporate citizenship will pay real dividends for America's future.

REGULATING HUMAN EXPERIMENTATION

Mr. HUMPHREY. Mr. President, little is known about the subject of human experimentation. Despite the fact that $600 million was spent last year by the Federal Government, we have no way of knowing how the money was used. It is the responsibility of Congress to see that these funds are used wisely and humanely.

A March 21 New York Times article reports that a citizens' panel commissioned by the Federal Government to study laws regulating medical experimentation involving humans is recommending that Congress form a National Human Investigation Board with regulatory authority for at least all federally sponsored research. The nine-member panel was formed last summer following disclosure of the controversial Tuskegee study.

Mr. President, the Congress should move immediately to implement the panel's recommendations. Thousands of lives are affected by unregulated experiments every day. Earlier this year, I introduced the "National Human Experimentations Board Act" (S. 934). Now the citizens' panel has confirmed the great need for such legislation.

Mr. President, I ask unanimous consent that the New York Times article be printed in the RECORD.

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

REGULATION URGED IN HUMAN TESTING—PANEL CALLS FOR CONTROLS ON FEDERALLY AIDED RESEARCH

(By Nancy Hicks)

A citizens' panel commissioned by the Federal Government to study laws regulating medical experimentation involving humans is recommending that Congress form a National Human Investigation Board with regulatory authority for at least all federally sponsored research, which totaled 600-million last year.

The study group was empaneled last summer following the disclosure of a 40-year-old syphilis study involving 600 black men, most of whom had the venereal disease but went untreated so that doctors could study the long-term effects of syphilis on the body.

The disclosure was followed by cries of "genocide" by many health professionals, who felt that the Public Health Service should not have sponsored the experiment, which was conducted in Tuskegee, Ala.

Last August, Dr. Merlin K. DuVal, former Under Secretary of Health, Education and Welfare, assembled a nine-member panel, which was divided into three committees.

ETHICAL ASPECTS STUDIED

One committee was to decide whether the experiment, set up 10 years before the discovery of penicillin, was ethical. It also had to decide whether or not it was ethical to continue to withhold treatment after the discovery of the drug.

Another committee studied whether the experiment, which was still in progress last summer, should continue. The group decided the research should be terminated.

The last group was charged with reviewing current H.E.W. policies to see if they adequately protected participants in experiments and to recommend any needed changes.

That committee met in New York yesterday to review the final draft of its findings, including four recommendations for action. These findings will be presented to the full committee at a meeting at the National Institutes of Health next Wednesday.

NEED FOR PROTECTION CITED

There is currently no uniform policy for the protection of subjects involved in research, the committee reviewing H.E.W. policies said. "The lack of uniformity in H.E.W. policy serves to produce confusion and to deny some subjects the protection they deserve," it wrote in its report.

To remedy this condition, the committee made recommendations which include the following:

A body—possibly called the National Human Investigation Board—be set up by Congress to regulate at least all federally supported research involving human subjects. This board would operate independently of H.E.W. and would include representatives from the public.

The board should develop a "no fault" clinical research insurance plan to make certain that subjects in experimentation are compensated, if harmed. The insurance would be mandatory for all institutions participating in federally supported research.

The existing policy formulation and review committees should be changed to make maximum use of prior review of proposed projects.

MASSACHUSETTS CONSUMER COUNCIL SUPPORTS CONSUMER PROTECTION AGENCY BILL

Mr. KENNEDY. Mr. President, yesterday the Reorganization Subcommittee of the Government Operations Committee and the Consumer Subcommittee of the Commerce Committee began hearings on S. 707, which would establish a Consumer Protection Agency. I am a cosponsor of this bill and believe that its enactment is necessary to give consumers a voice in Federal agency proceedings—a voice which has too rarely been heard in the past.

At yesterday's hearings testimony was heard from Prof. David Rice, of Boston University, representing the Massachusetts Consumer Council. Professor Rice's comments make it clear that the Consumer Protection Agency must represent consumers as a full participant in all administrative decisionmaking affecting their interests, and that neither amicus representation, nor limitation of appearances to formal proceedings under the Administrative Procedure Act, would render adequate protection for these consumer interests. As Professor Rice observes, S. 707—

Provides extensive safeguards against the feared irresponsibility of an independent consumer advocate and the feared disruption and delay in decision-making that might result fom effective paticipation on behalf of consumers.

Mr. President, I ask unanimous consent that Professor Rice's exceptionally thoughtful and balanced statement supporting enactment of S. 707 be inserted in the RECORD at this point.

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

TESTIMONY OF DAVID A. RICE

Mr. Chairman and Members of the Subcommittee: I welcome the opportunity to appear today to testify in support of Senate 707 and, in particular, the creation of an independent Consumer Protection Agency. As a law professor at Boston University, my academic and related activities over the past seven years have focused on consumer problems and particularly upon the administration of laws affecting consumers. In addition, I believe that my practical experience as a public member of the Consumers' Council of the Commonwealth of Massachusetts lends support to the views that I will present today.

My initial intention in appearing today was to present my personal thoughts on Senate 707. Since making that initial commitment, the Massachusetts Consumers' Council has indicated a desire that my views also be recorded as those of the Council and that my appearance be on its, as well as my, behalf.

I. THE NEED FOR CONSUMER INTEREST REPRESENTATION

Almost all formal government decision-making and much informal government decision-making is, in the broad sense of the term, adversarial. The adversary model in which countervailing facts and views are considered in the process of reaching decisions is particularly descriptive of administrative agencies as well as courts.

The Administrative Procedures Act mandates that the federal agencies through which most federal legislation is implemented and administered employ the adversarial model in decision-making by requiring that all formal decisions and their supporting findings be based upon the record developed in agency adjudicative and rule-making proceedings. In informal decision, the model is approximated by heavy reliance upon information and views supplied to the agency by interested persons as well as upon information and views generated from within the agencies.

The critical fact for today's hearings on Senate 707 is that the views presented to the vast array of federal agencies—when it is in fact known that action by the agency is pending—are those of organized or readily organizable interests with a direct and substantial economic interest that may be affected by agency action. Unrepresented, and thus typically not considered, except to the extent that agency staff may present facts or views contrary to those of the actual participants, are the interests of consumers and others whose individual economic interest in any specific action is too small to warrant retention of legal counsel and expert witnesses to represent that interest. And this assumes, of course, that the consumer has somehow been able to determine how to keep track of what is happening within each of the agencies whose actions may affect his or her interests.

Absent representation of such views, agency policy and decision-making predictably tends over time to reflect the needs and views of those who have and can afford access to the processes of the agencies. That this has happened is well-documented. It has happened because only aggregate economic interests can efficiently and viably represent themselves in the adversary forums of government.

Effective direct or surrogate representation of consumers is the essential missing ingredient. My experience with the Massachusetts Consumers' Council is that where regulation exists a need also exists for active advocacy on behalf of consumers. No single consumer or small group of consumers can afford to contest public utility rate increase applications or assume the costs in time and other resources of participation in extended pro-

ceedings concerning the renegotiation of the Blue Cross-Blue Shield contract with the Massachusetts Hospital Association. Yet it is consumers' dollars that are the subject of and subsidy for such proceedings.

Until the Council began this year to intervene in such matters, no effective voice for consumers was heard with respect to the often complex factual and legal aspects of the basic economic issues before the agencies. In each situation, of course, the largest "constituency" directly affected by the proceedings were the consumers of Massachusetts. In each case, the very expenses incurred by the business or industry were paid largely by consumers through the price mechanism.

My experience demonstrates that when contending positions, all being advocates' positions, are presented to a decision-maker the end product is a decision that is based upon consideration of a broader range of factors. Such decisions are more reflective and balance is that the decisions seldom adopt terests that may be affected; the sign of balance is that the decisions seldom adopt *in toto* any particular advocate's position but, instead, accommodate the competing interests in a truly independent decision.

In keeping with the adversary concept, the Massachusetts Consumers' Council is as partisan for the interests of consumers as the regulated enterprise or industry is for itself. This does not mean that the Council does, or the Consumer Protection Agency should, eschew rationality. It means only that there is a need for effective representation of consumers as well as the regulated and confirms the emphasis in our society that the opportunity for as many views as possible to be heard and considered together is an essential ingredient of fair and reasoned decision-making. That the consumers' interests are "advocated" is not a matter over which one ought to be concerned; the interests of industry are now "advocated" before federal agencies, an expression of industry self-interest consistent with the economist's utility maximizing model of behavior for all rational economic units.

II. RESPONSE TO THE THEORETICAL OBJECTIONS TO A CPA

My paradigm for the anti-CPA view is the article by Professor Ralph K. Winter, Jr. entitled "The Consumer Advocate Versus the Consumer." [1]

I perceive that Professor Winter premises his entire paper on three initial devices: first, he synthesizes a myopic, monolithic, single dimensional "consumer advocate" as a strawman; second, he invests the Administrator provided for in Senate 707 with all of the characteristics of his strawman; third, he implicitly assumes that administrative decision-making follows the single fact adjudication model in which a position or argument is inevitably accepted or rejected in its entirety rather than considered as merely one factor among many in reaching a decision.

With this model set, Professor Winter elucidates the limits and horrors of his consumer advocate in operation. While characterizing the views of his hypothetical consumer advocate as "bleak" he artfully projects a "bleak" image of a consumer advocate that is not at all representative of most persons in the so-called consumer movement with whom I am acquainted or of whom I am aware. In the final analysis he characterizes the advocate as essentially irresponsible and invests the CPA Administrator with this character and, implicitly, suggests that any agency official who considers arguments or evidence of the Administrator will necessarily be adopting wholesale irresponsible positions.

What bothers Professor Winter the most is the conceded fact that the interests of consumers are not monolithic and, therefore, cannot be precisely defined and represented in a manner that obviates the possibility that the Administrator's position is inconsistent with the interests of some individual consumers. I concur that this ideal is unattainable; I do not agree that this leads to the conclusion that all interests of consumers should, therefore, go unrepresented. Even in the very unlikely event that the person appointed as the Administrator is the bleak, ascetic strawman invented by the mind and pen of Professor Winter, agency decision-makers who seldom do reject or accept any one participants view in its entirety will benefit in decision-making from exposure to the existence of interests and views different than those that are now almost exclusively represented.

Past nonparticipation of consumers in agency proceedings or in a marketplace revolt provide further evidence in Professor Winter's view of the lack of any need for consumer representation by an Administrator. He points out that everything is nearly alright in the eyes of most all consumers or these events would not have in fact occurred. Moreover, he places full trust in industry to be responsive to whatever interests consumers may have because service of the interests of consumers best serves the profit interest of industry.

The micro-economic model Professor Winter describes is an economic system that is non-existent in many material respects. Most modern economists concede that the model is no more than an elementary construct that can serve only as an initial point of departure. Moreover, consumers should not be left to the reliance on industry-responsive decision-makers to safeguard the interests of consumers when Professor Milton Friedman, the most famous spokesman for Professor Winter's perspective, espouses that "corporate social responsibility" is nonsense—that the only responsibility of management is to make as much money as is possible. It is, in this view, the rightful fate of consumers to suffer the consequences of their shortsighted failure or economic inability to participate in agency proceedings to assert contrary interests.

Economic theoreticians recognize that their models pertain only in the unreal situation where there are no information or transaction costs either in making known preferences or in bringing together single or separate interest groups. But Professor Winter uses the model to depict reality and ignores the fact that without Senate 707 we will continue to lack any representation of the interests of consumers because of the existence of such costs rather than because of his assumption of nearly universal satisfaction. This limited view is further compounded by the ignoring of the economist's concept of the "free rider" where the existence of numerous persons with a similar interest typically results, where the individual interests are comparatively small relative to the competing interest or interests, in inaction because no person of that persuasion takes on the giant even though the collective interest—in economic terms—may far outstrip that of the giant. Moreover, the model employed in no way addresses the reality of differentials in wealth that may be the primary reason for non-participation by any but capital aggregating economic units.

Again, I concede the possible diversity of interests among consumers. For example, some may seek absolute or near absolute safety of all products regardless of cost while others may be willing to accept some hazards in order that they might better afford the product. Personally, I trust in three factors in anticipating rational and balanced results in intervention or participation situations: (1) the CPA Administrator—as does an industry association or union official—will necessarily consider the diverse interests of his "constituency" before action; (2) the predominant interest of consumers is quite often identifiable and the sole question is how far, in relation to other considerations, it should be pushed; and (3) the representation (even now present) of the adverse interests of industry will more than offset any overzealous depiction of the interests of consumers. In the final analysis, reality—both in the limitation of the model employed by Professor Winter and in the workings of the political-governmental process—negates this seemingly primary philosophical objection to establishment of a Consumer Protection Agency such as envisaged by Title II. Indeed, a principal factor in reposing certain decision-making responsibilities in government agencies is to overcome the limitations of the economist's limited model; to then foreclose consumer representation by ignoring those limitations is to venture afield to Wonderland with Alice.

A second, broad objection focuses upon the delay in reaching final decisions that may result from the Administrator's intervention or participation in formal and informal proceedings. A reign of "chaos" is predicted by the critics of Title II.

Expanded participation will undoubtedly contribute to some delay in reaching some decisions; it is a consequence inherent in the presentation of countervailing facts and views, a necessary concommitant of balanced and fair decision-making in often complex matters. But is this a reason for perpetuating decision-making from a limited perspective? Does not the argument suggest that industry, too, go unrepresented in federal agency proceedings for the sake of saving time?

As my analysis of specific provisions will suggest, I believe that the bill attempts to provide safeguards against undue delay. Moreover, it is a reality that intervention and participation must be selective because funding and staff resources will not be limitless (as the "chaos" argument seems to assume). In this vein, only a priority group of matters actually involving action by the Administrator could economically be made "big cases."

Finally, I am chagrined at the implicit assumption, based on Professor Winter's strawman caricature of "consumer advocates," that a representer of consumers is likely to be an irresponsible disrupter. As noted at the beginning of this portion of my statement, the arguments against the CPA by Professor Winter depend in large part on the literary license that he employs in setting his stage; I urge the Committee to consider most carefully the limitation of that form of analysis in the legislative policy-making context, especially in view of the fact that the Administrator is to be appointed by the President with the advice and consent of the Senate rather than the self-appointed caricature drawn by Professor Winter.

III. ANALYSIS OF SPECIFIC PROVISIONS

My specific comments on Senate 707 will be more limited in light of the exhaustive hearings that have been held in the past on bills essentially similar to Senate 707.

First, I believe that it is essential for the Administrator to have authority to participate in informal as well as formal agency decision-making. The potential burden and disruption that might result from such participation is alleviated by the requirements that (1) the Administrator first determine that the agency activity "may *substantially* affect an *important* interest of consumers", (2) the clear import of § 203(b) that such participation is in the nature of an opportunity to be heard rather than the provision of equal time or a right of encounter or cross-examination, and (3) the limitation of § 203(b) and § 205 together that confines the opportunity to participate to essentially those matters about which public notice is given for the purpose of eliciting views of interested persons. The opportunity to participate, subject to such limitations, in ac-

[1] Published as Special Analysis No. 26 in July 1972 by American Enterprise Institute for Public Policy Research.

tivities that often have a significant effect on consumers is, in my view, a most important right of the Administrator.

With this view stated, it is all the more apparent that I believe, for reasons discussed previously, in the basic right of appearance and participation accorded the Administrator by § 203(a) with respect to formal proceedings. The change of the basis for participation in Senate 707 from the basis expressed in past bills to include "important" in the "may substantially affect an important interest of consumers" clause in § 203(a) as well as in § 203(b) is a significant change toward minimizing the possibility of frivolous intervention (which I do not anticipate in any event) and in directing the Administrator's attention to the fact that the interests of consumers may be diverse.[2] Thus, I see in this change a satisfactory accommodation of the fears of chaos and an attempt to suggest that participation indeed reflect a dominant interest of affected consumers generally rather than those expressed or held by a self-appointed few (as is postulated by Professor Winter's caricature).

Again, as in § 203(b), accommodation of the fears of chaos is found in § 203(a) in the final sentence of that section that clearly makes formal intervention as a party a last resort to be used most selectively by the Administrator. In the final analysis, I perceive that § 203 *in toto* is drafted in a manner that enhances the prospect for better, more-informed agency decision-making with the least possible threat of disruption or delay. Indeed, participation to present consumer views may in many instances reduce the agency costs and the time required in seeking information not provided by industry participants who do not find it in their interests to present such information.

The right of petition provided by § 203(d) is a logical, desirable complimentary right to the rights afforded the Administrator in § 203(a) and § 203(b). It is, in effect, a safeguard against agency inaction, the counterpoint to agency action affecting the interests of consumers.

The "Amicus Amendment" of the last Session is not a satisfactory substitute for § 203. Quite often, the Administrator will no doubt find participation short of intervention sufficient; but fuller participation may be the only effective way to participate in others. Moreover, the thrust of the amendment was to confine the Administrator to making initial legal arguments and to comment on facts of record based on the presentations of others. It is critical in the light of the mandate of the Administrative Procedures Act that decisions be made on facts in the record that fuller participation be permitted.

Other aspects of Title II that warrant comment are provisions that again demonstrate the care taken to limit the burdens that are decried by critics of the CPA. First, the notice provisions of § 205 impose no greater notice responsibilities on agencies than now exist: § 203(a) entitles the Administrator to receive notice that is now provided to the public and § 205(b)(1) entitles the Administrator to receive information that is essentially within the coverage of the Freedom of Information Act. Though § 205(b)(2) contemplates additional notice possibly being given, only that notice the giving of which would not be unreasonably burdensome is contemplated.

A second point of note is the limitation in § 207(b)(1) on the authority of the Administrator to require the production of information. Specification in order to minimize the costs of compliance is required and only the filing of a written report or response under oath may be demanded. The expensive modes of information gathering—production or copying of books, records or documents or compulsory attendance of persons for examination—are prohibited. In my personal view, the section goes too far in limiting the capacity to acquire information but, in that sense, the section exhibits utmost concern for the convenience—both as to time and costs—of industry.

My final specific comments on Title II concern § 203(f); by cross-reference, they also relate to Title IV, § 403. In brief, my support of the opportunity provided by these sections for citizen petitions to the Administrator and citizen petition of agencies, notice of agency proceedings, complaint, information acquisition and proceedings participation is most strong. These provisions provide for the assertion of dimensions of the interests of consumers to both the Administrator and to agencies that might not otherwise be fully considered; they provide at least the type of opportunity to be heard that is responsive to the criticisms voiced by Professor Winter and others concerning the inability of an Administrator to adequately represent all interests of consumers.

Finally, I make brief reference to Title III, the provisions for consumer protection grants. The availability of additional funding would measurably enhance consumer protection in Massachusetts. I have long advocated well-coordinated, efficient programs for the administration of consumer justice and have endeavored to promote innovation in Massachusetts. We—the Consumer's Council—have reached preliminary agreement with some merchant and banking representatives for the creation of a small claim compensation system, an idea initially snubbed as too radical. On closer examination, all parties seem to agree that it may be economically more efficient than any system yet initiated and serious discussion has followed. But during its initial set-up and trial period (if adopted), funding assistance would be of critical significance. I envision that a provision such as § 303 (especially § 303(b)(2) and (5)) might support such innovative efforts in their initial stages. So too might § 303(b)(3) provide a measure of assistance in matters such as the Council's present intervention in a $122,000,000 telephone rate case on a budget of only $50–60,000 for counsel and experts; the applicant is purported to be investing in excess of $1,000,000 in the preparation and presentation of its case. Even where active representation of consumers does exist, it is a David versus Goliath situation and not, as pictured by some, a well-heeled government agency toying with the interests of corner grocery stores.

IV. CONCLUSIONS

My concluding comments are in several parts. First, I strongly support Senate 707. Only such a measure can provide for realization of the objectives of the adversarial model of decision-making and overcome the present pattern of decision-making that reflects primarily the interests of the regulated. The bill as it is provides extensive safeguards against the feared irresponsibility of an independent consumer advocate and the feared disruption and delay in decision-making that might result from effective participation on behalf of consumers.

Second, I find the philosophical objections of Professor Winter and others unpersuasive as well as deceptively simple in conception and articulation. The total position is one of rationalizing a status quo situation. And as to the cost of an additional agency, I would say only that I prefer to bear that cost to assure representation of the interests of consumers.

I express perhaps only a personal choice, a choice that I do not have in paying as a part of the price of consumer products a substantial portion of the expenses incurred by industry in presenting its views to administrative agencies, the courts and to Congress. I believe, however, that it is a reasoned choice that does not require me to create and destroy strawman caricatures of "industry and business" in order to support my conclusion that the independent CPA is urgently needed to bring a new balance—the initial balance intended when the agencies were created by Congress—to administrative agency decision-making. I advocate to you today the opportunity for the realization of the potential of the adversary concept and decision-making based upon consideration of alternative views rather than the interests of the few whose economic interests are so substantial as to make direct participation economically feasible and profitable.

Finally, I would be remiss if I did not at least acknowledge Professor Winter's assertion that consumer representation will economically injure at least low income consumers. I would agree that some positions advocated may increase the cost of some goods; so too will industry expenditure of funds to resist changes in laws and regulations in order to avoid taking into account the interests of consumers. So too, does present industry expenditure of funds to participate in agency and other decision forums. Further, Professor Winter's argument is again grounded primarily in his caricature of the "consumer advocate" as a "safety nut", "information nut" or the like who has no concern for the consumers' dollar position. I am not prepared to assume such irresponsibility in an Administrator who is to be appointed by the President with the advice and consent of the Senate.

[2] See also § 210(g) concerning intervention for the requirement that the Administrator "explicitly and concisely" identify the interest represented. This requires reflection by the Administrator on the balance and variety of interests that might be involved.

ESTABLISHMENT OF ANTITRUST REVIEW AND REVISION COMMISSION IS LONG OVERDUE

Mr. HRUSKA. Mr. President, as I have done for a number of Congresses I have again joined the distinguished senior Senator from New York (Mr. JAVITS) in sponsorship of S. 1196, a bill to establish an Antitrust Review and Revision Commission. Its purpose would be to examine our antitrust laws in their entirety and make recommendations for revising them.

It would be a bipartisan commission composed of some Members of Congress, members appointed by the executive branch, and also experts from the private sector in this field.

In his logical and well-stated remarks explaining the necessity and high desirability of such a commission, the Senator from New York drew well upon his vast experience in this field. His remarks are well documented. They are clearly stated. This Senator is happy to subscribe to them as the basis for justification for the enactment of the bill to establish such a Commission.

Times and conditions have changed radically since the antitrust laws were first enacted, the Sherman Act in 1890 and the Clayton Act in 1914. While some amendments have been enacted since then, the need for a major review of the body of antitrust law has been apparent for a long time.

Corporate structure in the United States has changed vastly. Distribution and merchandising of products are nothing like what it was in the earlier years. The extent of Government regulation

and supervision has vastly increased. The labor relations and productivity of labor have undergrown vast alterations. There have been innumerable court decisions which should be taken into consideration in revising the statutory law. Our preeminent position and the urgency of improving and expanding it further in the field of international trade should receive prime consideration in any revision in this law.

Further, the burdens on our Federal court systems should be a factor in deciding how to refashion our antitrust laws. Antiturst cases have increased in number and in time consumed to an alarming and very substantial degree. This type of case is heavily repsonsible for the mounting burdens of docket congestion in Federal district courts.

Sometime ago the weight assigned to Government antitrust cases was placed at 8.0 compared with 1.2 for tax cases and 1.7 for condemnation cases. Private antitrust cases were weighted at 4.0 compared to only 1.8 for civil rights cases and 0.7 for Fair Labor Standard Act suits. These figures may have changed somewhat in the intervening time, but essentially they will retain their relative position in my judgment.

Noted economists, lawyers, educators, and Government officials have urged in years past a complete review of our antitrust laws. They have done so realizing the necesity to meet the many challenges of the future in our economic security. We have put off too long this much-needed study and revision commission.

It is my hope that progress can be made soon on this measure.

NIXON'S ECONOMIC MISCHIEF WITH THE COST OF LIVING

Mr. HUMPHREY. Mr. President, the Subcommittee on Consumer Economics of the Joint Economic Committee, of which I am chairman, has just completed hearings on a subject of vital concern to every citizen—the sharp rise in the cost of living. There is no more important and serious economic problem facing consumers than the persistently high prices they must pay for basic essentials: food, fuel, gasoline, medical services, rent, household services, consumer credit, and many other items.

The hearings represent the beginning of a long-term investigation of the many economic factors that determine what it costs to live in America. We will examine what prices are increasing most rapidly, what factors are causing these increases, as well as developing solutions to correct the situation.

We will also examine what the Federal Government is now doing to promote economic stability and consumer interest.

In our first day of hearings, we heard testimony from the Chairman of the Council of Economic Advisers, Herb Stein, and the Director of the Cost of Living Council, John Dunlop. The public and Congress have been treated to rosy forecasts, lectures on the need to be patient, while prices continue to escalate. It was my hope that these gentlemen would provide us with more facts and analysis on the cause of and cure for the escalating cost of living.

These hearings were also designed to give the public an explanation of what is happening in the economy and what measures the Nixon administration intends to take to deal with inflation. There is a deep concern over the adequacy of phase III.

Does phase III really offer an effective anti-inflationary program?

Does phase III equitably apply to the average wage earner, the modern income person on salary, the owner of a small business, and the elderly?

The facts the subcommittee received indicate that the Nation is in the beginning stages of another cost of living spiral. Not only are food prices escalating to Korean war levels, but all other major categories of the Consumer Price Index are up. The testimony also revealed that past administration policy miscalculations have caused many of these price increases, and President Nixon and his advisers have no well-thought-out plan for the future. The administration's price-wage control program is a Rube Goldberg apparatus that consistently requires a bandaid to be applied here or there to keep it from coming apart. Let me elaborate on this theme for the benefit of my colleagues.

THE OVERALL INFLATION SITUATION

Overall consumer prices in February shot up 0.8 percent, which represents a seasonally adjusted annual rate of 9.6 percent. This represents another escalation of the consumer price climb, which increased at a 6-percent annual rate in January, and at a 2.4-percent annual rate in December. This is the first time since the Korean war that all major categories of the Consumer Price Index increased, and it is also the steepest rise since February 1951.

I pointed out the seriousness of these developments to Dr. Stein during our hearing, and asked for an appraisal. Rather than respond directly to my question, he emphasized that inflation hadn't been so bad in December and January. He never did provide a meaningful appraisal of the situation.

He did provide the subcommittee with some rhetoric, saying, that—

> The latest price news provides additional warning of the diligence that must be exercised to prevent the revival of rapid inflation as the U.S. economy rises strongly in a world generally expecting much more inflation than we have. One aspect of this diligence is the continuous monitoring of price increases by the Cost of Living Council to see where stricter controls may be useful. However, the essential requirement is to prevent the revival of an inflationary boom by keeping a firm grip on government spending and on monetary expansion.

It is obviously a red herring to blame any of the present inflation on Government spending, when almost all the experts indicate that the price problems are primarily supply oriented. I will have more to say on how this administration has caused a good many of these supply shortages. But the primary bit of mismanagement is the administration's misguided launching of phase III. One of the most disturbing evaluations of the situation, and it seems to me much more realistic than Dr. Stein's rhetoric about holding down spending, is the March 10 Business Week editorial on phase III. Let me just read you part of what it says:

> A scant two months after President Nixon's abrupt announcement of Phase III, the whole system of wage and price controls is on the verge of collapse. What began as a well-conceived effort to put some flexibility into the rigid rules of Phase II and move the economy back toward the discipline of the marketplace threatens to end in disaster.
>
> The consumer price index shot up 0.5% in January, an annual rate of 6% in family living costs. The wholesale index for food and farm prices soared 2.9%, promising yet more trouble when these increases work their way through to the supermarket checkout.
>
> Labor leaders are openly scornful of the idea that 1973 wage increases can be held to the 5.5% guideline of Phase II. They are talking of 7.5%, and 8%, and even more.
>
> In the international money markets, new raids on the dollar—triggered by growing mistrust of Phase III—have already forced the President to declare another 10% devalution. The international payments system has broken down completely, and the world faces the disconcerting prospect of floating currencies and monetary chaos for an indeterminate period.
>
> The stock market dropped 100 points in what was largely a vote of no confidence.
>
> Whatever its theoretical merits, Phase III is a failure. And the nation simply cannot afford a failure of wage and price controls. Instead of applying patches like this week's new oil regulations, the President should terminate Phase III and replace it with a new set of controls that will work.

FOOD PRICES

As you all know by now the overall index for consumer food prices increased by an adjusted 2.2 percent last month, which is equal to an annual rate of about 27 percent. At the same time groceries prices showed a 2.48-percent jump, which is about a 29-percent annual rate of increase, and the largest single month increase since the Labor Department began keeping such records in 1952.

Prices for meat, poultry, and fish combined soared 5 percent last month, which would amount to an annual rate of increase of 60 percent for 1973 should rates like that continue.

In my letter of invitation to Dr. Stein and Dr. Dunlop, I asked each of them to tell the subcommittee what we could expect in the way of food price increases for 1973. Unfortunately, after reading their statements and the studies they supplied to the subcommittee, I was even more confused. And I am sure this is the case with the typical consumer.

Dr. Stein said in his prepared statement:

> We expect to see farm prices of foods declining in the second half of this year and retail prices leveling out. Nevertheless, despite this bad news that will be reported in the statistics in the next few months, the daily news observable in the grocery store will be improving.

In Dr. Dunlop's prepared statement he said:

> Food performance is expected to level off during the first half of the year.

Finally, the food price white paper prepared by the Cost of Living Counsel and presented to the subcommittee stated:

> Food prices should increase at a much lower rate in the second half of 1973.

In other words, the administration is saying that in 1973 food prices could decline, level off, and increase at a slower rate—quite a confusing report. I then asked Dr. Stein and Dr. Dunlop at the hearings to tell us in simple English what consumers can except to happen in food prices in 1973. This is what Dr. Dunlop said:

When you are dealing with structural arrangement in agriculture over many years in this country, whose primary orientation in legislation and administration of the Department has been to raise the levels of farm income by various devices of holding down output, you cannot in a few weeks or months, locate all of those devices by which that policy was effectuated over many years, and it takes a while to ferret out various measures by which output can be increased. And I would tend to devote some time each day to that operation.

This does not answer my question, and it does not reveal any well thought administration plan for managing food prices. If it does anything, it obscures the issue.

Frankly, I question the administration's competence in managing the complex area of food. In the first place the administration failed to act quickly and positively last summer, more than 6 months ago, to anticipate food shortages. Now it is clear that food prices are going to be very volatile if supply and demand jump all over the place, which means careful planning must go into efforts to maintain stable prices.

Like the miscalculations of the past, I fear that the administration's food policies are hastily conceived inadequate responses and may further damage food management policies. I am concerned that the proposed elimination of our farm programs, emptying our grain storage bins, and relying on export demand have not been carefully studied and planned for by the administration. What we are likely to see is a movement from one crisis to another crisis in the food area.

I asked Dr. Stein and Dr. Dunlop to provide the subcommittee with the studies they have done that show what the effect of the administration's agriculture policies will have on food prices.

OTHER PRICE INCREASES

But the Congress should be on its guard against the notion that this renewal of inflation is confined just to food price increases.

As the February release of wholesale prices showed, industrial prices increased 1 percent on a seasonally adjusted basis, which was the largest increase in industrial commodity prices since the Korean war inflation. Any significant increase in the cost of industrial commodities will, with a short lag, have a major impact on prices for manufacturing and consumer goods.

We already see a sharp jump of 0.5 percent in the consumer price index for nonfood commodities in February. A particularly large increase in prices of fuel oil together with higher prices for women's apparel, footwear, and gasoline were the primary reasons for this increase.

The January consumer price index even showed an increase in services of 0.4 percent. Higher charges for rent and most household services contributed significantly to the rise. In addition, there were increases for auto repairs, beauty and barbershop services, and hospital services.

Gasoline is an area that I am particularly concerned about, not just because of the high prices that we already face, but also because there is the real threat of gasoline rationing for the summer plus higher prices. I asked Dr. Dunlop what he expected to happen and what plans the administration had underway to avert the shortage. I also asked about the effectiveness of the recent administration actions to impose control on the oil industry.

Dr. Dunlop seemed unfamiliar with the facts of the situation, was unsure, therefore, about what was going to happen in the future, and gave me no assurance that the administration has a plan in this area either. He did said, however, that most likely gasoline prices will go up.

When I asked Dr. Stein about his analysis of the increase in nonfood prices he simply said it was due to "erratic factors plus the opportunity that the transition to phase III may have provided for speeding up price increases that would have occurred later." The nature of these erratic factors and the administration's overall plan to meet the price increases in the nonfood sector was not revealed.

Thus, we are left with a situation where the rise in consumer price area has been at an annual rate of 6.3 percent over the last 3-month period, which is considerably more than double the rate of 2.5 percent that the Nixon administration aims to achieve by the end of the year.

THE EFFECT ON WAGES

We also learned at the hearings that the real hourly earnings for workers declined in February. And the real weekly earnings remained about the same in February as it was in August of 1972, that, is about $96 a week. This means, depending upon how you measure it, that the recent consumer price increases are either causing the real wages of workers to decline or to remain at about the same level.

I fear that this erosion of the real earnings of workers will create future pressure for a price-wage spiral inflation. If you were a worker negotiating for a wage increase would you, in light of the recent and perspective price increases, feel that we must have price stability if we are to ensure wage stability for 1973?

As my colleagues can see, I cannot find evidence that President Nixon has either the will or the program to protect consumers against inflation. We have already tried in the Senate to strengthen the Economic Stabilization Act. If the consumer price report for February had been available at the time of the debate on Tuesday, I feel sure that we would have strengthened the bill even more. Now we must do all we can to bring pressure to bear on the White House to develop a well-planned attack against the escalating cost of living.

MANPOWER TRAINING THAT WORKS

Mr. PERCY. Mr. President, I recently had the pleasure of meeting with Judith Matthews, the director of the Archdiocesan Latin American Committee's MDTA program for vocational training. Ms. Matthews brought me a status report on the committee's manpower activities, and the figures show that Federal funds spent on these programs have been an investment yielding rich dividends.

The report Ms. Matthews has prepared for me shows that the committee's comprehensive supportive service program for Spanish-speaking MDTA enrollees can boast that nearly 100 percent of its trainees graduate from their courses, that 95 percent of the graduates are gainfully employed, and that 78 percent of the graduates are placed in jobs related to their training. Comparison with statistics for similar programs shows that this Illinois program is particularly effective.

I feel that Chicago's Archdiocesan Latin American Committee's manpower programs for the Spanish speaking are an excellent example of how federally supported manpower programs can help America's underprivileged population gain self-sufficiency. They show what Federal funding can do when carefully directed and utilized, and the statistics disprove the claim that Federal dollars spent on manpower training do not really benefit the people they are intended to help.

Manpower training needs among Illinois' Spanish-speaking people, however, are still overwhelming. As Congress considers the subject of continued funding for manpower programs and deliberates on the proposed shift to a special manpower revenue sharing plan, we must guard against the possibility of an administrative gap in continuous manpower support. Congress must insure that deserving programs such as this have access to a continuous supply of Federal funds, whether through categorical grants or revenue sharing.

Mr. President, I ask that portions of the text of Judith Matthews' report be included in the RECORD at this point.

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

In 1965, the Archdiocesan Latin American Committee (ALAC) proposed a demonstration project to train unemployed Spanish Speaking men in a bi-lingual Manpower Development Training (MDTA) program of vocational education. Our program, known as "Spanish Manpower" attempts to resolve the problems of cultural differences, lack of skills and a language barrier that burden the majority of Chicago's Spanish Speaking people. Through a strong, personalized supportive service and encouragement for active community participation, the Latin American Committee has realized a considerable measure of success.

To date, 1,000 people have graduated into training related jobs. This represents a near 100% rate of retention and placement. Important factors in this success have been the exceedingly high community interest, personal motivation and commitment of the student and a cooperation between public and private agencies.

ALAC is an agency devoted to promoting the general welfare of the Spanish Speaking community and to encourage, facilitate and direct their integration into the American mainstream without a loss of their own cultural values.

Because of the very nature of the work of this agency, ALAC has been uniquely suited to act as a liaison between the Illinois State Employment Service (ISES) and the Latin American community. Originally, the supportive service program allowed for the Archdiocesan Latin American Committee to assume all or part of the responsibility for recruitment, testing, motivation, counselling and placement of the trainees.

In the early years of the program, the Committee channeled publicity regarding new programs directly to the Spanish community. Information on Spanish MDTA was distributed through radio and newspaper announcements and, especially, through contact with community leaders and organizations. The response to this program was, and still is, tremendous.

Cooperating with the Illinois State Employment Service, ALAC provides bi-lingual counselors and interpretors to facilitate in testing and registration. A thorough explanation of the type of test and its importance is given to each applicant, relieving them of much of the anxiety of the testing situation. Recently, our office has undertaken the administration of the necessary tests within our agency headquarters to afford a more familiar setting to the Spanish Speaking individual.

Further services include simplifying documentation requirements by the ISES offices by writing for birth and marriage records and notifying employers that the individual is going into an up-grading vocational training program.

In the first year of recruitment, approximately 400 applications were received for 95 positions available. We are now in our eighth year. Since January 1973, we have 2,300 applications on file. Statistical summary of activity between June 1972 through January 1973 showed 1,367 individuals interviewed. Of that total, 160 people have been involved directly in training. As of February 20, 1973, there are 60 identifiable Spanish Speaking trainees enrolled in MDTA training in Chicago.

Before underscoring present concerns that shadow this amazing Latin interest in MDTA and their fine achievement as participants, additional outlining of the supportive service role is necessary.

Motivation and counseling are areas which highlight the unique nature of the supportive services offered by the Archdiocesan Latin American Committee. Individual counseling offers tangible support to each student whenever a problem arises. This includes service in medical problems, credit and consumer abuses, legal aid and referral, and family counseling. Each individual problem is viewed and resolved with emphasis on his eventual capacity for economic and social independence.

To develop this sense of independence, counselors assist in developing and placing trainees in part-time jobs. In many cases, the ultimate difference between retention and drop-out, an impossible financial situation or tight budget, is 20 hours of work each week. Because the trainee carries with him the same handicaps that affected his ability to find full-time employment or develop his former skills, finding part-time work for Spanish Speaking students is difficult. Lack of a skill and English is compounded for specialized work after school. However, ALAC has provided many positions or trainees have been successful in obtaining leads through their fellow students.

We have always maintained that the real essence of supportive success for the Spanish Speaking was not based on individual case-work, but of our attempt to construct a group pride and atmosphere of enthusiasm and responsibility. In this way, the trainee can see himself opening new inroads into his Spanish Speaking community through his achievement.

PERFORMANCE

As an illustration, we cite the example set by a machine operators' class from the Greer Technical Institute. Because of their need to meet outside of school, the class rented a store-front room and called it the "Club Hispano-Americano." They furnished it with donations from friends, and the school gave a blackboard. Soon it became an after-school study center for those who needed additional English. It served as a meeting place for problems of immediate concern, a social center and an office for individuals seeking information on courses. The students elected to study for GED, the High School Equivalency exam, to march in Latin American parades, to collect signatures of 700 people campaigning for more MDTA courses and to hold a series of MDTA picnics and other social outings including their families. The pride and dignity demonstrated by these men from several countries is proof of the impact MDTA is capable of delivering. A graduate of that program is now serving as a counselor for the supportive service unit. This young Mexican-American worked in his vocational training field for one year following his graduation. However, stimulated by his MDTA experience, he became so active and effective in local community affairs that he took his rightful place as an invaluable testimony to Latin hopefuls for continuing upward mobility.

PRESENT SITUATION

Although ALAC is not directly responsible for the language training of Spanish MDTA students this agency has served since the beginning of the program in an advisory capacity. We have sought the most effective and efficient way to teach English. This has been a frustrating experience. For the most part, we have enjoyed a cooperative relationship with the private facilities undertaking the vocational training. However inexperience on the part of the trade schools in the area of English or basic education is a problem. We have consistently lobbied for strict adherence to certification requirements for MDTA instructors. The bid system, which determines a contract award to low bidder, has a direct effect on the caliber of training the enrollees received. A conscientious effort to provide the best possible training on every level is a never-ending process and the Archdiocesan Latin American Committee, in establishing a close working relationship with the state and private agencies, has worked toward that goal.

For some time, we have encouraged a strong program of basic English to serve as pre-vocational training. The immediate need for more bi-lingual MDTA training is made obvious by recognition of the success of the program to date and the 2,300 applicants that now await training. This "core concept" training has been effective, but fewer programs have been designed with this component and at present there exists but one "English As A Second Language" MDTA program for Spanish Speaking. This class is held at the Chicago Skill Center and is set up for no more than 33 trainees. This is the only program that has stemmed the tide for Spanish Speaking applicants who require only 6-8 months of intensive English to either up-grade their vocational occupation or re-enter their former professional field (i.e. Cuban refugees who hold teachers' degrees, medical personnel or experienced clerical workers.)

Throughout the past eight years we have witnessed the fact that two of three of our MDTA applicants request or need Basic Education (ESL) training prior to a vocational study program. Reports to the Bureau of Employment Security bear out the other reality that the majority of people in the Latin Community speak English at a 3.7 grade level against American standardized tests. Over the past two years, the local ISES offices have raised the level of functional English so that a large percentage (sometimes 65–70%) of Spanish Speaking hopefuls cannot qualify for MDTA training. Therefore, it is not surprising that manpower programs have been criticized for "creaming" in failing to select severely disadvantaged Spanish Speaking trainees. Existing MDTA guidelines tend to perpetuate this even now.

As early as July of 1971, an analysis of manpower programs and their delivery of services to the Spanish Speaking was completed by a management consulting firm. Thompson, Lewin and associates, Inc. working with a team of Spanish Speaking MDTA specialists concluded that "the proportion of Spanish Speaking enrollees in manpower programs tends to be lower than that for other disadvantaged groups and bears no clear relation to needs."

A concrete illustration of this cooperative activity is in the placement of the graduate in a training related job. The ALAC prepares each student for job interviews through constant practice sessions. Jobs are developed by supportive service and ALAC staff and the students are referred by the Illinois State Employment Service. Following graduation, supportive services are offered until the trainee achieves some economic stability.

95 PERCENT RETENTION, 95 PERCENT EMPLOYED

In spite of the success enjoyed by Spanish participation, local MDTA has not provided "parity" for those who have insured these high rates of completion and training related placements. DHEW statistics for 1970 show Spanish surnamed trainees involved in Illinois MDTA institutional training at 7.06%. For 1971, approximately 10% of the total training slate were afforded to Spanish Speaking.

At a meeting of the Supportive Services Units with Chicago Area Operations staff of ISES, in September of 1972, it was announced that for the first time Spanish Speaking would receive 25% of the slate. However, we have seen no new programs developed and only 60 people are currently in training programs that will soon be phased out. In Chicago, with over a quarter of a million Chicanos, Puerto Ricans and Cubans, there are few identifiable programs for Spanish Speaking underway. Attempts have been made to direct the Spanish Speaking into predominantly Black training centers. Because of these factors and the few alternatives, pressure for demonstrable programs forces the selection of "success-prone" trainees at the expense of the "hard core" applicant. All applicants illustrate a need, but a large percentage of potential enrollees are never even considered.

As we have reiterated, the Spanish Speaking retention rate is close to 100%, of that figure, approximately 78% are in training related jobs and 95% are gainfully employed. A commensurate amount of slots would, we are positive, allow the community to demonstrate past achievements and future potential. Further documentation of Spanish Speaking MDTA statistics is attached. (See Appendix) Follow up reporting on all graduates affords all concerned agencies with current placement data.

PROGNOSIS

We have demonstrated in the last eight years that given the proper motivation and approach, the unemployment problems of a hard core non-English speaking group can be resolved. We feel an intensive and integrated approach by public and private agencies can result in making federal training

available to many persons untouched by vocational and educational programs.

To the agencies involved, Spanish MDTA has been a successful experiment, laying the groundwork for similar programs. The Spanish Speaking community has viewed MDTA as another opportunity. The active interest and enthusiasm of individuals and organizations attest to the real acceptance of this program and its goals. The superlative record of retention and graduates among the Spanish Speaking in Illinois has "carried" other programs and initiated similar projects.

A recent column by Victor Riesel, "Chicago Today, Jan. 31, 1973", attacked Manpower spending as "Billions . . . wasted and the disadvantaged getting no advantages . . ." He argued that "billions spent or about to be spent on Manpower training—to help the poverty-poor pass from welfare relief to self-reliance in the world of work—generally have failed and will fail for a long time."

We reject this view based on our experience with the Spanish Speaking trainee. If the federal government accepts this viewpoint and acts accordingly, the dismal picture Mr. Riesel points will become a reality for the Spanish community. Only through bilingual training, do we see a solution.

A NEW PERSPECTIVE ON ULSTER

Mr. KENNEDY. Mr. President, the announcement by the Government of Great Britain of its long awaited white paper for Northern Ireland comes on the first anniversary, almost to the day, of Britain's assumption of direct rule over Ulster.

In spite of the British initiative of direct rule, the tragedy and bloodshed in Northern Ireland have continued unabated during the year that has passed. Indeed, the crisis has assumed even more violent and brutal and senseless dimensions.

Recently, in a significant two part series entitled "A New Perspective on Ulster," the London Sunday times analyzed the events of the past year. The analysis is a major contribution to understanding the background of the escalating strife in Ulster, as each side responded to the campaigns of violence and terror by the other side.

The new series is a worthy addition to the outstanding study published by the Sunday Times in the fall of 1971, analyzing the background and origin of the conflict in Ulster. I had the privilege of placing that study in the RECORD on November 20 and November 23, 1971, and I ask unanimous consent that the current series may now be printed in the RECORD.

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

[From the London Sunday Times, Mar. 11, 1973]

A NEW PERSPECTIVE ON ULSTER: HOW THE IRA BLEW UP ITS OWN CAUSE

(By John Whale)

Last week, as the first year of Direct Rule neared its end, came the latest and most feared escalation of Irish violence: an extension of the bombing campaign into Britain. Why did it happen?

The Sunday Times, sixteen months ago, published "A perspective on Ulster," the result of a long inquiry by the Insight Team into the history of the troubles. It concluded that the blame for the rise of the Provisional IRA lay largely with the Protestant supremacists, who had denied political opportunity to the Catholics and who had responded to legitimate protest with violence.

This new two-part inquiry, which continues the story through the twelve months since Britain suspended Stormont, suggests that now the burden of guilt has shifted. In that time it is the Provisionals themselves who have wasted—through incompetence—their own political opportunities. And it is their own violence which has generated fresh violence, first by provoking extreme Protestant reaction, and now by causing an increasing fragmentation of the Republican movement into desperate splinter groups.

The most fateful decision of the 12 months since direct rule—the decision which did most to damage its chances of success—was taken within half an hour of its announcement on March 24, 1972. Sean Mac Stiofain, military leader of the Provisional IRA, was listening to Irish radio in Dublin when he heard the news of Edward Heath's Commons announcement. Without pausing to consult what passed for the political wing of the movement, Mac Stiofain telephoned Radio Telefis Eireann.

He "completely and totally rejected" the Heath scheme, he said. Stormont must be abolished, not just temporarily suspended; and there must be a declaration of intent to withdraw British troops and allow an all-Ireland border poll. Until then, the campaign went on.

Such few stirrings of disagreement as there were in the movement were rapidly put down; and during the following week a handful of shootings and explosions showed that there were Northern Provisionals who actively approved. On Easter Sunday, April 2, Mac Stiofain—the hard military activist of the movement—went north to Derry to invoke the shades of IRA martyrs. "Concessions be damned," he shouted from the back of a lorry at the city cemetery.

On April 6, the Provisionals' Army Council ratified the continuance of the fight. A week later, 15 explosions across the North in a single day showed that the campaign—muted for a month—was to be resumed in earnest.

Mac Stiofain had chosen to sow the wind. He and the province he claimed to liberate were to spend the rest of the year reaping the whirlwind.

Yet it had not been an inevitable choice. As early as the autumn of 1971, when the Provisional campaign was less than a year old, Mac Stiofain himself had sent a message to the British Government to say that the Provisionals wanted a phased lessening of the conflict which might lead first to a truce and then to talks. The contact had recently been renewed, though without result: 10 days before the announcement of direct rule two senior Provisionals, David O'Connell and Joe Cahill, had laid their terms before Harold Wilson, the Leader of the Opposition, at a house on the edge of Dublin, O'Connell, tall and soft-voiced, was the nearest thing the movement had to an intellectual: Cahill, short and red-faced, was an unreconstructed fighting man.

Further, violence troubled the Provisionals' sympathisers more and more. Both in Derry (particularly after the killing of a school bus driver in front of his passengers) and in Belfast (notably since the death of six passers-by in a Donegal street explosion) revulsion was spreading. Two MPs who had represented Catholic areas of those cities at Stormont in the Social Democratic and Labour Party interest, Ivan Cooper and Paddy Devlin, drove to Mac Stiofain's house at Navan to remind him of this point the day before his Derry speech.

Most important of all, the Provisionals had scored an epic success. They could come away while they were winning. Stormont fell for a number of reasons, chiefly the fact that its combination of the wrong powers and the wrong boundaries had denied it the consent of about a third of the people it governed; but it was undoubtedly the Provisionals who pulled out the bottom brick. If ever they could negotiate from strength, this was the moment.

They could not see it. When Mrs. Marie Drumm, then a strident voice for continued fighting and now head of the movement's political wing, issued her considered judgment of how much Heath had yielded, she said: "He gave us nothing."

In plain fact, the Provisionals were without political sense. They were half aware of it themselves; and the awareness only made them more determined to go on fighting, since the moment fighting gave way to talking they would find themselves pushed to the back of the room. "We're not going to let the SDLP reap the benefit of our fighting," they had kept saying to Harold Wilson at the March meeting.

Their understanding of the way British ministers worked was worse than rudimentary. Obsessed with form rather than fact, they supposed the difference between the suspension of Stormont and its abolition to be a real one. Now the remote and languid hand of Reggie Maudling, as Home Secretary, was replaced by brisk, direct control exercised by Willie Whitelaw in close concert with the Prime Minister; and the Provisionals could not perceive that anything had changed.

As John Hume, the thinking man of the SDLP, said later: "Westminster had decided to settle the Irish problem, and the Provos kept up the campaign. It was sheer lack of political *nous*."

THE MISTAKE THAT MADE THE UDA

This myopia in the Provisionals came nearer home. They misread the minds of people who lived a few streets away.

"Their fatal mistake," said a Belfast priest who observed the leaders closely over a long period, "was in believing that the Protestant working class would come round to seeing that the Provos were right. That was the basic flaw. The pre-supposition was that you could prove to the Protestant working class that they were all on the same side—that attacks on public buildings were on behalf of the whole working class."

This was the basis of Mac Stiofain's obsessive interest, that April, in an "all-Irish" conference—a representative gathering of the whole people of Ireland where the British would be present only as observers, the Unionists would be reduced to numerical unimportance, and the two working-classes would look into each other's eyes and join hands. "The all-Irish conference," a senior member of the Provisionals' Army Council said later, "was more relevant to us than direct rule."

Mac Stofain was right that Protestants who took extreme stands were very like his own supporters. The Scarman report on earlier disturbances, published on April 6, showed the extent to which each side's beliefs mirrored the other's. But Mac Stiofain forgot the chief point of similarity: the obduracy with which those beliefs were maintained.

Self-deception on that scale was made easier by Ireland's *apartheid*, and it was shared by the whole Irish Catholic community. When a Provisional lawyer said "If the British made the necessary declaration of intent, Unionists in the North would see that Britain's paternalism and support was going to be withdrawn, and they'd come to grips with reality," he was voicing an article of faith that reached from the government benches in Dublin to the ghettos of Derry.

Yet the continuing Provisional campaign had the effect of stiffening Protestant resistance, not softening it. When direct rule was imposed, Protestant para-military groups were not a power in the land. The Ulster Defence Association, the chief of them, was

formed—after a brief false start—only at the beginning of 1972. It was an amalgam of organisations pledged to protect particular areas. The violations it feared were military, not political.

Certainly the political shock of direct rule gave the UDA a push. Stormont had been the guarantee of the Protestant North's separateness from the Catholic South. That was why, when refusal to relinquish security powers made the British Government decide that Stormont must go, Heath still felt obliged to maintain his accompanying offer—periodic referenda to ensure that the Border stayed as long as there was a majority for it. These polls would be the Stormont guarantee in another form.

On the second day of a strike called to protest against the announcement of direct rule, a mass rally was held in the grounds of the Stormont parliament building. It had been organised by Vanguard, the new movement got up by the bluff right-winger William Craig as a ginger group within the Unionist party. Many of the hard men were there too. From the Stormont balcony, Brian Faulkner—Northern Ireland's last prime minister, but a dapper survivor even of his own fall—chose to address the crowd.

He was heard without enthusiasm, as a man who had played the political game and lost. While he was still speaking, Craig—whose most notable recent dictum, applied to Republican sympathisers, was that "It may be our job to liquidate the enemy"—made his way on to the balcony. Faulkner found himself drowned in a tremendous surge of cheering.

He did not forget the lesson. The principal interest of hard-line Protestants was in countering violence, if necessary by violent means. Within weeks he had abandoned the attempt to keep his old Cabinet going as a government-in-exile, its members gravely addressing one another as "Minister" and considering questions of housing or investment. His speeches dwelt on the IRA instead, and what should have been done about them.

Just as the Provisional IRA had in part begun as a response to pre-emptive violence used by the forces of order, so the UDA—although it had a long ancestry in Ulster history—was still at this stage a defensive reaction to violence from the Republican side. If that violence had ended then, when Stormont did, the UDA would certainly have remained watchful; but its growth would have been checked.

THE "MISSED CHANCE" ON INTERNMENT

One clear reason for this crucial misjudgment by the Provisionals was internment. There were 935 men interned or (less indefinitely) detained without trial, many of them since the previous August. They were in two camps and a prison ship. As with any guerrilla force, the Provisionals' pretence of having an effective centralised command was a shallow one: many decisions which committed the whole movement were taken by leaders of local units; and with more than one layer of experience stripped off by internment the quality of this local leadership was often raw, brash and hasty.

This was in the mind of British ministers when they decided that a new policy on internment was to be their instrument for breaking into the vicious round of violence and counter-violence. They also knew that the original operation, as foisted on them by Faulkner, had been carried out on crudely compiled lists, that it had given huge offence to Catholics (and a boost to Provisional recruiting as a result), and that it had done great harm to the United Kingdom's international standing. Certainly it was a fair presumption that some of the men held were dangerous criminals; but if they were, then surely they could somehow be charged and convicted in the courts.

The SDLP believed, and believes still, that if Whitelaw had released every one of the 935 at once the moral pressure on the Provisional IRA to call off its campaign would have been overwhelming. SDLP members were themselves still shackled by a commitment, first entered into in answer to a supplementary question at a public meeting, that they would not talk to the British Government—and they were the principal elected representatives of the Catholic community—until the last prisoner had been released from internment.

Whitelaw, on the other hand, had to balance the possible effect of such a move on the Provisionals against its possible effect on the Protestants; and he decided to proceed by stages. Eleven men were let out on the day direct rule was ratified; 73 more a week later; and within a month the total of releases had reached 165, while only one place of internment was left in commission—Long Kesh, a muddy Nissen hut encampment outside Belfast.

Aside from seeking an end to internment, Whitelaw had an open brief. He still worked within the powerful Cabinet committee which had determined on direct rule; the other members were Heath, Maudling, Sir Alec Douglas-Home (Foreign Secretary) and Lord Carrington (Defence Secretary). The committee had no burning vision of the province's future, and Whitelaw personified their pragmatism. He was the Torries' most experienced and most winning political negotiator, and he had the enormous strength that he was doing the job not out of ambition but out of a plain sense of duty.

He knew it would take more than a year to reconstruct the province's political life, but he was anxious to show that it would be done, and he believed in starting with whatever came to hand. As early as April 18 he announced that elections to the reformed local councils would go ahead in six months' time. He also believed that if you were kind to people they would be kind to each other. A few days later he was on foot in Derry, after promising to speed up plans for a new bridge across the Foyle, when he was accosted by a woman whose husband was behind the wire in Long Kesh. Could he not get the man out?

"Would you promise to keep him out of trouble?" Whitelaw asked.

He was sufficiently satisfied with the answer to include Charles McSheffrey in the batch of 10 men let out of Long Kesh two days later. Within months McSheffrey was back inside; before the end of the year, two men had blown themselves up making explosives in his Bogside home.

Part of the trouble with Whitelaw's adoption of "Try a little tenderness" is a *leitmotiv* was that his principal means for restoring normality was the British Army, and an army is not a tender instrument. Soldiers walked delicately since direct rule, but grave mistakes were still made. At least 10 spent cartridges were found on a Belfast pavement where a paratrooper had dropped on one knee and fired at the retreating—some witnesses said the prone—form of Joe McCann after he had been challenged to stop. The Army did not claim he was armed.

McCann had been a leading warrior with the Official IRA, which was in principle a more politically minded force than the breakaway Provisionals. In practice the Officials remained guerrillas too, even after their disastrous Aldershot adventure two months before: trying to blow up the Parachute Brigade mess in revenge for the killing of 13 civilian demonstrators by paratroopers on Bloody Sunday at the end of January, they had taken the lives of five women cleaners and a chaplain. A few days before the shooting of McCann, they had killed two soldiers in Derry with a bomb in a bowling-green pavilion; and they killed two more there in the disturbances which followed McCann's death. A third was shot dead in Belfast.

Cathal Goulding, the Officials' leader, then recently released uncharged from a Dublin prison, slipped into Belfast for McCann's funeral. McCann had been shot like a dog, said Goulding over the grave, by the agents of imperialism and the Orange junta.

Two different languages were current, two views of the same set of rights and wrongs. The day after the McCann funeral, on April 19, the publication of Lord Justice Widgery's report on those 13 Bloody Sunday deaths widened the gap. Lord Widgery had not heard all the available witnesses, or even all the surviving wounded, and he had been fairly easily satisfied that the Paras' record in killing or wounding 26 people that day and sustaining no injuries themselves simply reflected their "superior field-craft and training." He did nevertheless find that one of the 13 dead was killed while crawling or crouching, that four others were fired on without justification, that too many rounds were fired and at only nebulously identified targets, and that the whole operation was not clearly authorised or needed.

Yet because the document showed some understanding that life was difficult for soldiers, too, and forbore ringing denunciations, it was at once dismissed by most of the Catholic community as dishonest; and with it the whole new approach by Britain. Whitelaw himself said nothing in public about the Widgery report; but his nickname of "Willie Whitewash" began to gain currency at about that time.

The same day as the Widgery publication, the body of James Elliott, a lorry driver and a corporal in the Ulster Defence Regiment (the part-time volunteer force under British Army command), was found in a crater near the Border. He had been held by Provisionals for a day and a half before he was shot in the back of the head as he knelt on the ground. The circumstances of Elliott's death were horrible enough. But a mass of explosives was strapped to the dead body, with wires leading to a detonator on the Southern side of the Border. Presumably because of this booby-trap mechanism, the belief rapidly gained ground that the circumstances had been still more horrible, and that the body had been mutilated.

The Royal Ulster Constabulary possessed photographs which showed that this was not so; yet the story spread so fast through the Protestant community that within days Unionist MPs were peddling it as far away as Westminster. Many ordinary Protestants were therefore already enraged, their worst suspicions about IRA savagery and Southern complaisance towards it apparently confirmed, when the East Belfast branch of Vanguard held a street rally on April 26.

The emphasis of the speeches was on giving loyalists total powers to impose their own final solution on Republicans: the return of Stormont was desired solely as a means to that end. The rally itself was quiet enough. But round the platform was a handful of teenage boys in sunglasses and dark green anoraks—a new force, extruded from Belfast's Tartan gangs; and in the crowd hundreds more Tartan members began to perceive a new level of activity for themselves.

The East Belfast riots which began that night—at first directed against the police, but then more and more against Catholics—lasted through the weekend. Craig had not been at the rally; but he did little to cool tempers when he told the Monday Club in London on the Friday night: "When we say force, we mean force. We will only assassinate our enemies as a last desperate resort when we are denied our democratic rights."

There was one reason in particular why resentment against the IRA could be translated so quickly into animosity against the

whole Catholic community: the existence of no-go areas. There were some in Belfast, but the most notable were the Bogside and Creggan in Derry, entirely Catholic areas where neither soldier nor policeman had trod for many months and where terrorists could brew their explosives unmolested. IRA barricades kept them secure. Enoch Powell, attentive to the loyalist mood, demanded that the barricades should come down. The no-go areas were the clinching proof, to many Protestants, that neither the British nor the Catholics cared about checking terrorism—and therefore that someone else must do the job.

Whitelaw saw their emotive importance, though he was sceptical of their strategic indispensability to the IRA. But he also saw the huge difficulty of doing anything about them, with their Catholic population in its present mood.

"Enoch says: 'Reconquer the Bogside'," Whitelaw remarked at a Stormont gathering at the beginning of May. "Let's be clear what that means. It would make Bloody Sunday look like a children's tea-party."

LYNCH BEGINS TO MOVE AGAINST IRA

One medicament, applied now, might yet have saved Protestant anxieties from festering: the referendum. A poll on whether or not the Border should stay in place would have reminded Protestants that they were still a majority and that their main fear, forcible inclusion in a Catholic Republic, was still at a safe distance. And that medicament was available: Heath had not felt able to put it back in the cupboard after once displaying it to Faulkner. Yet he could not now use it.

At various times during the summer, Whitelaw asked his Cabinet committee colleagues for leave to hold the promised referendum (the one finally held last Thursday, the day of the London bombs). He did not get it. It would have needed legislation first, and for departmental consumption the word was that legislative time was very tight. It probably was, at that: all governments have more bills to pass than they have time for. But the real awkwardness, for Heath, was that he was being strongly pressed at that time to hold a referendum about United Kingdom entry into the Common Market: the Labour Party had recently joined dissident Conservatives in demanding one. Heath pleaded the un-Britishness of the device. If he allowed a territorial referendum in part of the United Kingdom, he would have no title for refusing a Market referendum in the whole of it; and he did not want a Market referendum, because he had good grounds for fearing that he would lose it.

It was already embarrassing enough that referenda were to be held by the other three countries which were candidates for entry with Britain—Norway, Denmark and the Republic of Ireland. Of these the most embarrassing was Ireland's, because the soonest: it was to be held on May 10.

Yet in the event it was the most useful, at any rate in the Irish struggle itself. It marked a beginning of two valuable processes.

In their efforts to reassure Northern Protestants, the more perceptive among British ministers hoped for two things from Jack Lynch, the diffident-mannered lawyer from Cork who had been Prime Minister of the Republic for five and a half years. One was that he would help his countrymen to understand what the price of Irish unity was in terms of the lessening of church influence in the state: they could then make a start either on bringing about the changes which would make unity less repugnant to the North, or renouncing the idea altogether. The other and more pressing hope was that Lynch would make it harder for the IRA to use the South as a base.

Under the stimulus of his own argument in the referendum campaign that EEC membership would lessen the differences between North and South and that this was to the good, Lynch now addressed himself to the first of these hopes. He gave the green light to an all-party committee on the Constitution, the document from which a lot of the church-and-state trouble sprang. The Government party's team on the committee was conservative, and the terms of reference were cautious; but that in itself prefigured a new honesty.

The second hope began to be fulfilled soon after the referendum result was declared. On May 11, the count showed that 83 per cent of the votes cast, representing well over half the whole electorate, were for Europe—and therefore by implication for Lynch and his neutralist attitude to the North, since the IRA in its political colours had campaigned on the other side.

Lynch's early inertia towards the IPA had at first been a calculated act of hostility towards Faulkner. A high official in Dublin explained: "Faulkner's using the forces of order on the minority, his intense harassment of Catholic ghettoes, wasn't anything we were going to cooperate in. So from internment (in August 1971) until Faulkner went out of business, we had no reason to do anything to help him."

There were also local difficulties. "Lynch's problem," said a prominent British observer in Dublin, "was that the national support he had wasn't reflected in voting strengths in the Dail. And there were things he couldn't do because the judiciary or his colleagues were opposed to them. The tendency in London was consistently to underrate his difficulties; and there was too much of a survival of the old English idea that you could give orders to the Irish. Even asking was counter-productive."

This was confirmed by Desmond O'Malley, Lynch's young and thrusting Minister of Justice. "Our problems weren't made easier by pressure from Britain—statements from MPs. Anything we could do wasn't going to have any great bearing on the North anyway. The trouble in the North is indigenous to the North."

Lynch and O'Malley were nevertheless aware that the trouble could spill into the South as long as Southern opinion had any residual sympathy with militant republicanism. For some months, a curious stalemate had pertained; the Provisional leaders who lived and schemed in the South—Mac Stiofain, O'Connell, Rory Brady—were worried that Lynch would move ghettos wasn't anything we worried that public opinion might not support him if he did. Such charges as were brought could only be for offences committed inside the Republic; otherwise it was no longer sovereign and law-abiding. Mac Stiofain himself had recently been prosecuted at Navan. The charge was possession of a single round of ammunition, and the due penalty was a fine of £20.

This stalemate was broken by the referendum result. A riot at Mountjoy prison in Dublin a week later gave ministers their opportunity. About 40 prisoners, 30 of them Provisionals on remand on various charges, were transferred to the Curragh camp outside the city. Although the status of the prisoners was not changed, in the past the Curragh had been used for internment, and the hint was clear.

But a difficulty as great as the state of public opinion was the condition of the courts. Throughout the past two years, men on arms charges with strong and sometimes admitted cases against them had often been acquitted or given trifling sentences in provincial courts, particularly in towns near the Border like Clones, Dundalk or Monaghan. In Castlebar, a man who pleaded guilty to possession of eight guns and over 2,000 rounds was found not guilty by the jury on the direction of the judge—who was cheered, along with the defendant, by Provisional pickets. In Donegal town, a jury cleared a man who accepted "full responsibility" for two grenades found in his possession. "I'm glad, gentleman," the judge told them, "that that's your verdict, not mine."

Shifting cases to Dublin, where judges and juries were less sensitive to Provisional approval or disapproval, had not made enough difference. Very recently, in mid-May, Cathal Goulding had been acquitted in Dublin on an incitement charge supported with fairly strong evidence.

Towards the end of the month, therefore, Lynch made his move. Emboldened by a heavy vote in the Dail ratifying the Curragh decision, he used his powers under the Offences Against the State Act to establish a Special Criminal Court. It was to sit in Dublin, with three judges, observing the ordinary roles of evidence, but there were to be no juries.

KELLY'S BAR AND THE NEW UDA STRENGTH

Kelly's Bar was a melancholy drinking-place on the edge of the bleak Catholic housing estate of Ballymurphy in West Belfast. In the late afternoon of Saturday, May 13, it was crowded with people watching a colour television relay of a football match between England and West Germany. Two men drove an 1100 car to the door and parked it. Minutes later it exploded. Sixty-three people were taken to hospital, some with severed limbs.

No good evidence connected the war with Protestant terrorists. On the other hand there was a certain implausibility in the alternative, official view that the car was left there by Catholic terrorists who had nipped into Kelly's for a quick jar on their way to some more lethal rendezvous. Whatever the facts, the universal belief on the Catholic side was that the explosion was Protestant work. This view was strengthened when shooting began while victims were still being carried out to ambulances; and within a few minutes shots were being exchanged between Ballymurphy and the Springmartin estate, inhibited by Protestants.

If a random and yet repeated series of killings, with the killed chosen for nothing except belonging to the opposite tribe or sect from the killers, deserves the name of civil war, then Ireland's second civil war in 50 years began that night. Before the end of Sunday, six men and a girl of 13 had died of gunshot wounds, despite the efforts of the Army to keep the two sides apart. One soldier was killed in the process. More chilling still, vigilantes wearing bush-hats and masks had appeared for the first time at makeshift barricades in the nearby Protestant district of Woodvale.

This was the real launching of the Ulster Defense Association. "It was our own no-go areas that made us," said Dave Fogel—the talkative Londoner who was a founder-member of the UDA. They were a sudden disclosure of strength, both to their own community and to the British authorities. UDA members threatened to barricade themselves into no-go areas every weekend for the next five weeks unless action were taken against Catholic no-go areas, especially the Bogside and Creggan. In terms of violence against the Protestant community, they were rapidly given justification. On the Monday the Bluebell Bar was blown up, in Protestant Sandy Row; 17 people were hurt, three of them girls aged 13, 10 and seven. On the Wednesday, junior Provisionals fired on workers leaving Mackie's, a Protestant engineering works in the Springfield Road, and hit four of them. On the Thursday a Protestant boy of 15 playing at a street corner off the Shankill Road was shot dead by automatic fire, apparently from the Catholic Divis Flats. By the weekend, the UDA were drilling openly; and the weekend after that they marched through Belfast as if they were being given the freedom of the city.

This rapid rise in Protestant militancy had

two immediate consequences. One was that Faulkner, preferring to rebuild the sheepfold rather than lose even the blackest of sheep, opened the Unionist party to Craig again by inviting him into a new committee which was to consider plans for Northern Ireland's future. Craig accepted the invitation, choosing to read it as a sign that the whole party now wanted Stormont back in power.

The other and even more significant consequence was that the Official IRA called a cease-fire. The announcement that the Officials were suspending operations in the North came from Dublin, on May 29; but the impulse came from Belfast, and the reason, was given in so many words as "the growing danger of sectarian conflict."

The Officials were no gentler on their approach to guerrilla warfare than the Provisionals. They had recently shot dead the aging Senator Barnhill at short range for being unwise enough to draw a gun, as one Official said later, "when they were only about to burn his place;" they had tarred and shorn a Belfast schoolgirl on suspicion of being a spy; and they had "executed" a nineteen-year-old soldier, Ranger William Best, when they caught him at home in Derry on leave from the British Army in Germany. But they denied, then and later, that public revulsion from these deeds had anything to do with their decision.

They were already less active as a fighting force than the Provisionals. They were also less blind to what they were stirring up. They could foresee the whirlwind.

THE ARRESTS THAT DELAYED A TRUCE

But the Provisionals went on. The day after the Officials' announcement, a bomb at Springfield Road police station injured four soldiers (one of whom died later) and two civilians. The Provisionals had recently gutted the Belfast Co-op, and throughout the last week in May they had set off three or four explosions a day. Mac Stiofain declared that the bombing campaign would continue unless "political" prisoners—convicted, interned or detained—were released, and British troops withdrawn. (These were the military, as distinct from the constitutional, demands.)

The Provisionals were nevertheless still playing with the idea of their all-Irish conference; and although they had again brushed off the pressure for peace from a group of Derry women, they were sensitive to the hostility summed up by the group's leader, Mrs. Hippsley: "They expect us to risk our lives and the lives of our children on the word of an Englishman sitting 185 miles away in Dublin." (Mac Stiofain had been born John Stephenson, in Bethnal Green.)

The idea of a truce as a means to the conference was discussed at a meeting in late May of the Provisionals' Army Council. This apparently consisted at the time of Mac Stiofain himself, David O'Connell, Rory Brady, Joe Cahill, and three lesser known figures called O'Hagan, McInerney and Ryan. The meeting took no decision: that was deferred, realistically enough, for consultation with the men who in fact called the shots, the Provisional commanders in Belfast and Derry. They were summoned to a further meeting on June 1.

The scheme was upset unwittingly by Lynch and O'Malley. The day before the second meeting, Irish police and Special Branch men arrested Brady at his house in Roscommon and Cahill at the Provisionals' Dublin office. The action was bungled; the police almost certainly hope to net more men than they did, and to be able to amass better evidence against them. As it was, both men (after much hunger-strike drama) were out again within three weeks—Brady discharged by a provincial judge, Cahill acquitted of incitement in the new Special Criminal Court.

Lynch had in fact acted petulantly, out of a feeling—to quote a source close to him—that "the dignity of government had been flouted." Despite the Irish Government's new mandate, its new use of the Curragh and its new court, and despite the Officials' new prudence, here were the Provisionals increasing the level of their violence in the North and brazenly justifying it from Dublin: Brady had been on RTE's main television talk show. Seven Days, the night before his arrest.

The arrests put paid to any immediate truce talk; the meeting with the local commanders was canceled, the Provisional Army Council decided against a truce. But they had a productive side effect. Mac Stiofain moved unusually briskly to fill the two gaps on the Army Council. The election to one of them of Seamus Twomey, a blinkered fighting man in the Mac Stiofain mould, was no more than a recognition that the Belfast commander already had great *de facto* influence on policy. Mac Stiofain may have been more surprised in the event, by the other choice: Sean Keenan, former commander of the Derry Provisionals and safe man of the movement.

Keenan was just out of Long Kesh. (By June 6 Whitelaw had released 470 of the men inside.) He had had a good deal of time to think about the shift from fighting to talking. Coming home to Derry, he found it alive with peace movements. He concluded that the right moment had come. He sought the aid of the likeliest among his new colleagues in the Army Council. O'Connell (who, with Mac Stiofain, was much in Derry himself during the first half of June while police were still believed to be in the watch for them in the South).

O'Connell was already receptive. He was coming to believe that peace might after all produce for the Provisionals the political results they wanted.

Part of his reason for thinking so arose out of the activities of a group called Conciliation Ireland. Its members were professional people, of both faiths, living in both sides of the Border. They represented the outcrop, the emergent faction, of a stratum which until then had hardly seemed to exist in Ireland; a concerned middle class. From early in the year, even before they existed as a single named group, they had had contacts at a number of levels with the Provisionals, who spoke of and to them with respect. Mac Stiofain was even persuaded by some of them into an undertaking, unfulfilled, not to have any more RUC or UDR men shot. Since direct rule, the Provisionals hoped to have the group's help in setting up the desired all-Irish conference.

The members took soundings, and reported that—as they had foreseen—there was widespread, though mostly qualified, resistance to the idea on the Protestant side. Gradually they turned their attention to sponsoring efforts not so much at political as at social *rapprochement* (which continues still). But they had encouraged the Provisionals on one point. Their contacts with one or two of Whitelaw's officials had led them to believe that the British Government might be willing to recognise the right of the Irish people as a whole to determine the future of Ireland, including the North. Since it was almost universally believed at the time that the Irish people would choose a united Ireland, this self-determination was a central Provisional demand. The British Government's position was that it would not stand in the way of unity if a majority in the North wanted it; but Whitelaw's office was still intrigued enough by the idea of ultimate unity to be experimenting with forms of words for some such declaration, and Conciliation Ireland's envoys seem to have read too strong an intent into the process.

O'Connell's other source for his opponents' state of mind was the SDLP. He and Hume had been in touch at least since the beginning of the year. Since the SDLP and the Provisionals were contenders for the moral leadership of the Catholic community, the two men regarded one another warily. The SDLP's usefulness as a channel of communication had in any case been limited by their refusal to talk with Whitelaw while internment lasted. On June 7, though, its six MP's felt able to announce that because of recent releases from Long Kesh they could at least talk to Whitelaw's civil servants.

In fact they had been doing that for some time. But Hume will now have been able to give O'Connell more credible information about the distance which the British Government too had moved. Like the Provisional IRA, it was much more interested than three months before in negotiating with the main force engaged on the other side. The multifarious peace movements had achieved that much. Gone was Whitelaw's absolute ban on talking to the IRA. As long as its envoys were not certified gun-carrying terrorists, business might be done.

So when Keenan suggested that Whitelaw should be invited into the Bogside for talks, and that the invitation should be backed with a cease-fire—"unilateral suspension of ops," in Provo talk—O'Connell was ready to urge the scheme on Mac Stiofain.

THE PROVOS' ULTIMATUM IS TURNED DOWN

Direct rule was now more than two months old; and the tides of battle and murder and sudden death showed little sign of ebbing. If British opinion at large still seemed oddly quiescent, political opinion was already restive—to the point where this newspaper found it necesasry to urge on Whitelaw, and the Protestants, "the case for patience in the face of outrageous provocation." Whitelaw was in fact still fairly patient because he was fairly hopeful. He still believed in the likely efficacy of negotiation.

His problem was how to achieve it. He was dividend between the clear desirability of talking directly to the people who were actually causing the current violence, and the equally manifest danger of infuriating Protestants still further by so doing. His problems with Protestants were not made easier by Faulkner, who still had influence with them. Speaking alongside Craig and Powell at a loyalist rally in a field outside Banbridge on June 10, Faulkner departed from his script to compare. Heath to Hitler and Mussolini; and it was a speech he looked back on afterwards with satisfaction.

Whitelaw was once moved to say: "I think Faulkner is as much to blame for what's happened since the fall of Stormont as anyone else."

Middle-ground men in his own party were beginning to think the same thing. Faulkner had lately lost Robin Bailie, a youngish solicitor and Northern Ireland's last Minister of Commerce, from what was called the Shadow Cabinet. It fulfilled no useful role, Bailie said in a letter to Faulkner not made public at the time. He went on: "I believe that the present demand for a Stormont with increased powers is unrealistic. I am fearful of the reaction of the people when the day comes when this objective becomes illusory. I believe it is very dangerous that you should now be forced down a road without having given full consideration to whether the ultimate destination is one where a worthwhile and viable political structure and society will be achieved."

Now the Banbridge speech drove Sir Robert Porter, gentlest and most respected of the former Stormont Ministers, out of the Unionist party altogether. He believed Faulkner was taking it too close to Vanguard and not giving Whitelaw a chance. "I think it unfair," Porter wrote,, "to expect him to resolve, in three months, problems that are older than the State itself."

On Sunday, June 11, the UDA set up tem-

porary barricades for the fifth weekend running. On June 13 Whitelaw agreed to see the UDA's leaders: it was the first such meeting since the UDA's emergence. If Whitelaw had ever wondered whether Protestant resentments were real, that meeting cleared his mind. They were real enough to survive even the most muddled exposition. The chief grievance—as voiced by Tommy Herron, Billy Hull of the Loyalist Association of Workers, and Fogel—was still the Catholic no-go areas; and nothing Whitelaw could say about self-inflicted economic wounds would persuade the UDA men that these were not a sign of general favouritism towards Catholics, though he did persuade them to forswear barricades of their own for a while.

They wanted the referendum—but mainly in the belief that only a few Catholic areas would vote strongly for a united Ireland "and then we'd know who to cultivate." Whitelaw, bemused, said they should have it in September or October.

So he knew what the hazards were on the UDA side when news came, the same day, of a fresh initiative from the Provisionals. At an afternoon Press conference in the Bogside Mac Stiofain read out a statement he had signed along with O'Connell, Twomay and Martin McGuinness, the young and taciturn Derry commander. They invited Whitelaw to "Free Derry" to discuss their peace plan. If he accepted within 48 hours, they would call a week's ceasefire—as long as the British Army responded by ending arrests, raids and harassment.

Whitelaw's reply was less crisp than it looked. He could not, he said, respond to "ultimatums from terrorists"—thus leaving open the question of whether he could respond to overtures in other terms presented by other people. But the most notable part of the exchange was that Mac Stiofain had said nothing about internment. If that indifference was permitted to him, it was permitted to the SDLP. Suddenly the SDLP found themselves free to talk direct to Whitelaw. The missing channel of negotiation had been found.

Jealousies within the SDLP, as well as between the SDLP and the Provisionals, make it impossible to determine now whether this omission had been concerted with Hume and therefore also with Whitelaw's office, or whether it was a fresh—perhaps even an inadvertent—element introduced by the Provisionals and nimbly pounced on by the SDLP's leadership. The bald facts seem to be that Gerry Fitt, voluble leader of the six-man group and its only Westminster MP, saw the Mac Stiofain terms on news agency tape at the Commons—and their importance. From a Tory MP close to Whitelaw he established that an SDLP-Whitelaw meeting might be fruitful. At the same time, in Belfast, the party whip Paddy Devlin had spotted the same point. He telephoned Austin Currie, another member of the group, at his house outside Dungannon. The following afternoon, Wednesday June 14, the five SDLP men in the province—without Fitt, but with his approval—met in a Dungannon restaurant and decided to send two men to see Whitelaw in London.

One was to be Hume, because of his knowledge of the Provisional mind at that moment. The other was to be Devlin, because of his special commitment to the release of men interned: many were his constitutents in the Falls: involving him in the talks was a way of preventing his repudiating their outcome.

Their mission would be to support the possibility of talks between the Provisionals and Whitelaw. Their point of attack would be an issue of the moment, a demand then being made by about 120 convicted men in the Crumlin Road jail in Belfast; they wanted the status of political prisoner and the advantages they felt due to it (civilian clothes, more visits and food parcels than other convicted men, less disagreeable work). Some of them had been on hunger strike, at any rate nominally, for a month. Most of them commander of the Belfast force among them, Billy McKee, was said to be very weak indeed. Twomey's men now active in Belfast were in any case the most sceptical about the value of a ceasefire. If Whitelaw could be persuaded to make the changes at the Crumlin Road, influential Provisionals would take it as a sign that talks were worth entering on.

Early the same evening Fitt was at the Irish Club in Eaton Square when he heard from Dungannon of his colleagues' decision. Whitelaw was just back in London (after pausing at Belfast airport for a chilly confrontation with Faulkner). Fitt arranged to see Whitelaw at the Commons at eight that night. At that meetings he satisfied himself that Hume and Devlin would be sympathetically heard; but he did not tell them of the encounter when they arrived in London next day, Thursday, Hume by way of Belfast and Devlin by way of Dublin.

Flanked by two senior civil servants, Sir William Nield and Philip Woodfield, Whitelaw received the two envoys at the Northern Ireland Office, off St James's Park. He did not concede the Crumlin Road point at once: the status of political prisoner did not exist in the United Kingdom, and there would be uneasiness in his party. But he would see what he could do. The best thing would be for Hume and Devlin to come back and see him at Stormont Castle on Monday (his routine, then and since, being to spend the first part of the week in Belfast and the second in London).

This had the unacknowledged virtue that Hume and Devlin could see the Provisionals over the weekend. As for what the Provisionals might be told, the impression was given that two successive weekends free from all violence would be enough to justify the release of all interned men, and that a lengthened period would earn a general amnesty (for convicted men as well) and some sort of background political discussion.

The two men travelled back to Dublin with Fitt, spent the evening in the bar at the Gresham Hotel, and met the three other members of the group for lunch across the road in the Royal Dublin next day. That afternoon Hume and Devlin drove across Ireland, beyond the Six Counties, to Donegal town. They were to be picked up in a pub there at nine in the evening. After a long interval, Devlin got a telephone message asking them to wait at Hume's house in Derry instead. From there, at about three o'clock on the morning of Saturday June 17, they were taken to a little house in the Creggan. There to meet them were Mac Stiofain and O'Connell.

The Provisional leaders already knew that talks with Whitelaw's office were in the wind. What they wanted, for the moment, was that Hume and Devlin should use their new influence with Whitelaw to secure the release from Long Kesh of Gerry Adams, a young Belfast man with a reputation in the movement for level-headedness. He was to be their other negotiator besides O'Connell. The implication was that the belligerent Belfast brigade had to be represented, and Twomey would not do.

DELICATE TALKS—AND A CEASEFIRE

Whitelaw was now back in his Government House lodging at Hillsborough. A few hours earlier, on Friday night, he had made a radio broadcast from the BBC in Belfast: it was aimed at calming Protestant unease over the talk of negotiations which filled the newspapers. "I think you can judge," he said, "that I'm not the sort of chap who makes secret deals with anyone." Nor had he—yet. But when Hume telephoned early on Saturday morning with the request about Adams, Whitelaw did more than approve the release. He went back to Stormont Castle for an unpublicised word with Hume and Devlin about how the talks were going; and it was now possible to arrange the encounter towards which all this was tending, between Whitelaw's nominees and the Provisionals. A place and time were set: a private house near Derry, the following Tuesday afternoon.

The SDLP doves now seem to have split up: Devlin, with a large estate car lent him by the Provisionals, to expedite the discussions going on in the movement by ferrying its members to and fro under safe-conducts signed by Whitelaw's staff or by senior army officers: Hume to return repeatedly to the two Provisional leaders to fetch or carry further word. The two MPs joined forces again for their pre-arranged Monday meeting with Whitelaw, again at Stormont Castle; and it was duly announced afterwards that "special steps" were to be taken at Crumlin Road at once.

Even then, the whole delicate process was all but upset by a hitch in the transmission of the orders. Telephoning the jail late that night, Devlin discovered that the Governor was still waiting, hot soup at the ready, for the official word of their special status which would enable the hunger strikers to take food; and McKee had had to be removed in the meantime to the Royal Victoria Hospital (where he recovered). First Lord Windlesham, the Minister of State, and then Whitelaw himself had to be brought to the phone before the soup could start flowing.

Devlin knew why it mattered. That night he had a houseful of guests: Adams, who was by now out of Long Kesh, and two other senior Belfast Provisionals—Ivor Bell and Frank McGuigan. (Mrs. Devlin lent them all latch-keys: she is still waiting to get them back.) Early next morning they were to be at an Anderstown meeting of the Belfast brigade staff with Twomey, before they all drove to Derry to allow Adams to join O'Connell. As it was, the men at the meeting were still not sure that their friends' hunger strike was over. It was an awkward start on a venture which called for trust in the British.

Whitelaw's negotiators were Woodfield and Frank Steele, the resident Foreign Office man in Belfast. They met O'Connell and Adams twice: on the afternoon of Tuesday June 20, and early on the morning of Thursday, June 22. They began the first meeting by presenting credentials signed by Whitelaw: these were authenticated by an independent figure, who then left the four alone.

The deal done (after referrals to Whitelaw and Mac Stiofain in between) was apparently this: that in return for a cessation of hostile acts on the Provisionals' side the Army would cease all harassment—which included searches and arrests—and would reduce its presence in all sensitive areas; and that if the truce held "for a reasonable period," the Provisionals could expect a meeting with Whitelaw. Nothing was laid down about an end to internment, though Whitelaw's men claimed that their policy was already clearly tending that way.

It was not, in fine, a very precise agreement—which, given a body of men as hot for certainties as the Provincials, was a prescription for trouble. There was nothing in it about the political future. But at the time it was an occasion for widespread and tearful relief, even among the Provisionals. Before eleven on the Thursday morning, O'Connell had phoned the news to Mac Stiofain, by now back in Dublin. At two, Mac Stiofain had the word passed to news organisations (by Maria McGuire, who had not yet defected from her job as the Provisionals' press officer in Dublin): the IRA would suspend offensive operations at midnight the following Monday, "provided that a public reciprocal response" was forthcoming from the British Army. Within a couple of hours,

Whitelaw had said in the Commons that "Her Majesty's forces will obviously reciprocate."

Maire Drumm and her husband Jimmy, himself just out of Long Kesh, happened to be in the Ballsbridge hide-out flat when Mac Stiofain heard the news of Whitelaw's reply on the radio.

"That's it now!" Mrs. Drumm said. "Sean, we're going to live normal lives!"

Mac Stiofain summed up the achievement of a year and a half's bitter war. "It'll be great," he said, "to be back with Mary and the kids."

A SECRET MEETING IN ENGLAND

The much desired meeting with Whitelaw, which the Provisionals hoped would herald their entry on their political inheritance, was granted to them within 15 days. But they got it for the wrong reason, and one which effectively stultified it—that the truce was already cracking. "Whitelaw was simply trying to pour in some rapid-setting concrete," a man on his staff said later.

From the first, the Provisionals behaved as if they were mistrustful of their own success. They claimed, credibly, to be "stronger and better equipped than ever before"; and yet in the four days' gap which they had imposed between agreement and ceasefire they found it necessary to kill four British soldiers and an RUC man to underline the point.

Their understanding of the Protestant mind was as eccentric as ever. They thought it outrageous that shots they fired at the Army post in Lenadoon Avenue, Belfast, a developing point of friction between the communities, should be returned by Protestant gunmen as well as by the Army: once the truce was in being they saw no offense or negligence towards Protestant, non-Gaelic Irishmen about re-issuing their policy document under its Gaelic name, Eire Nua (a new Ireland with four provincial assemblies): of the Derry barricades, chief affront to the Protestant community across the province, they left all but three standing.

It was true that many Catholics in Belfast and Derry felt a comparable insecurity. The virtual disappearance of soldiers from the streets was disconcerting, eerie. The Army, said a social worker from Ballymurphy, had been the only stability that people knew: now it was withdrawn.

If that was true of Catholics, it was likely to be still more true of Protestants, who looked to the Army for their principal protection even though they complained increasingly of it. Many Protestants were made profoundly uneasy by the truce: most hardline Protestants thought it an actual fraud, useful to the Provisionals simply as a pause for regrouping. "There were elements in the UDA," Dave Fogel acknowledged later, "that would have been sorry if the truce had lasted. It's probably fair to say that a majority of members of the UDA Council felt—I did myself—that the quicker it broke the better. Then we could straighten out the charade."

The first day of the ceasefire was Tuesday, June 27. Unassuaged by another meeting with Whitelaw at Stormont Castle the next day, the UDA decided to graduate from temporary to permanent barricades. By Friday, men in unusual gear for road gangs—anoraks, bush hats, masks—were breaking up road surfaces with mechanical drills at street corners round Woodvale and the Shankill in order to embed spikes and girders in fresh concrete.

South from the point where the Shankill Road changes its name to Woodvale Road runs a group of Protestant streets about a quarter of a mile long. One of them is Ainsworth Avenue. At their southern end they debounch into the Springfield Road, a Catholic thoroughfare. On the afternoon of Monday, July 3, the Army told the UDA that there must be no barricades at the Springfield end of those streets; otherwise some fifty Catholic families would be trapped behind them (and a great many more Catholics would see the barricades as provocation).

The UDA demurred. One uniformed man told an Army officer that they were afraid of the people on the Springfield Road. "They're not Catholics there," he said, "but republicans every one, and we just couldn't trust them."

The UDA moved up a convoy of air-compressors to operate its drills. A lieutenant-colonel in the King's Regiment, Tony Davies, got them withdrawn while he parleyed with UDA leaders in his armoured "pig." He pacified them with a promise to provide barricades of his own—Army vehicles manned by British troops. But he was over-ruled at brigade level. The UDA leaders scrambled out of the armoured car and ordered up their men.

The main confrontation came in Ainsworth Avenue, where a convoy of buses and lorries (many of them hijacked) unloaded some thousands of uniformed men equipped with perspex riot shields. In driving rain, they deployed and waited. The Army brought up reinforcements. The Brigade Commander arrived, Brigadier Sandy Boswell; so did the Commander Land Forces, Major-General Robert Ford, and two men from Whitelaw's office. The Army had clearly got the message that deals with the UDA were politics, not tactics. A negotiation was arranged in a house in Ainsworth Avenue behind the Army lines. It belonged to Eddie McGill, a wages clerk and a member of Vanguard. Into his tiny front room crowded the General, the Brigadier, the officials, and four UDA leaders—Herron, Fogel, Jim Anderson and Sammy Doyle.

The UDA threat was simple. Through the Loyalist Association of Workers, it would close down the province's power stations unless it was allowed its barricades. Ford left to telephone Whitelaw. Whitelaw authorised him to shoot if he had to; but Ford clearly felt free to do a deal if he could get a respectable one. After three hours in the McGills' front room, a fresh compromise was reached: Army barricades, and the Army as well as the UDA to patrol behind them. It was a disputable advance on the formula proposed at battalion commander level four hours earlier, it had been reached virtually in public, and it conferred a new dignity on the UDA.

Ford was relieved that the huge force agreed to disperse peacefully; he held Anderson and Herron hostage, at their own suggestion, while Ainsworth Avenue emptied. But the UDA rank-and-file felt well rewarded for their wait in the rain. They were in no doubt about who had won. They marched or rode back down the Shankill Road through ecstatic crowds. One UDA leader said: "It was like the liberation of Paris all over again."

The Catholic community, more gloomily, took the same view of the incident. So did the Provisionals. "We saw the British Army back down before the might of the UDA," Rory Brady said later.

Catholics were also distressed by the number of unsolved murders in Belfast during this time. There were sixteen during the thirteen days of the truce. Most of the victims were Catholics, and few Catholics believed the UDA's denials of involvement.

It was against this background that Whitelaw decided to meet the Provisionals. To meet them was to run even graver risks with extreme Protestant opinion: not to meet them was to allow the Provisionals a feeling that a promise (even an imprecise one) had not been kept, and to forfeit the chance of influencing them for the future. Whitelaw was on a loser either way. But the ceasefire was a precious achievement, and it was increasingly threatened. Any way of saving it seemed worth a try.

Whitelaw appears to have taken the decision the very day after Ainsworth Avenue—on Tuesday, July 4, when the truce was a week old. By Wednesday, July 5, Provisional leaders were already taking counsel about how to carry themselves at the meeting. One man they consulted was Sean MacBride—an immensely respected Irish patriot, son of Yeats's heroine Maud Gonne, once an IRA Chief of Staff, later Ireland's External Affairs Minister, now an international lawyer. At his Dublin house that day he gave general advice to a group made up of Mac Stiofain, O'Connell, Twomey, McGuinness, Adams, Bell and Myles Shevlin, Mac Stiofain's fiercely republican solicitor. MacBride's main point was that they should concert their line and stick to it.

On Friday, July 7 the same group, including Shevlin, travelled by helicopter to RAF Aldergrove (beside Belfast airport) and thence in an Andover to the RAF base at Benson in Oxfordshire. From there they were driven 50 miles in two Special Branch cars to a house in Chelsea. After an early lunch the Provisionals were already seated in a large, book-lined room with Steele, Woodfield and Paul Channon, a member of his ministerial team at the time.

The meeting was business-like. Drinks were waved away. Whitelaw began by voicing what was in fact the chief reason for his being there—his anxiety not to lose the Provisionals' confidence. "I hope that the trust between us," he said, "is reinforced by this meeting."

Mac Stiofain replied with the Provisionals two main political demands: declarations from Britain that the future of Ireland was the business of "the whole people if Ireland acting and voting as a unit," and that Britain would withdraw from Irish soil by the end of 1974.

He also repeated the military demands, especially for an end to internment. Whitelaw said he understood republican feelings, but asked to have his own difficulties about Protestant opinion understood, especially with the season of Orange parades imminent.

It became clear that the point which the Provisionals had agreed to press in unison (following MacBride's advice) was the demand for an all-Ireland decision. Whitelaw explained that the problem was the Government of Ireland Act 1949, which put the destiny of part of Ireland—the North—in the hands of the majority there. The Provisionals protested that the Act was "the very root of the trouble." Mac Stiofain said many Unionists would come quietly if that British umbrella were removed: O'Connell said there had been too much talk of a Protestant backlash. "These are our people," he said, "and we do not desire a clash with them. But they cannot be allowed to intimidate and hold out on the whole people of Ireland."

After a break, the Provisionals produced a text which asked that the British Government should accede to their political demands by nine in the evening on the following Monday—three days away. Whitelaw said this was not possible. It was eventually agreed that the Government should give us its reply at a second meeting in a week's time, and that the truce should run till then—with the Provisionals free to crank up the engines of war again thereafter if the reply was unacceptable.

The Provisionals also wanted an agreement to twenty-four hours' notice of resumption of hostilities, principally to protect their men from surprise arrest if the British should be the truce-breakers, but this was not agreed.

The most crucial point arose at the very end. Whitelaw explained that he had taken a certain political risk in coming to the meeting, and asked that it should remain a total secret. There was then some discussion about what happened if the truce broke down prematurely; and Whitelaw said: "If the truce ends, all bets are off."

The Provisionals have since claimed that he was still talking about secrecy—that he meant "If the truce ends, you may tell the Press about this meeting." It is inconceivable that he meant any such thing, and a piece of amazing political naiveté on the Provisionals' part that they should think he did. Whitelaw will have known perfectly well that it was in exactly those circumstances that news of the meeting would do him most harm with his own party and the Protestants: he would be held to have cast away his principles, held dialogue with the devil, and not even made any compensating gain; whereas a truce which lasted, even though it would undoubtedly bring the meeting to light in time, would at lease give it practical justification. Whitelaw was in fact talking about the Provisionals' military demands, which had until then been left on one side. He too wanted "harassment" reduced to nothing; but if the truce ended, the old tactics would be resumed.

A FURNITURE VAN BRINGS WAR AGAIN

The misunderstanding took on a fatal importance, because the truce did end. At about the time when the meeting broke up in London, two Provisionals in Belfast (Seamus Loughran and Gerry O'Hare) had gathered a crowd of several hundred people and marched them downhill towards the Lenadoon Avenue post for a UDA-style staring-match with the Army. The issue was housing.

Lenadoon Avenue is the link road between Protestant and Catholic enclaves on the Suffolk estate in Belfast's western suburbs, beyond Andersonstown: the Protestants, and the Army post, are at the lower end. Four days before, an *ad hoc* group of local Catholics calling themselves the Lenadoon Housing Committee had asked Mike Tomlinson, the Gunner lieutenant-colonel in military charge of the neighborhood, if they might rehouse a number of Catholic refugees from other areas in sixteen empty houses at the Protestant end of the avenue. Tomlinson suggested they should ask the Northern Ireland Housing Executive. Three days later, early on the Thursday evening, the first of the Catholic families—armed with the Executive's leave—took possession; and a group of Protestants, including UDA men from elsewhere in Belfast, gathered outside and started shouting abuse.

The Army stood by to keep the peace; but early on Friday morning the Lenadoon Housing Committee called on the Provisionals. They stayed on the sidelines, in their own account, while Tomlinson explained to the Committee (who thought him too gentle with the UDA) that he had to go carefully because of recent trouble in the area; and they only moved in when a Catholic family named Bailey arrived at the upper end of the avenue with their furniture and the story that they had been evicted from the lower end by Protestants. Then Loughran, with O'Hare, led off his march.

Tomlinson—adamant about the danger of sectarian attack from the UDA if he allowed any more families in, whatever legal rights the Housing Executive had given them—contrived to put Loughran off until the following morning, and then until that afternoon, so that the Provisionals could produce a more eminent negotiator. This turned out to be Twomey, their commander in Belfast. His approach was brisk: if the Army would not take the UDA on and put the families in, then the Provisionals would. He gave the Army twenty-four hours—and was barracked by the Catholic crowd for so doing.

The next morning, Sunday, July 9, in a meeting at the nearby Army post at Musgrave Park, a last attempt was made to save the situation. Two of Whitelaw's men were there, Neil Cairncross and Dennis Trevelyan, but they could do little: the issue was now between the Provisionals and the UDA. The Provisionals wanted the families housed here and now; the UDA, through one Sam Murphy, simply said that no Catholics were coming into lower Lenadoon. Cairncross and Trevelyan collected the firm impression that no compromise whatever would be accepted. The best they could suggest was the creation of a new Catholic enclave nearby and the refurbishment of an old one, which offered no immediate comfort to the families at issue. Twomey—negotiating through Loughran while he himself stayed outside, so that he could keep in touch with O'Connell in Dublin—dismissed the idea as outrageous.

By early afternoon it was apparent that there was no business to be done. Twomey reported to O'Connell, and was authorized to go ahead with a forcible rehousing attempt at four o'clock. O'Connell phoned Steele. Finally, with some difficulty, he got through to Whitelaw at his Cumberland home. Nothing changed as a result. (One Provisional source says Whitelaw undertook to ring back. "Dave's still waiting for that call.")

At about five in the evening a large crowd formed up behind a bright orange lorry loaded with the furniture of the families in dispute. It moved off down the hill. Near the Army post a Saracen nosed through newly-erected barbed-wire defences and rammed it. From then on the decline from rubber bullets, through water cannon and CS gas, to real bullets was almost ritual. By nine o'clock O'Connell and Mac Stiofain had confirmed in Dublin that the truce was over.

It was unfortunate, perhaps, that Twomey's mood should have been worsened by his being stopped and searched at an Army post in Andersontown just before the final clash. It was unfortunate that Whitelaw's most senior officials were out of Belfast that weekend as a result of the London meeting. It was unfortunate that the Army had bulldozed two Catholic barricades in Portadown that morning as a preparation for an Orange parade at which UDA men appeared.

It was unfortunate that the Official IRA in the Lenadoon area should have been prepared to suspend their own ceasefire and start shooting at the Army with an intensity which the Provisionals will have felt obliged to emulate. (A Belfast-based reporter saw an Official IRA officer at the scene and took a statement from him while he directed his men. It went like this: "The Official Republican Movement—Pat-get down with the SLR and cover Tony: Mickey's with him. . . . are acting in defence of their areas—Get on top of the high flats, Billy, and cover the boys in the bottom . . . against the aggression of British troops—Take that pistol and cover the back. . . .")

Yet none of these things seem a sufficient explanation of why the truce gave way.

Shattered by the breakdown, Whitelaw said flatly that the Lenadoon incident had been "set up by the IRA to provide a justification for a resumption of terrorist activities." He had some colour for saying it: his staff doubted whether the homeless families in question were as homeless as all that. But the Provisionals did not simply want to get back to fighting for its own sake. Indeed, they wanted the truce to continue—but on their terms; and those were that the Army should take on the UDA and win. Whether they arranged the incident or found it, that was what they wanted at Lenadoon. That was what O'Connell rang Steele and Whitelaw to ask for. In more general terms, he had asked for the same thing in London two days earlier. It was the old illusion: only give the Prods a bloody nose and they'll see sense.

Whitelaw was to suffer a worse blow yet. In the small hours of Monday, July 10, Mac Stiofain and O'Connell put out another statement. Formally, in the name of the Irish Republican Publicity Bureau, it disclosed that they had talked to Whitelaw in London.

It was not done out of malice. Months afterwards, Provisional leaders were surprised by the notion that there was any harm in it. The likelier explanation is that, given their misreading of Whitelaw's "All bets are off," they wanted to salvage from the wreck of the truce a little personal kudos; they had talked to a British cabinet minister on equal terms. But they were destroying their own opportunities of negotiated advance. A Labour MP who knew them summed up his impression of why they did it in a single, sorrowful word: "Gormlessness."

Heath had, in the Whitehall phrase, "covered" the London meeting—given it his personal approval; but he knew the risks. The Downing Street view was that the betrayal of the meeting was the worst thing the Provisionals ever did.

Whitelaw made a statement in the Commons the same day. He was not prepared to apologise, he said, for any action taken to save lives. But a fortnight later, during a debate on Northern Ireland, Captain Willie Orr (the leader of the Unionists at Westminster) asked him for a clear undertaking that neither he "nor his Ministers, advisers nor any emissary on his behalf will ever again sit down with representatives of the Provisional IRA."

Whitelaw was on his feet at once. "My honourable friend can have that now."

The way of negotiation was closed.

CHARACTERS IN THE DRAMA

Willie Whitelaw, Northern Ireland Secretary: he believed in negotiation, but the Provos blocked it by leaking the news.

Sean Mac Stiofain, Provisional leader: his worst mistake was to reject Heath's direct rule move out of hand.

John Hume, SDLP negotiator; he carried the secret messages of hope between Whitelaw and the Provisionals.

David O'Connell, the Provisionals top thinker—but he let them display "gormlessness," "sheer lack of political nous".

Brian Faulkner, Unionist leader: he was judged "as much to blame for what's happened as anyone else".

Seamus Twomey, Provisional commander in Belfast: if the Army wouldn't take the Protestant UDA on, his men would.

[From the London Sunday Times, Mar. 18, 1973]

A NEW PERSPECTIVE ON ULSTER—PART 2—THE YEAR'S LESSON: VIOLENCE IS IRREVERSIBLE

(By John Whale)

A year ago this week, British Ministers took over the Government of Northern Ireland. Within the next few days they are to publish, in a White Paper, their plans for restoring it in altered form. This, the second part of a major inquiry into the year of Direct Rule, describes the undiminished turmoil the White Paper must confront.

Last week's installment told how, in the first four months of that year, the Provisional IRA missed its two great opportunities. It responded to the ending of the era of Protestant supremacy not with political initiatives to consolidate its gains, but with unremitting violence—which predictably swept the Protestant extremists into a street army of their own. Then in June, 1972, there came a fragile truce, and the British Government took the risk of talking to the Provisionals secretly but face-to-face. Yet the Provisionals responded first by forcing a breach of the truce, then by betraying the fact that the talks had taken place—thus ruling out the political possibility of further direct negotiation. Only a deepening spiral of violence could follow. . . .

On Tuesday, July 18—nine days after the truce broke—an air taxi lifted off from Weston, a private field near Dublin, and flew to Luton. On board were Myles Shevlin, Joe Cahill and Gerry Adams. The Provisionals were showing small realisation that they had let their golden chances pass them by.

Shevlin was lawyer to Sean Mac Stiofain, the Provisionals' unyielding militarist lead-

er, and had accompanied him 11 days before to the London meeting with Willie Whitelaw, Britain's Northern Ireland Secretary. Cahill was an old warhorse out of the same stable. Adams spoke for the Belfast brigade, the most gun-minded part of the movement. From Luton, the group drove to a house in the country to meet the Leader of the Opposition, Harold Wilson.

The night after the breaking of the truce Wilson had gone round to Whitelaw's London flat with Merlyn Rees, Labour's spokesman on Ireland. They found Whitelaw infinitely depressed. Wilson, wanting to do what he could, said he was thinking of seeing the Provos again himself. He read Whitelaw's lack of protest as the silence of assent.

The meeting was set up through John O'Connell, a Dublin doctor and a Labour member of the Dail: he had sponsored an earlier encounter between Wilson and the Provisionals in March, and now traveled with the three emissaries. (Final arrangements were made so late that Merlyn Rees was caught on a party visit to Jack Lynch, the Irish Prime Minister, in Dublin. He had to leave a Royal Hibernian lunch early, giving a truthful explanation, and he reached the rendezvous late.)

Wilson was a shade disappointed when the Provisionals turned up: he had expected David O'Connell (no relation of the Doctor's) and Rory Brady, the two former teachers who carried such intellectual equipment as the movement possessed. Yet although the delegation was made up of hard men, they behaved as if their expectations were political. "What have you got to say to us, Mr. Wilson?" were the first words spoken when the meeting began. The Provisionals were still pursuing the double declaration they wanted from Britain: that the North's future was for *all* Ireland to decide, and that Britain would be out by the end of 1974. They still believed that they could strike an understanding with the UDA once Britain had given notice to quit.

Shevlin (who found Wilson congenial—a sentiment not returned) tried to shake new Government proposals out of the Leader of the Opposition by saying that the ceasefire had ended because the Provisionals had got nothing out of it. It was a claim Shevlin knew to be untrue: he had himself heard Whitelaw's promise to take their demands on board, and the truce broke before they learnt the Government's answer.

It also showed that the Provisionals' incomprehension of British politics remained profound. Wilson tried to make them see that the Leader of the Opposition could speak *to* the Government, but not for it. More than that, he explained that because of the disclosure of the London meeting there could be no Government proposals anyway. Any move must come from them. Neither point registered.

Wilson took no risks with leaks. That same day, Maudling resigned as Home Secretary. A ministerial career badly mauled by Northern Ireland was finally put to death by something quite different—the Poulson affair. There was a Commons statement from Heath: Wilson's absence needed explaining. His staff explained. The news was anyway buried by Maudling's departure.

Two days later, on July 20, in two speeches in London, the British Government formally and specifically refused the twofold declaration the Provisionals wanted. The Prime Minister, Edward Heath, said: "We as a Government can give an assurance that the status of Northern Ireland as part of the United Kingdom will not be altered except by consent." Whitelaw said: "Ulster is our responsibility. It is a heavy responsibility, but it is one the Government will not shirk." No all-Ireland decision, no promise of evacuation.

With the wisdom of hindsight, at least one among the senior Provisionals later perceived that instead of lifting their gaze to these large political prospects they would have done better to keep their eyes on the narrow tactical bourn of a durable ceasefire. But there is no evidence that the point troubled them at the time. The arguments which now began to divide them were about differing kinds of military approach, not about whether a military approach was desirable at all. Three times recently the Army post in Andersonstown had been attacked with rockets. Mortars and bazookas were already in use. Should the Provisionals put their energies into that kind of intensified attack against the Army, or should they press on with indiscriminate explosions?

The faction on the Provisionals' Army Council which doubted the usefulness of bombs was not wholly moved by a concern for the lives of innocent civilians. The lives of Provisional bomb-handlers were at risk, too: commercial gelignite was hard to get now that the Lynch Government was slowly lengthening its arm, and explosives based on chemical fertilisers were perilously unstable.

This band of non-bombers did not include Cahill, nor presumably Mac Stiofain; but it does appear to have included David O'Connell. They now sought the aid of the man who was for the moment the father-figure of the movement, the Irish international lawyer Sean MacBride. John O'Connell was again willing to act as intermediary.

On the morning of Friday, July 21, he had MacBride to his office on the Dublin quays and put the case to him. MacBride agreed to take it on: he would advise the Provisionals to stop bombing, if the members of the Army Council asked him.

They never did. The bombers among them had pre-empted the decision. Late that afternoon John O'Connell gave Wilson a hopeful report by telephone; something might yet be saved. Then he went out to a house in the suburb of Templeogue which the Provisionals used. Cahill was there, just back from Belfast. They were guardedly discussing an end to the bombing when Cahill broke off to switch on the television set. He wanted to watch the 4.50 pm headlines on Ulster Television from Belfast. The news was the news of Bloody Friday.

Between nine minutes past two and half past three on a sunny afternoon in Belfast, twenty-two bombs had gone off. Most of them were in cars. One car had been driven into the forecourt of the Oxford Street bus station: another was left on the wide pavement outside a row of shops at Cavehill Road, in north Belfast. The city was already prey to confusion and terror when they blew up. Those two bombs took the lives of eleven people (two of them soldiers) and injured 130, many of them horribly.

Cahill switched off the set. "That's the way it's got to be," he said.

John O'Connell was sick in the garden outside.

MOTORMAN—WHY IT WAS A WALKOVER

Lord Carrington, the Defence Secretary, joined Whitelaw on a plane to Belfast from London that night. "Right," Whitelaw said to him. "Now they've given it to us. We can go into the no-go areas."

Grievously enough misapplied, force can defeat itself. Whitelaw saw that the Provisionals had put themselves in the wrong on Bloody Friday as surely as the British Army had in Derry on Bloody Sunday, six months before. The similarity of names was right. Those two days were the cardinal events of 1972: they demonstrated the barrenness, and worse, of a purely military approach to the Northern Ireland dilemma. The difference between them was that the British took the point. The Provisionals persisted. But for the moment, at least, they had forfeited all moral claim to the loyalty of even their closest supporters; and in doing so they had presented the British Army with a considerable tactical opportunity.

The Provisionals were themselves so well aware of this that many of them seriously believed the forces of order to have deliberately worsened the effects of the day's bombs by ignoring telephoned warnings. It was true that the Cavehill Road car bomb, one of the two most damaging, was signalled an hour and eight minutes before it exploded; and other warnings also went astray. But they were never phoned directly to the Army or the RUC, a large number of false alarms were raised on that day as on every other, and the widespread panic in the city that afternoon jammed telephones and streets, so that it was as difficult for well-intentioned callers to get through to the forces of order as it was for bomb-disposal teams to get to the bombs.

Contingency plans for a forcible, military entry into the fortified Catholic enclaves had existed for many months: Brian Faulkner remembered them from his own days as Prime Minister at Stormont; but they remained unused for as long as it was thought that civilian resistance would give rise to so many civilian deaths as to outweigh the gain in Protestant goodwill. Even now, a last attempt was made at negotiated entry instead. Three of Whitelaw's officials went to the Bogside and Creggan in Derry to talk down the barricades: the three were Frank Steele and Philip Woodfield, who in June had negotiated the ill-fated truce, and David Gilliland, a Derry man by birth. But although they won local support, especially from John Hume (who had represented the area at Stormont for the Social Democratic and Labour Party), the hand of the IRA was still heavy enough to withstand it.

To strengthen the arm of Bogsiders who wanted to be law-abiding, Whitelaw summoned Faulkner and asked him to make a public statement urging the UDA to dismantle their barricades. Faulkner refused: he could not compromise his principles, he said. The UDA's own contribution was a threat to put sawdust in the oil supply to the Bogside gasworks: they rescinded it, a little shame-facedly, when they discovered that the gasworks supplied the whole city, and loyal Protestants would be discomforted as well.

Military preparations were in any case going on at the same time. Carrington's reply to Whitelaw had been that the job could be done, but after the lapse of a week at least. During that week the Army press office at Lisburn let it be understood that there was consternation in senior ranks because the faithful "pig," the one-ton Humber, was no longer battle-worthy: its hide was not tough enough to withstand new IRRA bullets. The Daily Mirror obligingly splashed the story; and it provided cover of a sort for the sudden appearance at Sydenham airfield, by the Belfast shipyard, of hundreds of six-wheeled Saracens. They were a torrid Mediterranean-sand yellow: many of them had been in Malta until recently, when the running row between the Maltese Government and NATO had opportunely released them. Two REME units came in to paint as many as possible a more suitable dun Ulster colour; and convoys of them trundled through the night to lie in wait in Ballykelly and Eglinton barracks on the edge of Derry.

In the event, Operation Motorman (the Army's name for it) was reminiscent of that other recent feat of British arms, the invasion of Anguilla. It was a walkover, because the other side stayed away. The punch was laboriously telegraphed. On the evening of Friday, July 28, Whitelaw broadcast over RTE, the preferred listening of the Catholic community, to say that all barricades must and would come down: forty-eight hours later, from Stormont Castle, he announced the start of "substantial military activity" and advised people to stay off the streets. The Provisionals chose to take the hint. Most of them went South, and much of their weaponry was hidden in the country. When

the Saracens rolled, in the small hours of Monday July 31, the wet streets were deserted.

Although the main work of clearing barricades and re-establishing an Army presence was done in Derry, the flag was shown in Newry and Belfast too. Seamus Twomey, who commanded the Provisionals' Belfast brigade, had stayed behind in Andersonstown to watch. He got out of bed, saw a soldier sitting on every doorstep and went back to sleep. By the end of the day there was hardly a school or a park in the area without its new growth of Army sand-bags and corrugated sheeting.

But for the death of two young men in Derry, it would have been a bloodless coup. By far the worst violence of the day was caused not by the Army but by three car bombs in the small and hitherto untroubled County Derry village of Claudy. Seven people died as a result, one of them a girl of nine, another a former nurse. From Dublin, the Provisionals disclaimed responsibility; but even though Claudy came later to be regarded as freelance work, they could not altogether deny the responsibility of example. Their cause was further damaged.

DARLINGTON AND A GAMBLE THAT FAILED

The advantage was still with Whitelaw, and he pressed it. His aim had always been to restore normal politics. Now that he had removed the most abnormal feature of the province's civic life—the no-go areas where the state could not even attempt to enforce the law—he decided to see whether conciliation could generate agreement where Protestant supremacism and republican terrorism had both failed.

On August 11 he sent out letters to the leaders of the seven political parties represented among the fifty members of the old Stormont parliament, inviting them to a conference on the province's future. It was to be held in six weeks' time "at a suitable venue in England outside London." The place his officials had their eye on was Darlington: a hotel being created out of a reasonably secluded country house there would be finished, but still empty, at about the right time.

It was a brave and ingenious try. Between them, the old parties could speak for most of the forces engaged. The Reverend Ian Paisley's Democratic Unionist Party understood extreme Protestant opinion, and the SDLP had links across the Catholic community from the Dublin Government to the Provisionals.

The Provisionals were in any case no great loss for the moment. Their bombing rate had fallen only slightly since Motorman, and their interest in politics was totally submerged. New evidence of that was furnished by Maria McGuire, their young press officer in Dublin, who ran out on them at the end of August. Her story appeared in The Observer, starting on September 3. She had known both O'Connell and Brady well; and she suggested that although they were increasingly unhappy at the policy of "senseless killings" which Mac Stiofain was pursuing because he knew no other, they were also increasingly denied influence within the movement—a process which the publication of her story will have done nothing to reverse.

Then the difficulties began. The Protestant UDA had taken down its barricades on the morning of Motorman. "We read that they were moving against Derry," said Tommy Herron, a former night-porter who was the UDA's vice-chairman. "As soon as we got confirmation we ordered our men to let the Army take down the barricades. We could have done it ourselves, but the Army had superior equipment." So the spikes came out of the roads, men of 1 Para were on patrol again, and in the little streets round the Shankill all was as merry as a marriage bell.

But not for long. Working-class Protestants in Belfast tended to suppose that because they honoured the Queen they could expect indulgent handling by her soldiers. In this they were mistaken. Sir Harry Tuzo, then in his last months as Army Commander in Northern Ireland, once asked a sergeant whether he would have any difficulty about firing on Protestants if he had to.

"No, Sir," the sergeant replied. "Just so long as provided they're Irish."

The discovery was all the more painful when it came. Protestant terrorism was on the increase. The Paras had a crisp line in riot control which before long moved the UDA to suggest that they should be posted to the jungle, "where they would be at home." Then on September 7 they shot two men dead in contentious cricumstances on the Shankill Road. Paisley demanded a judicial inquiry. When he was refused ("the agony of Widgery again," Tuzo said), he announced that he would not be at Whitelaw's conference.

The pure Orange interest might yet have been represented at Darlington by Bill Craig, still the leading apologist for the Ulster Right by virtue of being the only member of it who could finish a sentence. Since he was also a member of the Unionist party, he might have gone as part of Faulkner's team; but that was made impossible on September 11 when Craig took on the titular leadership of a coalition between his Vanguard organization (which was still just respectable) and the UDA (which was not).

The SDLP men, for their part, tried to use Darlington to show that they could do more for Catholics than the Provisional IRA could. They said they would only go if interment ended. It had already been much reduced: 724 men had been let out, leaving (with 30 new detention orders signed) 241 inside. The SDLP pressed Whitelaw on the point at least twice, and then Heath on September 12 at Chequers. In a last attempt to help the party, ministers announced on September 21 that they would change the system: they would hand over the job of making detention orders to a tribunal, and they would set up a commission—Lord Diplock was later found to chair it—which would seek some more elegant way out of the impasse in the long term.

The change was not enough to allow the SDLP to feel that its gamble had paid off. Gerry Fitt, its leader, had to announce that the party would not be at Darlington.

It meant, for one thing, that Lynch's position would remain uncomprehended by Britain. The Special no-jury court in Dublin was convicting a great many more people than it acquitted, Bloody Friday had given Desmond O'Malley (Lynch's energetic Minister of Justice) moral backing to order that all licensed weapons over a certain size should be turned in to the police, and a byelection gain in mid-Cork had made Lynch feel that his Government was strong enough to start drafting a law which would net IRA men in the South even when they had committed no offence there.

The SDLP men's relation with Lynch was not as cosy as it had been; but they would have been able to explain that this delicate dialogue between him and his electorate could only be rushed at peril. Heath and Lynch had met at the Munich Olympics. "Why can't you pull Mac Stiofain in?" Heath had asked. Lynch had explained the difficulty of getting evidence, and the subject was dropped. A few hours later, Lynch was astonished to read a long statement from Heath's Press staff to the effect that Heath had requested firmer action on specific points. For a man already touchy about being nicknamed Union Jack Lynch, it was a persuasion to go slow on new measures.

More than that, the SDLP men's absence from Darlington meant that their plans for the future of the North went by the board. They were gratified by the Press attention which their will-they-won't-they antics won them at the time; but they have complained since that their central proposal—divided loyalties in Ulster to be recognised in divided rule by Britain and Ireland—has never been properly examined by the British Government. Yet it could not be. It was not properly presented. Ministers and delegates at Darlington could read about it in the papers, but the SDLP men were not there to argue it.

So the delegates who gathered at Darlington on September 24, exactly half way through the year of direct rule, were there to take part in a pavane of the unionist centre. Only three parties came: Faulkner's Unionists, and two non-sectarian parties, Alliance and the Northern Ireland Labour Party. Just enough disagreement was generated to indicate that the difficult questions for any new Ulster would be two: how to share power between the communities, and who should control the forces of order.

Whitelaw was not yet totally discouraged out of his belief that a new kind of consensus politics might emerge for Northern Ireland. But he could see that it would take longer than he had expected. The only news to come out of Darlington was that the Government's conclusions would be issued not as a White Paper (a basis for legislation) but as a Green Paper (a basis for discussion only). Whitelaw seemed to have taken account of advice offered him on the last day at Darlington by Phelim O'Neill, who had sat on the Tory benches at Westminster with him throughout the fifties and had now moved from the Unionists to lead Alliance. "For Heaven's sake, Willie," he said, "don't be in a hurry."

THE "LOYALISTS" TURN AGAINST THE BRITISH

The steps with which Whitelaw sought to struggle forward became smaller and smaller. After the Darlington attempt, the Blackpool attempt. On October 11 he told Tories in conference there that his next step in Northern Ireland would be local government elections in two months' time. Nothing as ambitious as his attempt to end the war by his London meeting with the Provisionals, who had themselves frustrated it: nothing even as reflective as the Darlington talks, nullified by the SDLP: just ordinary council elections, necessary for an agreed reform in local government, and to be held under proportional representation as an experiment. He seemed certain that he could manage that.

He reckoned without Billy Hull and the Protestant armies of the streets. Hull was a shipyard union leader, immensely thickset, who ran the Loyalist Association of Workers—the UDA in daytime overalls: it claimed 100,000 members. He told a rally two days later that the elections were undemocratic, and people trying to vote in them would not be allowed to go to the polls.

His objection was to proportional representation—ostensibly because it was un-British, in fact because he was afraid it would further fragment the already fragmented unionist vote. (A better argument was Whitelaw's promise, four months before, that before the local elections there should be a Border referendum; but the difficulty for Hull was that a referendum was un-British, too.)

Whitelaw resisted while he could; but the pressures on the other side were of a special virulence. On October 27 he announced that the local elections would be put off till the spring.

The intervening fortnight was one of Northern Island's worst periods of cyclic, self-nourishing madness in the whole year. Rioting began in east Belfast, the almost entirely Protestant territory on the shipyard side of the river Lagan; but it spread soon enough to the other bank, and then to Derry. If the forces of order began it, as Protestants claimed, then even the topsy-turvy normalities of ghetto life were overthrown; two RUC men, never ordinarily the tyrants of Protestant districts, had to be rescued by a

unit of Paras from a crowd on the Shankill Road. The disorder seemed, in fact, to represent an upsurge of confused hatreds which the leaders of the Protestants on the streets had no interest in checking.

"To hell with the British Army!", UDA leader Tommy Herron shouted down the phone to a reporter after a young man had been knocked down and killed by a Saracen in a dark and turbulent street: "To hell with the Whitelaw administration! The British Army and the British Government are now our enemies." But there were other enemies to deal with, too. One Catholic church in east Belfast had its statutes smashed with sledge-hammers; another was set on fire. Some of the destruction was meaner still in scale. At a Catholic school in west Belfast, beyond Woodvale, the girls came into the science room one morning to find the letters "UDA" chalked on the blackboard, and acid poured into their tank of fish.

No sooner had Roy Bradford (formerly Faulkner's ablest minister and an east Belfast MP at Stormont) patched up a pause, by arranging for UDA leaders to see Whitelaw and Tuzo, then Craig told the Monday Club in London: "We are prepared to come out and shoot and kill;" and the Ulster Loyalist Council, the Vanguard-UDA-LAW coalition be chaired, promptly said he was "giving voice to the feelings of most loyalists."

The odd thing was that the Provisionals, at the time, were lying comparatively low. They could afford to: their work was being done for them. The constituent bodies of the Loyalist Council had all come into being to resist IRA violence. They had no political programmes worth the name, and they knew it. When the IRA's activity declined, theirs ought to have declined. But the promise of returning normality—even on the tiny scale represented by local council elections—was somehow a threat to them. They wanted the tension kept high. Once the genie was out of the bottle, there was no putting it back.

Dimly, through the smoke of that fortnight, many Protestants began also to perceive a truth they had kept from themselves for years: that in fact for all the Union Jacks over the front door and the royal photographs over the mantelpiece, they disliked Britain and the British heartily. They could not conclude from this that their destiny was with the South, since that would be to exchange the frying-pan for the fire; so they were left with only one recourse to look to—an Ulster independent of either. Craig was now beginning to urge this more earnestly than before; and after the chaos of the past two weeks the British authorities were uneasily aware that if any large number of Protestants took it into their heads to agree with him, they would be hard to stop. Yet they ought to be stopped; for if Craig in his "shoot and kill" mood did indeed speak for most "loyalists," then the Catholic minority in an independent Protestant Ulster could expect either a cowed life or a short one.

The British Government acknowledged the potency of this threat by devoting sudden energy to heading it off. First, the promised Green Paper, published on October 30, was at great pains to point out that Northern Ireland depended absolutely for its wealth, security and international position on its membership of the United Kingdom. There was rather less emphasis on the reminder that the province was on the same island as the Republic (though that passage, with its reverberatingly vague phrase about the need for an "Irish dimension" in any settlement, was the one everybody noticed).

Second, David Howell, one of Whitelaw's ministerial lieutenants, took occasion to read his numbed constituents in Guildford on November 3 an extremely detailed lecture about the ill consequences of a Northern Ireland declaration of independence. Third, and most striking, Heath came to Belfast to deliver the message himself.

"To those who urge that Northern Ireland should seize its own unilateral independence," he said on November 16 in a lunchtime speech at the Culloden Hotel, "I must say that not only would such an attempt bring about a bloodbath, but that were it to succeed the British Government would not pay one penny of the £200 million a year now provided for the province to an independent country such as they claim they want."

Nothing changed, of course. In Northern Ireland, the language of enlightened self-interest is as little understood as Gaelic. Craig said Vanguard would not want British money, anyway.

And lest Heath should forget them during his visit, the Provisionals let off a couple of bombs in the sidestreets of downtown Belfast. It ought to have been impossible: all such streets had been shut off a few days before with heavy metal gates, painted blue and guarded by soldiers. But big shops often have both main-street and side-street doors. The Provisionals took one bomb in through British Home Stores, and another through Woolworth's.

MAC STIOFAIN: LYNCH BRINGS THE NEWS

A week later, on Friday, November 24, Heath gave a small dinner party at Downing Street. The chief guest was Jack Lynch.

The meeting marked the beginning of a new phase, both in the war against the IRA and in the quest for a political settlement; yet it only took place by accident. Lynch was booked to speak the night before at the Oxford Union (where he duly won a massive majority for Irish unity). The Foreign Ministry in Dublin had taken no advantage of the engagement. It was only when the then British ambassador in Dublin, Sir John Peck, came to hear of it that Downing Street was hastily added to the itinerary.

Lynch came with his meal ticket in his hand: Mac Stiofain was in Mountjoy prison in Dublin, awaiting trial. He had been watched for some time; but it had apparently been thought worth picking him up, in the silent suburbs of Dublin during the small hours of the previous Sunday morning, because he was known to have left the house of a Radio Telefis Eireann reporter for whom he had made a radio recording. In other words, there would be actual evidence on which to charge him with membership of an unlawful organisation.

That same Sunday, RTE allowed the reporter—Kevin O'Kelly—to broadcast a detailed third-person account of what Mac Stiofain had said: "'We believe,' he said, 'that by armed struggle alone can we achieve our objective,'" and so on. It was a breach of the spirit, though not the letter, of a directive already given by the Government under the Broadcasting Act to RTE—that it should not broadcast statements made on behalf of unlawful organisations. Lynch had coldly asked the RTE Authority for an explanation. The Authority had denied disobeying the directive. On the morning of the Downing Street dinner, with Lynch on the telephone from the Irish Embassy in Grosvenor Place, the Irish Cabinet had decided how to answer the denial.

Reminded in the car on the way to Downing Street that Heath was a blunt man who must be spoken to bluntly, Lynch kept his aces up his sleeve till the small company was gathered round the diningtable. Then he announced that his Government was sacking the entire RTE Authority: all eight members were getting their notices at that very moment.

He shot up in Heath's estimation. "Ted Heath was immensely impressed," says a man who should know. "The sacking of the Authority amused him enormously. He said he wished he could do the same at the BBC."

Lynch had more than that to tell. The following Monday, he said, his new Bill would be published in Dublin. It was called the Offences Against the State (Amendment) Bill 1972; and it would at last deal with the difficulty that people who were evidently IRA activists could not be convicted in the South because they had committed no provable offence there. The Bill would make it possible to convict men picked up just South of the Border after committing an offence just North of it; and in cases where the charge was that a man belonged to an unlawful organisation, a senior police officer's belief to that effect would be admissible in evidence.

Heath, it seems, was "thrilled"; and Lynch was emboldened to attack. In view of what he was doing, he said, it was grossly unfair that there should be sniping at him in Britain, in the Press and elsewhere: it should be given no encouragement by government and its spokesmen.

He was pushing his luck. The convivial atmosphere seems to have clouded. Lynch did less well when he moved on to the questions he had come to ask. Did the Green Paper's phrase about an "Irish dimension" mean that the White Paper, when it came, would propose a full Council of Ireland, a North-South consultative body acceptable to Dublin?

The phrase meant what it said, Heath replied.

Lynch persevered. Ought he not himself be involved in negotiations about the White Paper?

"Discussions, not negotiations," Heath said. The phrase hung in Lynch's memory.

His anxiety was for the form rather than the fact of advance towards Irish unity, since he knew that his electorate wanted nothing more. (Fresh evidence of that was already to hand in the doubtful progress of his referendum campaign to remove one notorious obstacle to unity, the Roman Church's special mention in the Irish constitution: in the end he only carried his point on a minority vote.) But even the form looked like being hard to achieve. Lynch went home disheartened to Dublin.

There his judgment on dealings with the IRA, at any rate, was borne out. Twenty-four hours after the Downing Street dinner, on the evening of Saturday, November 25, Mac Stiofain was found guilty at the Special Criminal Court of being a member of an unlawful organisation, largely on the evidence of the RTE tape, and given the minimum sentence of six months.

Mac Stiofain had been on a hunger and thirst strike for the six days since he was picked up. Students of the movement suggest that he did not expect to be convicted: the point of the hunger strike was to get the trial brought on quickly, so that he could return to the Provisionals before they had time to operate their rule that imprisoned men lose their rank. The scheme had gone wrong, and he was stuck with the strike. He made the best of it. "I'll see you dead in hell before I submit," he shouted to Mr. Justice Griffin. "You had no evidence against me. I will be dead in six days. Live with that."

The judge contrived to: he has since been promoted to the Supreme Court; and Mac Stiofain himself showed greater longevity than he expected. His hunger and thirst strike went on, though Dublin was full of the usual allegations about his drinking his shower-water. On the night he was sentenced, Saturday, November 25, he was taken to the Mater Hospital. An armed attempt to free him failed the following evening. His friends in the movement urged him to eat and drink, but believed him to be dying: that day and the next both the former and the present Archbishop of Dublin went to see him (not at his request, though possibly at someone else's), and he was given absolution.

Late on Monday he was taken by helicopter to the Curragh camp, outside Dublin, for

greater safety. There, on Tuesday, he decided to break his fast: he had something to drink. The next night some thousands of people marched in the rain through Dublin from the Liffey to the Dail (the Irish Commons): they burnt an effigy of O'Malley, and a copy of the Daily Express with its splash headline "A Sip of Surrender." And after that the excitement was over.

There was one more incident in Dublin that week. On the evening of Friday, December 1, the Dail was taking the key decision on Lynch's new Amendment Bill; and it looked as if Lynch's ruling Fianna Fail party might lose. Both opposition parties, Fine Gael and Labour, thought the powers in the Bill excessive. Only the Fine Gael leader, Liam Cosgrave, had declared his support for the Government. At about eight in the evening, two bombs went off in the centre of Dublin, killing two people: UDA responsibility was later guessed at, but never proved. Lawlessness seemed uncomfortably near. Fine Gael members were glad to crowd back behind their leader, and the Bill was swept through.

The irony was that a general election forced by a defeat on that issue would have suited Lynch very well: he would have won handsomely. The man who came out of the affair most fortunately was Cosgrave: he kept his conscience, and his party, whole, and he lived to fight another day.

THE CARDINAL'S MAP: A PIN FOR EACH BODY

There is a Downing Street in Belfast: a small street off the Shankill Road. On the morning of the day when the prostrate Mac Stiofain was air-lifted to the Curragh, Mrs. Minnie Midgley—a Church of Ireland member, a good Protestant, like all her neighbours in Downing Street—was bringing in her milk when she heard a burst of automatic fire outside. Venturing out and round the corner, she found a late-middle-aged man and four boys near a wrecked and bullet-marked car. Two of the boys were hurt, the younger of them very badly; and the man could not help him, because he had himself been hit in the shoulder.

Mrs. Midgley knelt down, cradled the child's head on her apron, and did what she could to make him comfortable by following the man's instructions. She did not realise at first that they were father and son, nor with what dreadful certainty the man knew that the child was dying, being himself a doctor. But she had realised, at a glance, that they were Catholics. She could tell by the boys' blazers.

"That's what I hate about Northern Ireland," she said later: "the school uniforms."

The man was Peter Gormley, an eye specialist. The boy was his 14-year-old son Rory. Dr. Gormley was driving his three sons and a friend of theirs to school. One of the boys had thought he heard the shout: "There's a car full of Taigs," but the attack might have been more premeditated than that suggested. Rory's death was only one more of Belfast's random killings: unexplained, unpunished.

But Mrs. Midgley plucked up her courage, and went up into the comfortable neighbourhood where the Gormley's lived, and made herself known to Mrs. Gormley, and told her that she had tried to give Rory the love his mother would have given him.

For all the appearance it gave of being a city sunk in vicious gloom, Belfast had at least its share of human kindness. More than that, as another winter drew on, countless ordinary citizens on both sides were filled with an ineffable weariness at the daily renewed agonies of bereavement and pain. By now, few lives were untouched. In the province as a whole, one person in every 200 had suffered death or injury: in Belfast the proportion was far higher; and every victim had relatives, friends, acquaintances.

Belfast is beyond comparison the most afflicted city in the British Isles. Between February 1951 and March 1972, in the United Kingdom taken as a whole, there were 42 "disasters"—defined as events demanding extraordinary mobilisation of emergency services: train crashes, mine blasts, big road accidents. Starting only in August 1969, Belfast's major riots and explosions had already passed that total by March 1972; and the rate had not dropped since then.

Those calculations were made by a surgeon at the Royal Victoria Hospital in Belfast, Bill Rutherford. (They appear in the February, 1973, issue of Injury, the British Journal of Accident Surgery.) Rutherford was already running, on the side, a body called Action for Peace, an umbrella organisation for several groups struggling to relieve fear and tension on the streets. It was no accident that a high proportion of the people engaged in such work were surgeons. Photographers, bystanders, even relatives, seldom saw the whole extent of an injury (especially from a high-velocity bullet, which might cause no outward bleeding at all). The men who knew the full depth of the physical (let alone the psychological) wounds suffered by the people of Belfast were the men whose job it was to bind them up.

Although the intensity of IRA bombing, or of UDA-backed rioting, waned from time to time, sectarian murders like the killing of Rory Gormley made sure that the city's state of distress was kept high. On the wall of his study in Armagh, Cardinal Conway, a Belfast man and head of the Roman Church in Ireland, had a map stuck with coloured pins to mark the places where bodies had been found. By early December there were 106 pins in place for 1972; 93 of them were in Belfast, and 77 of the victims were Catholic.

The special murder taskforce which Whitelaw announced on December 7, jointly manned by military police and the RUC, had an almost impossible beat. It may have kept Catholics from being kidnapped and then dumped in Protestant areas as corpses; but they were shot from moving cars instead. Many Catholics believed that the Army itself used plainclothes assassination squads against suspected IRA men.

Since all of this was a persuasion to go out as little as possible, existence became increasingly joyless, especially for Catholics; and the consolations of religion were seldom enough. On a wall in Ballymurphy, a new graffito appeared: "Is there a life *before* death?"

Sectarian murder had another effect. It rehabilitated the Provisionals. It vested even the rough-and-ready young men now replacing their killed or captured elders with the dignity of defenders. By the same token, it renewed the hatred felt for their appointed enemies, the British Army.

The Army could do nothing right, from the occupation of football grounds to the insistent photographing and questioning of Catholic youth. Yet the soldiers had their reasons for rough tactics too. They were often angry or frightened. Their number killed in the Province that year already stood at 103. The Provisionals now frequently attacked their posts and vehicles with Russian-made RPG 7 rockets. Twomey regarded the safe smuggling of these weapons into Northern Ireland as the Provisional greatest success of the year. His men had less success in actually using them: their sophisticated sights were meant for a lobbed trajectory which their operators had no opportunity to practice. "We cant get a training range North or South," an Army Council member said, "so we just bang them off at live targets in battle conditions to give the operators the feel of them." The rockets nevertheless caused the Army a number of deaths and considerable alarm, and it was to be expected that patrols should want to find them.

The rockets encouraged Twomey in his belief that military methods would bring some sort of result. Other Provisional leaders seemed less sure. A reporter was with Brady towards Christmas when RTE was broadcasting the names of the more than 300 civilians who had died in Northern Ireland during the year. Brady provided his own commentary. "He was shot in Ardoyne. . . . She was killed in the Falls. . . . He was one of our men. . . . That poor man was just passing by. . . ." After several minutes of this he switched the radio off abruptly and said: "I know them all. I know where they died. After all this is over I'm going to be a pacifist."

Nothing of this emerged in the Provisionals' policy. Just before Christmas they called a brief halt to hostilities; but their terms for turning it into a longer one were no milder than those they had laid down six months before, in the high summer of their opportunity.

The authorities collected one seasonal bonus. That Christmas was the moment when most Catholics acknowledged to themselves that the passion had gone out of the internment issue. The year before, they had almost universally observed a kind of strike in sympathy with the men behind the wire: no Christmas tree, no decorations, no special food. This year, the British Government had just admitted the failure of its nine-month-old attempt to end internment (or detention): Diplock had reported, on December 20, that there was indeed no alternative for the moment except to keep it; and yet there was no outcry, no strike. Catholic mothers felt in the main that life was cheerless enough for their children without their being denied a Christmas tree as well.

In the heartlands of the IRA, the irreducible animosities persisted. During the first moments of Christmas Day, 1972, a group of women were walking home from midnight mass along the corrugated iron flank of the Army emplacement set on a hill in Andersonstown and nicknamed Silver City. The soldiers on sentry duty—very young men, strangers in a strange land—called out "Merry Christmas!" through the darkness. None of the women answered them a word.

THE "SNAKES AND LADDERS" BEFORE THE WHITE PAPER

Perspective becomes harder to achieve as events come closer to the present, since there is no telling which of them will prove to have been important. In the early months of 1973, the real force in Northern Ireland's life was the British Government's promised White Paper; and a great many of the doings of public men were directed at it. But the White Paper did not exist. At Downing Street, ministers did not meet to consider Whitelaw's plans for it until January 15. Only when the White Paper does exist, after next week, and a new political framework is in prospect, will it be possible to tell which of those doings were significant.

The imminence of the White Paper had at least the effect of making Northern Ireland's politicians contemplate new groupings. "When that phone goes," an SDLP man said in January, "it could be anyone: Craig, Paisley, Bradford, the Alliance people, anyone. That's what's new." This ferment was most marked among the men of the Protestant centre. Whitelaw had at first hoped for great things from them; and when at the turn of the year a prominent Methodist minister in Belfast, Eric Gallagher, had a letter published in The Times advocating the election of a consultative assembly as a way of challenging "the middle ground to assert itself," Whitelaw for a while considered the idea seriously.

But the middle ground would not budge. The former Unionist ministers of whom he had hopes—Bradford, Sir Robert Porter, Robin Baillie—would not join the Alliance party, or form a new one of their own, until they could read more of the future. Whitelaw

was depressed by their caution to the point where he told a gathering of centre politicians that, unless they took action, the man who might finish up "on the top of the heap" would be Faulkner again; and Belfast rang with rumours that, after moderate men had looked big for so many months, Faulkner was after all to snatch the prize from them. One Alliance leader said: "You know that bloody great snake in Snakes and Ladders that suddenly whips you down from 98 to 4? Well, that's Faulkner."

On the further fringes of Protestantism, the same kind of debate was going forward. The UDA was divided between men like Herron (who was content to associate with the slack-jawed strong-arm men of the banned Ulster Volunteer Force) and men like Dave Fogel, who had helped found the organisation a year before and hoped to see it turn into a political party—for working men, not for what he called the "middle-class smarty-pants" of old-style Unionism.

At the end of January, Fogel despaired of his hopes and left Belfast for good: his strictures on the mindlessness of the UDA appeared in The Sunday Times on January 28. His case was made for him within two days when Herron renounced the UDA's short-lived attempt to control sectarian killings. "We have tried to stop the murders," Herron said, "but the renewed bombing onslaught by the Republican rebels is a provocation to them." That day and the next four Catholics were murdered, three of them in their teens; and the Provisionals murdered one UDA man in retaliation.

There followed a brief paroxysm of extremist Protestant fury on a familiar pattern. On Thursday, February 1, a busload of Catholic building workers passing through east Belfast was blown up by a grenade which killed one of them. The questioning of suspects next day provoked riots in east Belfast: they worsened on Saturday when two young Protestants were held. On Monday, February 5, the two were sent to Long Kesh—the first Protestants to be detained without trial. A one-day general strike was called for Wednesday, February 7, in protest: it rapidly became a self-justifying cry of rage against Catholic and British tolerators of terrorism, and the day of the strike was marked by rioting, burning and shooting in which three men died. Then calm descended.

Since the strike was under the nominal patronage of the coalition (the Ulster Loyalist Council) of which Craig was the nominal leader, he was much criticised for his part in the day. He had in fact tried to cool tempers; and five days later he made a speech in Belfast in which he pressed his idea of an independent Ulster in terms much more conciliatory to Catholics than formerly. Yet not three weeks earlier he had told a rally in Carrickfergus that it was "natural, normal and right" for people "innocent or otherwise" to be killed when the constitution was being defended. Only Whitelaw's White Paper could force a clarification on which, if either, was the true face of hard-line Unionism.

Change in the Republic, again, is too recent to evaluate. Lynch had added to the Provisionals' problems by picking up both Brady and Martin McGuinness (the Provisionals' commander in Derry: his capture rated a message of special thanks from Whitelaw). Both men were put away for six-month stretches, early in the year, with the help of the new Amendment Act. Lynch also sought, during a visit to the United States, to reduce the Provisionals' intake of American funds—at some inconvenience to himself: he more than once had eggs thrown at him by ardent Irish-Americans. (Heath later made an attempt on the same problem through Senator Edward Kennedy.)

But Lynch knew that these gestures of solidarity with Britain would not buy off the awkward times ahead. As Heath had warned him, he was not being consulted on the White Paper: he had to undergo a general election within the next twelve months; and he foresaw having to confront, with his electoral mandate running out, a situation where Ireland's *amour-propre* was dangerously wounded. He also had domestic political problems in the Dail session due to begin on February 7. He therefore cut through them and called a general election instead.

The outcome surprised him. The two parties opposed to his own first of all came together in a remarkably effective election coalition, and then made the running in a campaign centered not on Lynch's handling of the Northern problem but on taxes, welfare and the price of butter. Cosgrave, as leader of the coalition, emerged from the election on February 28 with a majority of four. A fortnight later he was the Republic's new Prime Minister.

Cosgrave had called Lynch's attitude to the North "ambiguous and inconsistent." So it was; but so was the attitude of nearly everyone in the Republic. They did not want the North, but they did not want to admit that they did not. Lynch's skill as Prime Minister had been in representing his people rather than in leading them. He had travelled no faster towards a resolution of the Irish problem than they would let him; but he had at least kept the peace in his own parish. It is still to be seen whether Cosgrave will find it possible to move any faster.

Cosgrave's first visit to Heath (with Brendan Corish, the Labour leader) was on March 8. It was the day when Billy Hull got his wish and Northern Ireland got its Border poll. Legislative time had at last been found, polling stations had been ringed with armed men, and the Protestants rolled up an impressive majority (which included a good sprinkling of Northern Catholic voters, too) for keeping the Border and staying in the United Kingdom.

In almost any other part of Western Europe, that body of opinion—long known to exist—would be recognised even by people who totally dissented from it as one which needed to be bargained with rather than bullied. Not in Northern Ireland. Something else happened on the day Cosgrave was at Downing Street. Two bombs went off in Central London, injuring more than 200 people. It could not be represented, in the catalogue of violence in this year of direct rule, as a worse development than much that had gone before: but it was a new development, and there was no reason to be certain that it would not be repeated and extended. It was fresh evidence of the constant tendency in violent methods to spawn new mutations of themselves.

WHEN VIOLENCE BECOMES AN ADDICTIVE DRUG

That, in the end, is the year's message: the near-irreversibility of violence. Like a drug, it held its old addicts and made new ones by example. After each fresh dose the next was easier, likelier; and withdrawal was more difficult and more remote.

Four attempts were made, during the year, to set about resolving the province's future with words rather than weapons. The suspension of Stormont was answered by the Provisional IRA with bombs, and that response built the UDA into a major force. The midsummer truce was brought to nothing by the interaction of the UDA and the Provisionals. Whitelaw's Darlington conference was frustrated largely by the SDLP, who felt the Provisionals' breath on their necks. Even the attempt to hold local elections was blocked by the UDA.

Both terrorist factions, IRA and UDA, were trying to mould the future to their own design; and the future looked all the more malleable because the British authorities, in an honourable attempt to discover agreement rather than impose it, had no particular pattern for the future in their own minds. Their only firm aim, at the outset of Direct Rule, was to end imprisonment without trial. They could not manage it. That, too, was a form of violence more easily started than stopped.

Damaging political misjudgments were made by others besides terrorists. British ministers vacillated over their referendum until it came too late to do anything but mischief; and they were insensitive in their dealings with Dublin. Middle-class Protestant leaders fed their working-class flock on a diet of fantasy about the new political institutions they could expect. Catholic leaders persisted—and therefore encouraged the Provisionals—in a double delusion: that every Catholic in Ireland wanted Irish unity, and that Northern Protestant objections to that prospect could be blown away in one good puff.

But in the last analysis the chief miseries of the year were at the door of the terrorists. It was their personal choice which kept up the pace. Some of them, having once rejected negotiation, could not return to it. Some of them found in the guerrilla life an excitement or a power which they were not willing to lose. Some of them, like Macbeth, were "in blood Stepped in so far" that they could see less and less point in turning back. Violence is a one-way street.

SENATOR NUNN ADDRESSES THE GEORGIA GENERAL ASSEMBLY ON THE VOLUNTEER FORCE

Mr. TALMADGE. Mr. President, on March 5 my distinguished colleague, the Senator from Georgia (Mr. NUNN) addressed a joint session of the Georgia General Assembly on the very important issue of national security and our country's Defense Establishment.

In his address, Senator NUNN presented a very thoughtful and close examination of the concept of a Volunteer Army. He made some very sensible and compelling points with which I think many Members of Congress and citizens concerned about our Nation's defense will certainly agree.

I commend Senator NUNN for his incisive comments on this very important issue, and I am confident that Senator NUNN, as a member of the Armed Services Committee will continue to reflect devotion to duty and national security in his work there.

I bring Senator NUNN's address on the volunteer force to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

(Excerpts from a speech by U.S. Senator SAM NUNN before the Georgia General Assembly, Altanta, Ga., Monday, March 5, 1973, 12:30 p.m.)

THE VOLUNTEER FORCE

In the aftermath of Vietnam, our nation is faced with fundamental questions regarding our national security. In addition to the horrible human tragedies from 1965 through 1972, our participation in the Vietnam war carried a price tag of nearly $120 billion.

What have been the military results of Vietnam and how does this affect our security?

Supplies and equipment which had been issued to National Guard and organized reserve units were reclaimed by the Active Forces and redeployed to Vietnam. These forces which are a fundamental part of our defense still have not recovered from this starvation resulting from the war.

While remaining aloof from direct involvement themselves, the Russians spent but a tiny fraction of U.S. war costs. This left a major portion of the Soviet military budget to be used during this period to increase Soviet strategic and conventional military power and to intensify research and development. While any comparison of nuclear arms is a complicated and complex subject, Russia is clearly ahead of the United States in total megatonage of destructive nuclear power which can be launched.

Because of our technological superiority in the development of Multiple Independently Targetable Re-entry Vehicles, commonly known as MIRV, the US has a substantial lead in the number of nuclear warheads. Russia however is also continuing to develop this technique and with their lead in number and size of ICBMs, if they match us in MIRV technology, our national security will be severely undermined. Therefore, in my opinion, it is imperative that the US in Salt II press for a freeze on MIRV development by the Soviet Union.

What this adds up to is the harsh reality of the legacy of the Vietnam war.

1. Higher costs for weapons.

2. A slow-down in research and development and military technology.

3. Skyrocketing manpower costs and failing popular support for and appreciation of our defense needs.

The hardest reality of all has not been squarely faced by our government and has not been fully recognized by our people. This reality, the problem of military manpower, is on the verge of getting completely out of control.

The military draft has never been popular and all of us hope that conditions will not require its large scale use again.

Realistically however, it is time for us to take another look at the results of the all out push for the so called "volunteer force." This concept is a clear result of the Vietnam war which because of its unpopularity caused the President and Congress to yield to the tremendous pressure to end the draft at almost any price.

So much for the background of the volunteer force. What of the future?

At this time, 25% of the Soviet military budget goes to manpower costs; 67% of the United States defense budget goes to manpower costs. This 67% does not include such indirect costs as barracks construction, hospital construction and other costs to support personnel.

The direct and indirect cost per man has increased from $5,435 per year in 1964 to $11,580 in 1973. The increase is 113%. These costs will continue to rise.

We have 371,000 fewer military and civilian personnel in FY 74 than in FY 64 and yet in FY 74 we will pay about $44 billion in direct manpower costs as compared to $22 billion in FY 64.

As another example of the increase, direct personnel costs in FY 68 were 32.6 billion as compared to 43.9 billion in FY 74 even though the defense establishment has been reduced by 1.6 million personnel since that wartime peak.

As another example as to how manpower is utilized, it might be pointed out that for the cost of our general purpose forces we spend about $3 for every $1 spent on our strategic forces. The strategic forces refer to those systems which protect the homeland and provide a nuclear deterrent, such as Polaris, Minuteman, and SAC. General purpose refers to the conventional forces, all of which are planned to be deployed overseas for war.

Most of this phenomenal rise in the costs of manpower can be laid at the door of the all-volunteer force concept. We have been told that if we are to get along without a draft, we must make the military career as attractive, or more so, as a civilian career. To this end, Congress has enacted legislation year after year upgrading the system of military pay, allowances, and other benefits, until the expense threatens to bankrupt our entire defense program.

I am not opposed to a fair system of pay and allowances for our servicemen. But I believe that we must face the fact that we cannot afford to see manpower costs escalate until we reach the point where we simply are unable to support a military establishment big enough to do the job. We have not yet reached this point, but it is not too much farther down the road.

I do not dogmatically oppose the volunteer concept, but I feel that it is imperative for our government and our people to ask some hard cold realistic questions as to where this road leads.

The infusion of civilian values into the ranks of the military is an American tradition of longstanding. From the time of the American Revolution, the concept of the citizen soldier, called to the colors in time of crisis, has been a hallowed one. The shift to an all-volunteer force will inevitably dilute this tradition, for I do not believe that any system of inducements, no matter how extensive and how expensive will attract enough of the right kinds of young Americans to military service to preserve the essential civilian spirit which has always characterized our men in uniform. There is a remote but increasing danger that the creation of a special military class—a certain consequence of the all-volunteer concept—will pose an increasing challenge to civilian control of the military.

A related danger is that the absence of young draftees in the armed forces will remove some subconscious constraints upon the President to allow us to become involved in future military adventures without sufficient and mature consideration. Professional soldiers are not likely to argue so strongly against opportunities to practice their profession as are young civilians temporarily in uniform. Neither are the respective families involved. It is a paradox that those who lobbied for the end of the draft because of their opposition to the war in Vietnam, may well have sown the seeds for future similar involvement.

Although the draft system contains many inequities, it is still a better means of providing an armed force more representative of the American society as a whole than is possible under the all volunteer system. It is most unlikely, for example, that even the prevailing high rates of military pay will succeed in attracting enough really skilled and educated men into the armed forces. What is more likely is that the armed services will attract first those who are the most disadvantaged in our society.

America needs a well disciplined and trained force, not a collection of malcontents who may not readily be brought up to acceptable standards of discipline and professional skill. In these days, it is not popular to deal plainly with such subjects, but I believe that it is simply not fair to ask or expect the poor man to do most of the fighting. An all-volunteer force manned by the poor and disadvantaged, but officered by a professional elite, is a radical departure from the American tradition.

Finally, I think a word needs to be said about patriotism. This word used to be somewhat overworked—especially by politicians on the Fourth of July—but you do not hear enough about it any more. I submit that in abolishing the draft we may be doing away with the principle of service to our country. Will we be teaching future generations of Americans to expect life and happiness in a great and free country—without giving anything in return?

I think we need to reexamine some of the basic assumptions behind our defense policies. We need to face the fact that the spirit of "detente" is to be desired and cherished, and that an era of negotiation is greatly to be preferred to continuing conflict and confrontation. But we also need to pay heed to the fact that our military might has been a strong inducement to the other side to bring them around to negotiation.

We need to realize that some things cannot be bought for money alone—No mercenary army in history has ever been a match for free and dedicated men fighting to preserve their stakes in a free society. We must take care that the war weariness of the present does not lead us to such despair that we mortgage the future just to get a little rest now. And I still believe that Thomas Paine spoke the truth when he said that "those who expect to reap the blessing of freedom must, like men, undergo the fatigue of supporting it."

INCREASED FUNDING FOR THE ARTS AND HUMANITIES

Mr. PERCY. Mr. President, in his March 1 message on the State of the Union, President Nixon said:

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

I commend Mr. Nixon on this enlightened approach to funding for the arts and humanities.

The quality of American life has come under serious scrutiny in the last decade and has been subjected, often with good cause, to serious criticism. As we as a Nation turn from long years of war and strive to increase our economic growth and stability, it is vital that we balance our industrial and commercial efforts with increased appreciation of and participation in cultural activities. If any area of human endeavor can be relied upon to bring Americans a renewed sense of purpose and personal satisfaction, it is the area of the arts and humanities. A new dedication to the study of our diverse and colorful cultural history combined with a revitalized pursuit of the arts can yield rich rewards for all Americans.

I support the President in his belief that the arts and humanities can make a great contribution to our understanding of who we are, where we have come from, and where we are going. I for one will be pleased to approve increased Federal funding for the arts and humanities.

Mr. Alan M. Kriegsman of the Washington Post has written two articles commenting in more detail on the President's proposed budget for the arts and humanities. I ask that these articles be included in the RECORD.

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

PRESIDENT IS CLOSING FUND GAP ON AID TO ARTS, HUAMNITIES

(By Alan M. Kriegsman)

In the realm of arts and humanities legislation, President Nixon will enter his sec-

ond term of office with a record of achievement unmatched by any of his predecessors. Some may still question the direction or effect of the vastly increased federal funding brought about under his administration. But Mr. Nixon's own commitment to the cause of the nation's cultural life has been beyond dispute.

In view of the vast economic pressures, both national and international, which will bear on the issue, no one can predict with certainty how much further the President may seek to go in assisting the arts through the next four years.

One thing seems assured, however. The direction will continue to be forward, and administration support firm.

The Nixon record on the arts speaks for itself. Two major points deserve stress.

First, the appropriations for the National Endowment for the Arts rose from $8 million in fiscal 1970, the President's first year in office, to nearly $40 million for the current fiscal year vitually a fivefold increase.

Second, during the Nixon tenure the previously broad gap between authorization level and actual funding was all but closed. For these two giant accomplishments, as well as many others, Mr. Nixon is due a large measure of personal credit.

In fairness to Lyndon B. Johnson, it should be noted that appropriations grew from $2.5 million to nearly $8 million while he was President, a threefold increase that was in itself no mean feat, especially given the less favorable atmosphere toward government subsidy of the arts in those days. Moreover, during the debate over re-authorization for fiscal '69 and '70, the forces friendly to the arts came within a hair's breadth of a quantum leap an authorization of $155 million for both arts and humanities over two years—an effort torpedoed largely by opposition from House Republicans.

The fact remains that despite widespread notions about the Kennedys' involvement with the arts and the halycon days of the Great Society, it took Richard M. Nixon to put big money on the line for culture. Perhaps no Democratic president could ever have done what he did, because it needed a Republican to convert recalcitrant Republicans and to lend the movement the cache of a fully bipartisan effort. What matters is that he did it.

Devotiton to the arts was part of the Kennedy mystique, as the White House became the scene for chic soirees honoring artistic celebrities, such as the parties for Pablo Casals and Igor Stravinsky in 1962. The aura carried over to the Johnson administration, at least until antiwar protesters on the occasion of the White House Arts Festival of 1965 put a damper on things.

Somehow, the Nixon administration has never been able to generate the same sort of image. True, White House galas have been less frequent. But the President himself has attended not a few Washington performances, and his closest executive associates have shown a real interest in the arts. When the National Symphony was in trouble, Mr. Nixon called a press conference to help prod business support, and when the question of "full-funding for the arts" was in the balance in 1971, he put in a personal appearance at a national arts conference to lend the weight of his office to the campaign. In short, while the arts "charisma" may have eluded him, diligence in their behalf never has.

Along with the enormous advance in funding during the Nixon years has come a gradual turn of emphasis and direction. Small, innovative programs centering on individual artists and experimental projects—characteristic of the Arts Endowment in its early history—have given way to large programs of support for established institutions, though aid to individuals has also continued to rise in proportion. During those early days, the main thrust seemed to be toward spurs to creativity. Under Nixon, the major goal appears to have been making the arts accessible to every segment of the population.

The differences can be attributed in large part to the differing level of available funds, but to some extent they also derive from contrasts in Endowment leadership.

Roger L. Stevens, the Endowment's first chairman under LBJ, and still head of the Kennedy Center trustees, worked more or less intuitively, getting sudden inspirations, calling upon his many personal friends in the arts world, and simply plunging ahead. It worked in those days, because the sums involved were relatively small, and the administrative machinery was far less complicated.

As the funds grew, however, so did the bureaucratic processes for allocating and spending them, and this required a different approach. Nancy Hanks, the present Endowment chairman, appointed by Mr. Nixon, has proven ideal for the challenge. Combining outstanding organizational skill with great personal tact and persuasiveness, she has been able to move mountains, both with her staff internally and on the Hill. At the same time, Endowment operations have become more regulated and systematized. An activity that once took place in a few small rooms in the Executive Office Building now occupies four floors of federal offices. But it runs with enviable efficiency.

What lies ahead? This won't even begin to become clear until the administration submits its budget requests at the end of the month. In the course of the recent election campaign, the White House issued statements expressing general support for renewal of Endowment authorization, and increased funding "in partnership with increased support from corporations, foundations, individuals and state and local governments." Since then, an administration spokesman has indicated hopes that coming legislation will define a role for cultural programming "in the development of a Bicentennial celebration that will make a substantial and continuing contribution to the quality of American life."

Miss Hanks, for her part, foresees a shift in Endowment concern, over the next few years, away from appreciation of the arts and towards participation in them. She sees this change as a natural and desirable reflection of a nationwide momentum towards active involvement of the individual, toward "doing one's own thing," as illustrated, for example, by the recent enormous growth of interest in manual crafts.

And noting how the example of increasing federal activity has generated a corresponding jump in state, local and private support for the arts during the last four years, she says with a chuckle of well-earned satisfaction, "I don't see anybody telling us we ought to cut back."

INCREASED ARTS FUNDING

(By Alan M. Kriegsman)

President Nixon's proposed budget for fiscal 1974, submitted to Congress yesterday, calls for nearly doubled appropriations for the arts and humanities—a total of $160 million, as opposed to the current year's sum of more than $80 million.

The increase is particularly conspicuous in view of budgetary stringencies proposed in many other areas of governmental activity. The jump seems largely motivated by the approaching Bicentennial celebration of 1976, toward which the arts and humanities are expected to make important contributions.

The administration request specifically notes, "in 1974, emphasis will be placed on projects leading up to the Bicentennial."

The budget asks for a total of $72.5 million in federal funds for the National Endowment for the Arts. Of this amount, $56.75 million would go toward nationwide support of institutions and individual projects, $8.25 million would be distributed equally ($150,000 each) among the state and territorial arts councils, and $7.5 million would be reserved to match incoming private donations.

The Arts Endowment would be empowered to receive up to $7.5 million in private contributions. If, as in the past, this sum is realized in full, it would bring the total amount of money available for art programs to $80 million for fiscal 1974. The proposed total for the Humanities Endowment includes a similar provision for the matching of private funds.

Nancy Hanks, Arts Endowment chairman, expressed delight over the administration proposal. "We are extremely pleased, naturally," she said, "with the size of the President's request. As far as where the money will go is concerned, we feel very strongly that we should continue to be responsive to the needs and requests of the people out there.

"Whether or not we will be developing, later on, special programs oriented to the Bicentennial I don't know. But we already have on the table any number of proposals aimed in that direction, such as orchestras wishing to commission new works or to restore older, possibly neglected American music.

"Museums, too, are already starting to plan exhibitions relating to the Bicentennial. And it's not just from the large institutions that we are seeing such requests—we get them in our Expansion Arts program, too. I think it's clear that a pattern is developing, of artists wanting to do anything they can to help the nation celebrate this significant occasion."

The reaction from Ronald S. Berman, Humanities Endowment chairman, was equally sanguine. "We feel quite elated with the increase, of course," he said. "We don't have any specific guidelines on how much of these funds may be put toward the Bicentennial—we still expect large amounts to go to the work we usually do from archeological excavation to oral history projects—but there will certainly be a strong emphasis on helping the celebration."

"A lot will go into our public programs—for example, we'll distribute monies to various state and community commissions for a variety of individual plans they'll have on the Bicentennial," he said.

Berman also indicated that a major thrust would be toward innovative film and television programs on American themes, citing as illustration a series of programs on the Adams family already in the works for public television.

"This year," he noted, "we're supporting the showing of Laurence Olivier's Shakespeare films on public television. Next year we'd like to do the same for films derived from great American humanistic writings, such as 'All the King's Men.' We'd also hope to encourage the creation of such films from scratch."

Berman added that substantial funding would be earmarked for the educational process. He said, "We'd like to support, through research and fellowships, studies that would delve deeply into the roots, the sources, the patterns of American civilization."

The two endowments, the major arms of the National Foundation on the Arts and the Humanities, were established by Congress in 1965 to aid and encourage the nation's cultural growth.

President Nixon's budget requests represent the goals of his administration. In order for any funds to become actually available for spending, Congress must first pass appropriate legislation. Congressional hearings on arts and humanities funds are expected to begin within the next month.

SMITHSONIAN INSTITUTION

The Smithsonian Institution, which last year drew more than 20 million visitors to its

buildings on and off the Mall, including the Zoo, is preparing for a major role in the nation's Bicentennial of the American Revolution.

About $16 million of the Smithsonian's 1974 fiscal budget request of $88-million is targeted on Bicentennial-related activities. More than three-quarters of this sum is part of the construction outlay for the $40-million National Air and Space Museum, scheduled to open on July 4, 1976. Other Bicentennial exhibit expenses are being carried in the regular operating budget.

LIBRARY OF CONGRESS

The Library of Congress is asking for $83,584,000 in Federal funds for the 1974 fiscal year.

The increase of $5.1 million over this year's outlay is earmarked principally to strengthen the Congressional Research Service and broaden the services of the division that provides books to the blind and physically handicapped. A hundred new staff jobs will be added in the Congressional Research Service as ordered in previous legislation.

The Library is part of the legislative branch of government and its budget request—made directly to Congress—is not subject to executive pruning.

KENNEDY CENTER

The only money asked for the Kennedy Center for the Performing Arts in the fiscal 1974 budget is a request from the National Park Service for $2.4 million to cover the expenses of operating and maintainng the Center as a national presidential memorial.

The Center is asking no money for its performing arts functions. Last year the Center, which was visited by hundreds of thousands of tourists, had to be closed to public tours for nearly four months until Congress made an emergency appropriation of $1.5 million to cover its expenses as a presidential memorial.

MULTINATIONAL CORPORATIONS AND THE MONETARY CRISIS

Mr. HARTKE. Mr. President, I have before me a statement by the AFL–CIO Executive Council regarding the current devaluation of the dollar. In it, the point is made that such action can only theoretically curb the rise of imports and spur the increase of exports. Rather than continuing to rely on emergency action, the Council calls for a comprehensive policy to meet America's trade needs in the future.

Along with this statement is an article from the Wall Street Journal stating that multinational corporations can precipitate a monetary crisis such as we are witnessing today. The time for action is upon us and we must act now to save the dollar, American jobs, and restore economic stability to this Nation.

I ask unanimous consent that these documents be printed in the RECORD.

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

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON DEVALUATION OF THE AMERICAN DOLLAR

The recent devaluation of the American dollar—the second in 14 months—provides no assurance of a halt in the continuing deterioration of America's position in international economic relationships. This action, in itself, cannot possibly solve the problem.

In December 1971, the American dollar was devalued on the basis of an international monetary agreement. At that time, that action was hailed as the solution to the deterioration of the U.S. position in the world economy. While it made a small contribution to continuing inflation in the U.S., the American position in the world deteriorated more rapidly. So in February 1973, the American dollar was devalued again.

The aim of dollar devaluation is to increase the price of imports into the U.S. and reduce the price of American exports in the foreign country. Theoretically, such action should curb the rise of imports and spur the increase of exports.

American tourists in foreign countries are pinched by the reduced value of the dollar as are those who buy imported products. But there are further effects on Americans at home.

Many domestically-manufactured products use imported components or raw materials, such as oil, copper, aluminum and iron ore, rubber and similar material. Their increased price will be passed through to the consumer—with a small upward impact on the over-all American price level.

But the new devaluation will not necessarily improve the export-import balance, any more than did the 1971 devaluation. Foreign countries can offset all or part of the dollar devaluation, through the management of their domestic economies—by subsidizing their exports, setting up barriers to imports or other means of protecting their own export-import relationships and the values of their own currencies. Foreign companies can offset part of the devaluation effect by such actions as reducing their profit margins, redesigning the product or obtaining help from their governments. Multinational corporations can adjust by rejuggling their production, sales arrangements, prices and currency holdings.

Moreover, the devaluation increases the reported dollar-volume of imports and makes it more difficult, at least in the short-run, to improve the export-import relationship. And the devaluation, in itself, does not get at the basic causes of America's deteriorating position in the world economy.

The recent devaluation—as the one in 1971—resulted from an international monetary crisis, with a run on the dollar.

The trouble is that there now are about 60 billion American dollars in Europe and about 20 billion American dollars in Japan. They got there, in the past 25 years, through American-based multinational companies and banks that operate subsidiaries and branches in foreign countries, through American purchases of the rising flood of foreign imports and through such other developments as American economic and military aid to foreign countries and expanded tourism.

The major trouble, by far, is that American corporations and banks now have huge and increasing investments in foreign countries and they keep their American dollars there, to expand their foreign holdings and often to avoid paying U.S. taxes on their foreign-earned profits.

In the summer of 1971, for example, these U.S.-based multinationals—as well as foreign companies and speculators who hold dollars—became worried about America's growing import-export deficits and the value of their American dollars. They began dumping dollars and buying German marks and other currencies. In cold fact, U.S. corporations and banks put profits ahead of patriotism, selling their country's currency in order to make swift profits for themselves.

Similar developments occurred in early February, with the dumping of billions of dollars to buy marks and Japanese yen.

The operations of these multinational corporations, international banks and big speculators have become so powerful that they can move billions, with ease, beyond the reach of the central banks of governments. Frequently, a telephone call is sufficient to transfer huge sums of money from one country to another.

The Wall Street Journal of February 13, 1973, reported on a 930-page study by the U.S. Tariff Commission. The newspaper reported:

"Multinational corporations control such vast quantities of money that they can precipitate international monetary crises by moving only small portions of their funds from country to country, a government study concludes.

"The big companies and banks can outgun even the world's central banks in international currency dealings, the massive study by the U.S. Tariff Commission contends. . .

"In assessing the aims of big companies in currency crises, the report offers two possible conclusions: either that the multinations 'react protectively' with moves to protect the value of their assets or, alternatively, that most multinationals 'hardly react at all, while a small minority, capable of generating heavy disruptive movements of funds, do so.' The study said the later group includes companies that may actually 'speculate' in the sense of betting on exchange-rate changes in hopes of a swift profit."

Regardless of motive, these actions taken for the private advantage of corporations and banks have undermined the world position of the American dollar.

These actions are not regulated by the U.S. government. And the multinational firms and international banks go their own way, juggling production and prices and currencies across national frontiers.

So in 1971 and once again in 1973 the speculators—both U.S. and foreign—gambled and won. They made their big profits, forced the U.S. to bail them out, the U.S. currency suffered another blow and the rest of America will pay the price.

The recent devaluation adds somewhat to inflation at home but will have little, if any, beneficial effect on America's deteriorating position in the world economy. The only way to cure the basic problem is for the U.S. government to adopt and vigorously pursue a new policy on international trade and investment.

Both devaluations were actions taken in crisis. They are not a policy. Yet, what is urgently needed is a comprehensive policy to meet America's needs in the world of the Seventies.

The major parts of such a needed policy are spelled out in the Burke-Hartke bill which would remove the U.S. tax and other incentives for companies to operate in foreign countries, regulate and restrain the export of American technology and capital, and place limits on imports which displace U.S. production and employment.

Only such a comprehensive, new policy can begin to halt the continuing deterioration of America's position in the international economic relationships of the 1970s. America needs a policy, not a panic reaction in time of crisis.

And, finally, America needs a prompt, full-dress public Congressional investigation of American corporations and banks which sell their country short in order to enhance their profits.

[From the Wall Street Journal, Feb. 13, 1973]

CURRENCY CRISES CAN BE EASILY TRIGGERED BY MULTINATIONAL FIRMS, U.S. STUDY STATES

WASHINGTON.—Multinational corporations control such vast quantities of money that they can precipitate international monetary crises by moving only small portions of their funds from country to country, a government study concludes.

The big companies and banks can outgun even the world's central banks in international currency dealings, the massive study by the U.S. Tariff Commission contends. And though the study absolves most multinational concerns of "destructive, predatory motives," in their currency dealings, it says that much of the speculative money surge

during currency crises, such as the current turmoil in exchange markets, stems from the multinationals.

THE "LION'S SHARE"

The 930-page study of the economic impact of multinational concerns on trade, investment and employment was made by the Tariff Commission at the request of the International Trade subcommittee of the Senate Finance Committee. It's certain to add fuel to the growing debate in Congress on the effects of the multinationals, which have been under attack by organized labor as "exporters" of U.S. jobs and technology.

The study estimates that some $268 billion of short-term liquid assets were held at the end of 1971 by "private institutions on the international finance scene," and that the "lion's share" of this money was controlled by U.S.-based multinational companies and banks.

The $268 billion, the study reports, "was more than twice the total of all international reserves held by all central banks and international monetary institutions in the world at the same date." It adds: "These are the reserves with which the central banks fight to defend their exchange rates. The resources of the private sector outclass them."

Due to the immensity of the multinationals' assets, "it is clear that only a small fraction . . . needs to move in order for a genuine crisis to develop," the Tariff Commission concludes. This money "can focus with telling effect on a crisis-prone situation—some weak currency which repels funds and some strong one which attracts them." That's what has happened in the past two weeks as speculators dumped dollars and bought German marks and Japanese yen in hopes of profiting on future changes in their exchange values.

Since only a "small proportion" of the multinationals' money is needed "to produce monetary explosions," the study says, "it appears appropriate to conclude that destructive, predatory motivations don't characterize the sophisticated international financial activities of most multinational corporations, even though much of the funds which flow internationally during the crisis doubtlessly is of multinational corporation origin."

TWO POSSIBILITIES

In assessing the aims of big companies in currency crises, the report offers two possible conclusions: either that the multinationals "react protectively" with moves to protect the value of their assets or, alternatively, that most multinationals "hardly react at all, while a small minority, capable of generating heavy, disruptive movements of funds, do so." The study said the latter group includes companies that may actually "speculate" in the sense of betting on exchange-rate changes in hopes of a swift profit.

The study found that U.S. concerns invest abroad primarily to reach new markets, rather than to find lower-cost production. The search for low-wage labor is a "secondary" consideration except in a relatively few industries, including consumer electronics, footwear, toys and apparel, it says.

The study doesn't resolve the question of whether multinationals have caused major job losses in the U.S., as American unions contend. It presents three alternative explanations—two of which will please unions and one which companies will like.

The commission estimates that the presence of American-owned plants abroad represents a net loss of 1.3 million jobs in America if it's assumed foreigners would otherwise import the plants' entire output from the U.S. If foreigners imported only half of such output, and produced the rest themselves, the job loss would be calculated at 400,000. A third set of quite different assumptions produces an estimate that the multinationals have produced a net gain of roughly 500,000 jobs in the U.S.

The study concludes that the multinational corporations "played no role" in the sharp deterioration of the U.S. balance-of-payments position during the late 1960s.

THE SUCCESS OF WEST VIRGINIA'S OPERATION MEDIHC

Mr. RANDOLPH. Mr. President, the placement of veterans in jobs upon their return from service continues to be a critical challenge. It is particularly important that veterans with appropriate experience be placed in occupational areas where there is a shortage of trained personnel. In this regard, it is gratifying to note that West Virginia ranked fourth in the United States in percentage of successful placement of veterans in health care positions in 1972. The West Virginia Department of Employment Security has been commended by Miss Alice B. Frazer, national MEDIHC coordinator, for the impressive increase in placements made by the West Virginia MEDIHC—Military Experience Directed Into Health Careers—program.

MEDIHC is a cooperative program of the U.S. Department of Health, Education, and Welfare and the U.S. Department of Defense to help men and women trained in health skills while in military service to utilize those skills when they return to civilian life. West Virginia's MEDIHC program was funded by the Department of Health, Education, and Welfare on January 17, 1972, and the program was staffed and became operational in mid-March 1972. Prior to this funding, MEDIHC was implemented by the West Virginia Department of Employment Security as a secondary program assignment.

Terry D. Barron is the State MEDIHC coordinator in West Virginia. He and his staff have compiled an impressive 88.6 percent placement rate in locating jobs and health training for veterans in the health field. This ranks first in percentage of successful health placement in the southern region.

The 1972 Narrative Report for West Virginia's Operation MEDIHC Program states,

West Virginia is unique in the disproportionate percentage of its population which has served in the armed forces of the United States.

During the Vietnam Conflict, West Virginia had the highest number of wounded and killed-in-action (per thousand inhabitants) of any State in the Nation. It is therefore noted that our total of returning veterans having been trained and experienced in allied medical services is proportionately greater than that of other states.

It is estimated that 1,200 medics leave the service and return to West Virginia each year. Of this number, West Virginia MEDIHC placed 538 last year. This project received only $17,000 per year in funds, which averages to about $30 per man.

West Virginia MEDIHC contacts returning veterans who hold one of the over-200 medical military occupational specialty areas and explains MEDIHC's services to them. MEDIHC's efforts are to assist the ex-servicemen find appropriate health careers in the field of their military training and to attempt to alleviate the country's growing shortage of qualified health workers in over 200 health fields.

At the First National MEDIHC Conference yesterday here in Washington, Dr. Kenneth M. Endicott, Director, Bureau of Health Manpower Education, National Institutes of Health, said that:

MEDIHC has contributed significantly to increasing the capability of many hospitals, health clinics, extended care facilities, and other health care resources throughout the country to provide health services to people who need them. It is an effective program and has high priority for continuation.

I agree wholeheartedly with Dr. Endicott's statement.

Since 1970 MEDIHC has located jobs and training in the health field for over 11,000 veterans. Our Nation cannot afford to lose qualified health care personnel and technicians who are available due to the failure of licensing, certifying and registration boards to consider and evaluate the experience of applicants who served on active duty in the armed services. There should be consideration of provisions to waive requirements for education or training if it is determined that the applicant obtained equivalent qualifications while in the service.

Last year, Mr. President, West Virginia ranked 44th among States in infant mortality. In 1969 the Mountain State had one doctor for 1,136 people. West Virginia and other States must continue efforts to overcome obstacles to the entry of health trained veterans into the health professions.

I ask unanimous consent that a letter from the National MEDIHC Coordinator to Terry Barron, State MEDIHC coordinator, be printed in the RECORD.

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

NATIONAL INSTITUTES OF HEALTH,
Bethesda, Md., February 8, 1973.

Mr. TERRY BARRON,
State MEDIHC Coordinator, Department of Employment Security, Charleston, W. Va.

DEAR MR. BARRON: I have just finished reading the Year-End Report of the West Virginia MEDIHC Program. I want you to know how very pleased I am to be the Project Officer for this particular contract. You have done an outstanding job and are well on your way to achieving your goal "to make West Virginia's MEDIHC Program one of the country's finest."

Congratulations to all of you who have worked so hard and so consistently.

Most sincerely,

ALICE B. FRAZER,
National MEDIHC Coordinator, Division of Allied Health Manpower.

SGT. ROBERT H. DUNN

Mr. BEALL. Mr. President, all of us in this Chamber recognize the serious condition of our penal system today. Overcrowding, poor facilities and a lack of trained supervisory personnel are but a few of the symptoms of this illness. Thus, it is indeed refreshing to learn of people who go "above and beyond the call of duty" to maintain order in difficult situations. Such a man is Sgt. Robert H. Dunn of the Baltimore City Jail.

On Saturday, February 24, a serious riot occurred in the Baltimore City jail.

The disturbance could have easily assumed disasterous proportions if it had not been for the brave actions of Sergeant Dunn, who single-handedly prevented about 60 prisoners from breaking into the jail's control center and completely taking over the institution. Sergeant Dunn's heroics stopped efforts to free the 1,281 inmates of the facility, and brought under control a situation which could have easily posed a major threat to the entire Baltimore community.

I ask unanimous consent that the article by Mr. Jim Flannery which appeared in the Baltimore Sun of February 26, 1973, dealing with the courageous actions of Sergeant Dunn be included at this point in the CONGRESSIONAL RECORD.

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

LONE GUARD HOLDS OFF 60 INMATES

The riot Saturday night at the City Jail might have been more disastrous than it was had it not been for the heroics of jail Sgt. Robert H. Dunn.

The 48-year-old sergeant single-handedly prevented about 60 prisoners from breaking into the jail's control center and taking over the institution.

Sergeant Dunn refused an order to evacuate the center and lobbed more than 60 tear gas grenades at the inmates who made repeated rushes against one of two iron grills separating them from the officer.

"I set up grenades behind a desk, and I just kept throwing them," said Mr. Dunn, the father of two daughters and a jail guard for eight years.

He said he wielded a plastic shield in one hand to ward of pieces of metal and mop and broom handles being thrown at him by the inmates and fired the grenades with the other hand.

"A police sergeant ran up at one point to give me some more gas—30 or 40 more grenades—but then he left the building," the sergeant recalled. Other jail guards later charged that police failed to help them enough.

Sergeant Dunn said the inmates moved giant, portable fans into position behind them to make tear gas float back into his face.

FEARED INMATES BELOW HIM

'But I got my own fan and blew it at them," he said. He also wore a tear gas mask. "I didn't smell gas once," he added.

"My main concern was (that) they'd break through the grills, take over and free all of the (1,281) inmates," he recalled. Only 14 guards were in the jail at the time.

Mr. Dunn said he also feared that rioting inmates on the ground floor immediately below him might break through a window, get into the jail's administrative offices and then run up a stairway to "trap" him.

But this did not happen. Meantime, the sergeant managed to drive back the inmates laying siege to the control center downstairs where eventually they were put back into their cells.

DECLINED TO EVACUATE

Mr. Dunn said he declined to evacuate the control center with six other guards after an order to do so because "as long as even a few of us were still here we had control."

He said he also was worried about an officer believed trapped on the fourth floor of the jail, and two guards were dispatched to find him. However, all three escaped without harm.

Sergeant Dunn is one of several guards who have volunteered to work double shifts as much as seven days a week to help ease the jail's chronic manpower shortage.

THE GENOCIDE CONVENTION—NO THREAT TO OUR SYSTEM OF GOVERNMENT

Mr. PROXMIRE. Mr. President, my esteemed colleague from North Carolina (Mr. ERVIN) presented on March 13 an unusually thoughtful discussion of the reasons the United States should not become a party to the Genocide Convention. While I appreciate the care given to this discussion, I disagree emphatically with its conclusions. I shall continue today with my point-by-point rebuttal of the arguments presented.

The second objection to ratification of the Genocide Convention alleges that there is danger of a serious conflict between the provisions of the convention and the laws of our Nation and its constituent States. This objection is taken to the point of wondering aloud whether our "system of government" would be threatened by ratification. These reservations stem from a reading of article VI of the constitution, which makes ratified treaties, along with the constitution and acts of Congress, "the supreme law of the land."

This objection is, in fact, purely hypothetical. It is revealing that not one actual instance of a conflict between the provisions of the Genocide Convention and the State laws over which it would be "supreme" can be given. It is true that States would be bound by the provisions of the convention. It is also true that States are bound by the provisions of any treaty enacted and in force in this Nation; yet we do not object to all treaties on this ground.

There are, of course, additional safeguards which protect our system of government against the impact of a treaty. First, no treaty can be held binding if it fails to conform to provisions of the constitution. This opinion is given in the controlling precedent in this area of law, *Reid* v. *Covert*, 353 U.S. 1. In the same decision, the Supreme Court affirmed that whenever a treaty and an act of Congress are in conflict, the last enacted is controlling. Thus, the Congress, by simple legislation, could supersede any part of the Genocide Convention any time it wished.

I, too, believe we "should pause and ponder what the impact of the ratification of the Genocide Convention would have on our system of government." This pondering should not take the form of vague hypotheticals, however; but rather should address itself to the gap between our profession of concern for human rights as a Nation, and our failure to ratify this convention. Let us redress this disparity between profession and deed by promptly ratifying the Genocide Convention.

ARCHES NATIONAL PARK

Mr. MOSS. Mr. President, in the 92d Congress the Senate unanimously passed legislation establishing the Arches National Park in Utah. As the sponsor of the bill, I made several speeches on the Senate floor trying to describe the wonder and beauty of the area, and the importance of giving it national park status.

Recently a writer for the Copley News Service, Mr. Guy Ryan, visited the park, and found it a fascinating place. He recommends visiting it now while it is still uncrowded, and one is free to roam among the more than 90 stone arches already discovered. His description of some of the arches is both eloquent and apt.

I ask unanimous consent that the Ryan article, which appeared in the Deseret News of March 19, 1973, be printed in the RECORD.

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

BETTER GET TO ARCHES NATIONAL PARK BEFORE CROWDS DO

(By Guy Ryan)

It's possible you've never even heard of Arches National Park. A lot of people haven't.

Although the "makin's" have been around for about 150 million years, the park itself was dedicated only last year. For about 45 years before that, it was a much smaller national park.

But it's a full-fledged park now, embracing almost 75,000 acres. And more and more people are going to be hearing about it. And when the crowds come, the Park Service will begin restricting the use of it.

As the name indicates, Arches National Park has a lot of arches in it—more natural stone arches, windows, spires, and pinnacles than any other section of the country.

Nearly 90 arches have already been discovered—works of nature . . . art . . . beauty, delicately sculptured by the wind, rain, running water, the frost and the sun.

Improved roads, some paved, lead to these beauties. But you'll have to do some walking to reach them.

Delicate Arch, fragile . . . precariously balanced in a rugged setting of cliffs and giant domes, wins the most-popular-attraction derby hands down. It's the symbol of the park.

Cowboys used to call it Schoolmarm's Bloomers, or The Chaps. That's what it looked like to them.

A graded road leads to within one and one-half miles of the arch. There is a foot trail the rest of the way.

Another attention-getter is Balanced Rock. You'll pass it on the way to Delicate Arch. This sculpture stands 128 feet high and is crowned with a balanced boulder 55 feet long and weighing 3,500 tons!

Up in Devils Garden are six or eight arches, including Landscape Arch, said to be the longest natural-stone arch in the world. It's 291 feet long and six feet wide at its narrowest place. You'll have to walk about a mile to get to this one. The road ends here, but trails will take you to all of the arches in this section.

And there's more. Just after you leave the visitor center, a paved road will take you through the Courthouse Towers section of the park. Here, there's a one-mile hike through Park Avenue, so-called because the towers and spires on top of the red rock canyon walls look like highrise buildings in a major city.

The Windows Section, in the east-central part of the park, is just that. There are eight giant arches (windows) and many smaller windows in the area, along with a series of passageways, pinnacles, spires and balanced rocks. A short walk from the paved road will take you to most of these features.

If you're going to do much exploring in foot, it's a good idea to check in with the park ranger at the visitor center. You might get lost, run out of drinking water or get caught in a sudden storm.

There is no food or lodging in the park. Motels and restaurants are available in Moab, five miles from the visitor center.

There is a campground for tents and trail-

ers in the Devils Garden section of the park, but campsites cannot be reserved. Campfire talks are given nightly in summer at the campground.

And while you're here, you might want to take a couple or three or more days to see nearby Canyonlands National Park, Dead Horse Point State Park, a trip on the Colorado River by night, a jet boat trip, rubber raft float down the river, or a ride along the Colorado on a paddlewheeler.

There's a lot to do around here and facilities for doing it are available.

TRUTH IN SAVINGS

Mr. HARTKE. Mr. President, on several occasions during the past 2 years, I have urged my colleagues to adopt legislation which would provide consumers with basic information about their savings deposits. We have recognized the need for such information in lending, drugs and packaging, but have yet to realize that the billions of dollars which are placed in savings institutions are in need of the same careful attention.

Mr. President, an article which appeared in McCall's magazine highlights the need for this vital information about savings deposits. I ask unanimous consent to have the article printed in the RECORD.

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

HOW TO GET MORE INTEREST ON YOUR SAVINGS—BETTY FURNESS: COUNSEL FOR THE CONSUMER

You know very well how much money you and/or your husband make. If you're smart enough to have some of that money stick to you and you put it in a savings account, do you also know exactly how much money your *money* makes? You do? You wanna bet?

If you think 5 percent interest is the same 5 percent interest the whole banking world over, guess again. I've just been pursuing my own ignorance on the subject and, after considerable tutoring, have emerged into the bright light of actually being able to tell the benefits of one account vs. another—and I can't wait to tell you what I've learned.

Two reasons for using a bank instead of a sugar bowl for savings are that you want your money to be safe, and you want it to grow. Safe is usually taken care of. Federally chartered commercial banks are required by law to belong to the Federal Deposit Insurance Corporation. State-chartered banks may voluntarily belong, as may mutual savings banks. Saving-and-loan associations are insured by the Federal Savings and Loan Insurance Corporation. Both organizations insure each depositor's account up to $20,000. Participating banks are eager to point out this safety feature. You'll find it in their windows and ads—look for it.

Before we start growing our money, let's sort out the different kinds of banks. A commercial bank is where you checking account is. It also has savings accounts. A savings-and-loan is just what it says it is. It'll save, and it'll lend (its loans are largely restricted to real estate), but it is not permitted checking accounts. Mutual savings banks are largely found in Eastern states, where they are a holdover from the 1820s and '30s, when commercial banks didn't welcome small people's small money. These banks were "mutually" established to hold the money of farmers and carpenters and seamen. As a matter of fact, you'll still find a Seamen's Savings Bank right on Fifth Avenue in Manhattan. When people and money went West, the bankers and plowmen and future cowboys all got off the same covered wagon together, and the bankers there were well pleased to bank the small funds of their new friends in commercial banks, eliminating the necessity for "mutuals."

The mutuals and savings-and-loans operate similiarly from the savers' viewpoint, so consider them as one.

Enough history. Interest is what you're concerned about. One noteworthy point is that interest ceilings are established for all banks by the Federal Reserve Board, the amount varying from time to time according to the supply of money available in the economy. Right now, on regular savings accounts, commercial banks can pay no more than 4¼ percent, and "thrifts" (the bankers' name for financial institutions such as savings-and-loans and mutual savings) can pay no more than 5 percent (except under certain circumstances, which we'll get to in a minute). Since all financial institutions are eager to borrow your money, there's no reason why you should lend it to them at less than the ceiling rate.

I asked an officer in a commercial bank why anyone should have a savings account there, since thrifts pay more interest. "Convenience," was his answer. One-stop banking. I would suggest, then, that if maximum growth is your aim, do your thrifting at a thrift.

You'd think that with your money insured, interest ceilings established and computers to do the arithmetic, it wouldn't matter much where you save. Not so.

A couple of years ago, at Kansas State University, a graduate student named Jackie Pinson got to wondering just how easy it is to compare different types of savings accounts. Her pursuit of this seemingly simple question ended up months later as a thesis on the subject, and the answer was "very hard." She began by creating a hypothetical savings account, complete with deposits and withdrawals. She then figured how much interest it would earn under the computing systems used by a variety of banks, all using the same declared interest rate over the same period of time. To her own amazement, she discovered that the difference between the highest-paying system and the lowest was 171 percent.

On the assumption that you prefer to earn the highest rate, let me try to acquaint you with some of the tricky facts of savings life and the ornate vocabulary pertaining to it.

The rate is the percentage used to calculate interest. The annual yield (or annual return or effective annual rate) is the amount of interest you receive in one year's time. If a bank were to compute your interest yearly, the annual rate and the annual yield would be the same. But banks don't do that. They compound interest. If they compound quarterly, for instance, they figure out your interest at the end of three months, add that amount to your balance and compute the interest at the end of the next quarter on your balance, which now includes the previously earned interest. Not only is your money earning money, but the money it has earned is earning money, too.

Banks need your savings. The basic business they're in is borrowing peoples' money, on which they pay a given interest, to lend to other people at a higher interest. Since the interest rates they pay are limited by law, banks have had to devise other ways to compete for your dollars. One method they've worked out is to compute the interest on your account more often than semiannually or quarterly.

With the aid of computers, many banks now compound interest daily. Some even claim to compound it every second, others "continuously." But the difference between daily compounding and continuous compounding is negligible; on $1,000 at 5 percent, it comes to one penny at the end of two years, and 6 cents at the end of ten years—no way to get rich. But daily compounding does beat quarterly. If you can put a certain sum of money in a savings account and just let it lie there nourishing itself, you have fewer decisions to make than if you're a money-in-and-outer. You might be well advised to have an account from which you agree not to make withdrawals for a prescribed time—varying, for example, from two to five years. This type of account, available at both commercial banks and thrifts, is called by several names: term savings, time savings, certificate of deposit, investment savings, investment certificate, savings certificate. I even found a "Big Bonus 6 Savings Certificate Account." These accounts require a substantial cash minimum—$500 to $1,000—and most can't be added to during the agreed-upon term. You'd have to start again, with another $500 or so. They do, however, pay more for the privilege of holding onto your money. That's where the Big Bonus 6 account got its name. These accounts pay 5¾ percent at commercial banks and 6 percent at thrifts. Compounded daily, 6 percent amounts to 6.18 percent annual yield.

A factor to consider in tying up money for a matter of years is that interest rates may change. A 6-percent savings-certificate account guarantees 6 percent—no more, no less—until the maturity date. If interest rates go down, you've got a good deal. But if they go up, you're stuck with the guaranteed amount.

If you're trying to hide money from yourself to keep from spending it, this type of account is a good substitute for personal discipline. But you should know that if you ask for principal before the maturity date, you may have to sacrifice up to ninety-days' interest to get your money out.

Active savings accounts offer more options, complete with more confusion. Currently there are two types of account being widely advertised. Both are passbook accounts. One, the old-fashioned kind, is called a regular (or days of grace or regular grace day). Money deposited by the tenth of the month earns interest from the first of the month, meaning that for nine days you can earn interest on money that isn't yet in the bank. Money deposited after the tenth earns interest from that day on, and interest is usually compounded quarterly. The catch in a regular account is that money withdrawn before the end of the same quarter doesn't earn any interest at all.

There are also some regular accounts that, in addition to the ten grace days at the beginning of the month, allow you to withdraw funds with full quarterly interest during the last three days of the quarter. Grace-day accounts are of particular value to people who receive monthly pension or annuity checks after the first of the month and don't need to withdraw money until the end of the quarter.

Which brings us to the question of withdrawing any money. When you withdraw $50 from your account, which $50 are you taking out? If you think it's the last $50 you put in, you may be right. Banks call this transaction last in, first out, also known as LIFO. Federally chartered savings-and-loans use this, as do some other banks. But there are also banks that figure that the $50 you take out is the first $50 you put in, and they compute interest on the basis of first in, first out, or FIFO. To spare us the mathematics, take Jackie Pinson's word for it, FIFO pays less than LIFO.

Another way of computing interest in regular accounts is called low balance, which turns out to be the worst deal of all because it pays interest on the lowest amount in the account during the quarter. Deposits made in that quarter are ignored and do not begin to earn interest until the beginning of the next quarter. Not good for our side.

For real money-in, money-out people,

there are accounts computed from day of deposit to day of withdrawal (or DD-DW, or daily dividend, or daily interest). The first name explains it best. Your money earns interest from the day it's deposited till the day it's withdrawn, with no penalties for depositing late (as in low-balance computing) or withdrawing early (as in most regular accounts). The interest rate is the same as that of the regular accounts, but the yield for active accounts comes out better. If you can get a DD-DW account with grace days, that's even better.

These DD-DW accounts are being widely advertised by both commercial banks and thrifts, but if you don't read ads, you may not know you have a choice of either a regular or a DD-DW account. Banks having both types will convert from regular to DD-DW, but be sure to ask if you're losing any interest by not waiting till the end of the quarter.

In addition to interest, would you like a toaster, clock, radio, blanket, cookware, carpet sweeper or steam iron for "nothing"? A lot of banks offer such premiums at the end of the quarterly-interest period, hoping to lure your money away from their competitors. The Federal Reserve Board and the Federal Home Loan Bank Board have limited the cost of these premiums to $5, leading to items like those listed or small pots of philodendron worth less.

But some state-chartered commercial banks suffer no such restrictions. In what amounts to a passionate plea for your money, some have offered what seem to be grand and glorious gifts *in lieu of interest*. Take Texas. For a thirty-month certificate of deposit of $1,800, a Dallas bank recently offered a $232 Browning automatic shotgun, or $225 in immediate cash. They even offered to lend you the money to purchase the certificate if you didn't have the cash! Last year in Boulder, Colorado, a bank offered a 1971 Ford Maverick or a vacation for two anywhere in the world (maximum of $2,500) *in advance* for a five-year $10,000 certificate of deposit. This makes a philodendron plant look pretty silly, but if you have $10,000 to tie up for five years, you can probably afford to buy your own philodendron.

The practice of offering small gifts has given birth to a breed of premium chasers who move their money from bank to bank, collecting electric shavers and alarm clocks en route. The banks have wised up to this game and now insist if you get your toaster, you'll have to leave the account intact for twelve or fourteen months. A bank in which I have some money feels the premium-type promotion is beneath their dignity, but they do want their share of attention. So in their lobby in the winter they have an ice-skating rink with professional skaters performing during the lunch hour. In the spring they stage dog shows with champion dogs . . . and dignity. I've oversimplified the methods of calculation used by various banks in the "interest" of trying to make things clear, but Jackie Pinson's findings weren't simple at all. Using the hypothetical account she set up on paper, complete with deposits and withdrawals covering a six-month period, she used five methods of interest calculation and four other variables (frequency of compounding interest, frequency of crediting compound interest, number of grace days and possible penalty for an excessive number of withdrawals charged by some banks) and worked out the interest in forty model accounts. She then sent that material to eight savings institutions and asked them which system they used. If they didn't use any of hers, would they please do the calculations their way and advise. In no case did the six-month yield match any of the model systems, and no two savings institutions using the same nominal rate came up with the same yield. So it turns out that even if you've chosen the right type of account for your particular form of saving, you still can't know you're getting the best possible return. The American Bankers Association says that there are at least fifty-four widely used ways of computing interest. It's been suggested that there may be as many as a hundred.

Jackie Pinson and Professor Richard Morse, who is head of the Family Economics department at Kansas State, reasoned that if a graduate student couldn't come up with precise information on which bank pays how much, the average saver couldn't either.

When we use a bank's money by borrowing it, the bank is required by the Truth-in-Lending law to tell us how much we're paying for that use, both in annual interest rate and in dollars. So why, ask Pinson and Morse, shouldn't the banks give us equally precise information when they use our money? How about Truth in Savings? The idea is now being considered by the Vermont State Legislature, and a bill has been introduced in Congress by Senator Vance Hartke (Ind.–D.) and Representative Bill Roy (Kans.–D.). In introducing their bills, both used Jackie Pinson's material.

We don't yet have such a law but in this day, when our young claim they can't make any impact on the "system," it's refreshing to know that the garden-variety curiosity of a young woman in Kansas may be responsible for a law that would make it possible for us all to be wiser . . . and richer.

In the meantime, here are some simple rules to follow:

1. Don't settle for less than the maximum interest currently paid, in any type of account. Remember that in passbook-savings accounts, savings-and-loans and mutual-savings banks pay more than commercial banks.

2. Look for the most frequent compounding of interest.

3. For maximum interest on large amounts and minimum opportunity to spend the money, time savings or savings certificates pay more in any type of bank. But you are tying up your money.

4. A DD-DW (day of deposit—day of withdrawal) account is best if you deposit and withdraw frequently.

5. A regular (grace days) account is best if you deposit regularly after the first but before the tenth of the month and don't have to withdraw until the end of the quarter.

6. If your banking options are limited, remember that the LIFO system (last in, first out) yields more than either the FIFO or the low-balance system.

7. Don't be fooled by highly publicized premiums. They are not an indication of a bank's true service.

8. If banks have both a regular account and DD-DW, they'll probably be willing to convert. Don't be shy about asking.

9. Because banks are as eager to use your money as you are to save it, you have every right to ask your bank to explain its system If it's one of the lower-paying varieties, shop around. Remember—it's your money.

TRIBUNE EDITOR SPEAKS OUT ON THE NECESSITY OF LEGISLATION TO PROTECT NEWSMEN'S SOURCES

Mr. PERCY. Mr. President, as the debate continues over the question of whether or not the Congress should enact legislation to protect the sources and unpublished information of newsmen, and as we continue to examine the different alternatives that have been proposed in this area, it is useful to have the advice and counsel of those who have given a great deal of thought to this matter and who actually line with the problem.

Many people have supported, as I have, an absolute shield for newsmen. One of those who has taken this position with reason and eloquence is Clayton Kirkpatrick, editor of the Chicago Tribune. In a speech delivered March 12 at the Canyon Club luncheon in Chicago. Mr. Kirkpatrick discribed the press as a trustee of the rights and duties of citizens as set forth by the Constitution. He discussed the necessary role of the press in keeping our citizens informed so that they might make the best possible decision at the ballot box. He also states the newsmen's code of ethics, which is helpful in understanding the type of men and women who make up the press, and the high ideals to which they have committed themselves.

I commend Mr. Kirkpatrick's speech to my colleagues and I ask unanimous consent that it be inserted in the RECORD at this point.

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

THE PRESS AS TRUSTEE

(By Clayton Kirkpatrick)

Today I would like to appeal to you as holders of the highest authority in this land to defend the press as your trustee in the exercise of part of that power. It is a role that was given constitutional sanction nearly 200 years ago by the drafters of the Bill of Rights, but it has become blurred somewhat with the passage of time.

I use the word trustee because the press is really your agent. It serves your interests. It takes its legitimacy from the same guarantee of free expression that you do, the First Amendment. Efforts to limit freedom of the press, therefore, are the same as efforts to limit the personal liberty of citizens.

Right now the role of the newsman as public trustee is the storm center for a particularly confusing debate. Two Congressional committees—one in the House and one in the Senate—are hearing the arguments. Focus of the debate is a proposal to enact a law which will shield reporters from efforts by the executive, the judicial, and the legislative branches of government to penetrate, and thus nullify, the confidentiality of news sources; or, and this is even more serious, to obstruct and harass newsmen in their work by arbitrary and excessive use of subpoena powers.

I am here as an advocate, and, so that you may judge what I say in the light of my position, I will define that position. I favor an absolute, unqualified shield against any legal process that would impair the ability of newsmen to do their work. Since newsmen are also citizens I do not favor excusing them from all responsibility to answer to the law, but they should be protected from inquiry and process that would destroy their effectiveness in reporting the news. Even more radical, I suppose, is my belief that it is the newsman and not the courts who should make the discretionary decision about how far the newsman can go in responding to inquiry without impairing his role as reporter.

I once thought the First Amendment was sufficient protection for a free press. Certainly it would be if it were accepted by the courts and government agencies literally as it is written. The language of the amendment is absolute and unqualified—far more protective actually than any shield law the Congress might enact.

This is what it says: "Congress shall make no law respecting the establishment of reli-

gion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

This language set up a special and unlimited privilege for the press—and for all citizens, too. It is a privilege so sweeping that only a few hardy souls, Supreme Court Justices Hugo Black and William O. Douglas among them, could accept it. So the privilege has been progressively qualified.

The courts and the legislatures decided that neither press nor citizens could utter or publish malicious defamations that they knew to be false. Hence the libel and slander qualifications. Justice Holmes decided that free speech did not extend to standing up and shouting FIRE! in a crowded theater. Hence the qualification against inciting riot. These qualifications obviously made sense and served justice and they were accepted. The pot began to boil, however, in the late 50s and 60s, when the press and the courts began to quarrel about what might properly be printed about criminal trials.

The courts contended that some reporting prejudiced the rights of some defendants, and in some cases, the rights of the state, to a fair and impartial trial. Thus was born the free press-fair trial controversy. Courts issued gag rules forbidding the press to print some kinds of news in in some circumstances. They issued guideline to instruct the press upon what might or might not be properly published.

Generally the press acknowledged that there had been some excesses in reporting, but it properly refused to accept orders that would subject reporting to court control. The First Amendment was invoked. Sometimes the privilege was upheld. Sometimes it was not, but the ultimate effect was that the protection of the First Amendment was deeply eroded.

Some kind of accommodation might have been reached in the struggle between the press and the courts because there was evidence on both sides of a willingness to compromise. This willingness, at least on the part of most of the press, evaporated with a decision that the Supreme Court enunciated in a 5 to 4 division on June 29, 1972.

The ruling grew out of cases in which three reporters in different states refused to obey subpoenas and testify about the sources of their news on grounds that disclosure would break a confidence, subject a news source to jeopardy, or would cut off further information from the source.

Justice Byron R. White, writing for the majority, stripped news reporters of their special constitutional privilege.

"Newsmen," he wrote, "are not exempt from the normal duty of appearing before a grand jury and answering questions relevant to a criminal investigation. . . We are asked to grant newsmen a testimonial privilege that other citizens do not enjoy. This we decline to do."

With courts thruout the country using this decision as a guide, it was obvious very soon that the First Amendment was no longer a sufficient protector of the freedom of the press. Within a few months five newsmen had been ordered to jail for refusing to obey subpoenas to testify. Gag rules and restrictions proliferated. The fight for a shield law to protect reporters began.

Experience with the qualified shield laws enacted by some of the states proved that any qualifications opened up loopholes so wide that all protection was nullified. Three of the five newsmen ordered to jail were convicted in states with shield laws.

The evidence was overwhelming to most professional organizations of newsmen. The American Society of Newspaper Editors, the American Newspaper Publishers Association, the Associated Press Managing Editors Association, and Sigma Delta Chi, the professional journalism honorary society, all came out for an unqualified shield.

Now you, as ordinary citizens, might say, "This is just a fight between some judges and politicians on one side and a bunch of rich publishers, arrogant editors, and egotistical reporters on the other. The arguments and complaints of the journalists are self-serving and they just want privileges that would be denied to me."

The answer to this argument requires a short detour into the history of political freedom.

Something very special happened in the 18th century when the American colonies won their independence and established a government. The new government established the citizens as the holders of ultimate power and authority rather than some king, emperor, or military dictator. The citizen, who in earlier governments had been a subject, now became the sovereign. The government's business became everybody's business. Since the citizen was the ruler it became essential that he be well informed.

His need for information was doubly important because the new government delegated the citizens' powers to elected representatives. There was need for constant reporting of their activities to assure that they fulfilled their responsibilities to their citizen masters.

The First Amendment was an assignment to the press to become the eyes and ears of the citizens in Washington, in state capitals, in city halls, in school board rooms and anywhere else that public business was done. The drafters of the Bill of Rights recognized that elected representatives would strongly resist this kind of surveillance, so they wrote a specific exemption and privilege forbidding the government from interfering with the press.

In addition to becoming an agent or trustee of the people in an observing and reporting function, the press became a mouthpiece for the people exercising their First Amendment privilege to petition for redress of grievances. The press became a sounding board thru which the voice of the people could be heard, and it has been heard, frequently stridently in a manner that is highly offensive to some officers of government who might prefer to silence the voices if there were no First Amendment privilege.

Well, then, if the press is carrying out its constitutional assignment, why should the citizens be concerned over the debate about freedom of the press?

The answer is that there always is a tide running strongly against personal liberty in government. It is the nature of government to be restrictive, to extend more and more control over citizens. The evidence is apparent in almost every aspect of our lives.

Politically, government has become bigger, more complex, more remote. The citizen who once made his voice heard in town meetings and party conventions now is rebuffed and frustrated by the impersonal complexity of political machinery. Even his voting franchise is diluted by systematic and massive frauds.

Economically the citizen controls a smaller and smaller proportion of his wealth. Taxes, hidden and explicit, take up to one-half or more of his income and he has little voice in how his money is spent.

The citizen's freedom to use his property has been diminished by zoning laws and regulations setting up complex prohibitions.

Freedoms have been surrendered little by little under the pressures of the complexities of our modern civilization and it would appear that the attacks upon freedom of the press are simply a part of this tide of restraints.

The danger, however, from erosion of First Amendment protection increases enormously as the power and influence of the government grows in other areas.

If individual liberties must be diluted to serve collective social and economic purposes, then it becomes more important than ever to preserve the guardians of liberty in the political sector.

What is needed is a press that is more free to perform its function as First Amendment trustee for the people. The alarming effect of the White decision in the Supreme Court and the hostility of certain segments of the executive, judicial, and legislative branches of government to a free press should be as deeply disturbing to you as they are to journalists.

If freedom of the press is curbed, how long will the citizens' freedom of speech, freedom of assembly, freedom to petition continue? You know the answers because you have been informed by your press in the accounts that have come from countries where freedom died—Germany under Hitler, Russia under Stalin, Argentina under Peron, China under Mao, Spain under Franco, and a late one, the Philippines under Marcos. Freedom to speak. Freedom to publish. These always have been the first victims of tyranny.

If you value your freedoms, I hope you will take an interest in the present controversy over our freedoms under the First Amendment. We journalists recognize that we can survive only so long as we fulfill our constitutional assignment and serve the citizens—you—holders of ultimate power in this government—in a satisfactory manner.

That recognition is implicit in our newsman's code of ethics. Here is how it reads:

I

Responsibility.—The right of a newspaper to attract and hold readers is restricted by nothing but considerations of public welfare. The use a newspaper makes of the share of public attention it gains serves to determine its sense of responsibility, which it shares with every member of its staff. A journalist who uses his power for any selfish or otherwise unworthy purpose is faithless to a high trust.

II

Freedom of the press.—Freedom of the press is to be guarded as a vital right of mankind. It is the unquestionable right to discuss whatever is not explicitly forbidden by law, including the wisdom of any restrictive statute.

III

Independence.—Freedom from all obligations except that of fidelity to the public interest is vital.

1. Promotion of any private interest contrary to the general welfare, for whatever reason, is not compatible with honest journalism. So-called news communications from private sources should not be published without public notice of their source or else substantiation of their claims to value as news, both in form and substance.

2. 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.

IV

Sincerity, truthfulness, accuracy.—Good faith with the reader is the foundation of all journalism worthy of the name.

1. By every consideration of good faith a newspaper is constrained to be truthful. It is not to be excused for lack of thoroughness or accuracy within its control, or failure to obtain command of these essential qualities.

2. Headlines should be fully warranted by the contents of the articles which they surmount.

V

Impartiality.—Sound practice makes clear distinction between news reports and expressions of opinion. News reports should be free from opinion or bias of any kind.

1. This rule does not apply to so-called special articles unmistakably devoted to advocacy or characterized by a signature authorizing the writer's own conclusions and interpretations.

VI

Fair play.—A newspaper should not publish moral character without opportunity given to the accused to be heard; right practice demands the giving of such opportunity in all cases of serious accusation outside judicial proceedings.

1. A newspaper should not invade private rights or feeling without sure warrant of public right as distinguished from public curiosity.

2. It is the privilege, as it is the duty, of a newspaper to make prompt and complete correction of its own serious mistakes of fact or opinion, whatever their origin.

Decency.—A newspaper cannot escape conviction of insincerity if while professing high moral purpose it supplies incentives to base conduct, such as are to be found in details of crime and vice, publication of which is not demonstrably for the general good. Lacking authority to enforce its canons the journalism here represented can but express the hope that deliberate pandering to vicious instincts will encounter effective public disapproval or yield to the influence of a preponderant professional condemnation.

These are our professional objectives. I think I should warn you that they do not make journalists particularly charming and delightful companions. Journalists are likely to be curious to the point of being meddlesome. They are aggressive, persistent, resourceful, and sometimes quarrelsome. They are impatient, dissatisfied with things as they are, eager to change things in ways they think will bring improvement. They are sometimes suspicious.

Col. Robert R. McCormick, former editor and publisher of The Tribune, who understood the role of the newspaper in our society as well as any journalist who ever lived, was fond of saying that a newsman should have no friends. This was recognition that the journalist should see his duty to report fairly, fully, and accurately as paramount to every other loyalty, including friendship.

Thus a journalist can hardly hope for affection, but he must aspire to respect and he must strive to attain it. When he succeeds, he can fulfill his obligation to you as your trustee. All he needs is your help to preserve his freedom—and yours.

DELAWARE COUNCIL FOR WOMEN

Mr. BIDEN. Mr. President, the Delaware Council for Women was created in 1971 to work toward equal opportunity for women. It aims to encourage women to participate in the political and social life of the State and to help them develop their potential as complete citizens. Some of the council's goals are to remove existing discriminatory barriers, provide counseling and informational services, and to propose and work for the passage of legislation favorable to their purposes.

On March 5, 1973, the Council for Women passed the following resolution in response to Presidential impoundments and cutbacks in programs designed primarily to meet the social needs of our citizens.

I commend the council on this affirmative action and request unanimous consent that this resolution be printed in the RECORD.

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

RESOLUTION OF THE COUNCIL FOR WOMEN, STATE OF DELAWARE, MARCH 5, 1973

Whereas, Executive cutbacks have been declared in Federal funds for rent-subsidy and low-income housing programs, in job-training programs, day-care, family planning, and in Title IV–A Social Service programs, and

Whereas, the sudden withdrawal of these funds cripples State and local-agency efforts to meet the human needs of those least able to initiate alternatives;

Now therefore be it resolved that this Council for Women of the State of Delaware calls on our representatives in Congress to take all action necessary to review that decision and to restore funds for those programs.

Be it further resolved that if the necessity is found to cut funds in other areas in order to restore these funds, that such cut-backs begin with armaments.

JACK McCLOSKEY, PUBLISHER OF THE MINERAL COUNTY INDEPENDENT-NEWS, HAWTHORNE, NEV.

Mr. CANNON. Mr. President, one of Nevada's outstanding editors recently celebrated his 40th anniversary as publisher of the Mineral County Independent-News in Hawthorne, Nev. He purchased the weekly newspaper in 1933 and has published it continuously except for time spent in the Army during World War II. I have known Jack McCloskey for many years and share the feelings of other Nevadans in respecting his integrity, perception, and dedication to the highest ideals of journalism.

I ask unanimous consent to insert in the RECORD a concurrent resolution adopted by the Nevada Assembly on March 2, 1973, commending Mr. McCloskey on this important milestone.

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

ASSEMBLY CONCURRENT RESOLUTION No. 15

(Commending newspaper publisher Jack McCloskey for accomplishments in the field of journalism.)

Whereas, Mr. Jack McCloskey was born in Goldfield, Nevada, on September 19, 1911, and thereafter moved to Tonopah, Nevada, where he, at the young age of eleven, embarked upon his remarkable career in the field of journalism by selling newspapers, subsequently becoming a printer's apprentice and a writer for the *Tonopah Times Bonaza*, all before his graduation from high school; and

Whereas, In 1929, at the age of eighteen, he moved to Hawthorne, Nevada, to become editor-reporter of the *Hawthorne News*, only to find himself cast, shortly thereafter, upon the seas of the unemployed during the troes of the Great Depression; and

Whereas, In 1933, he borrowed the sum of $200 to become self-employed by founding the *Mineral County Independent News* in partnership with Mr. J. W. Connors. This fledging but vigorous enterprise within two years of its inception acquired the assets of the *Hawthorne News;* and

Whereas, In 1954, Jack McCloskey purchased the interest of his partner in the *Mineral County Independent News*, and has since then been the single owner and operator of the newspaper; and

Whereas, Due to Jack McCloskey's efforts the *Mineral County Independent News* has always been a responsive and responsible voice in the affairs of Mineral County and the State of Nevada, making significant and historical contributions to journalism in the Silver State; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That Jack McCloskey, on this the fortieth anniversary of his ownership and operation of the *Mineral County Independent News,* be commended, not only for his contributions to journalism, but also for his steadfast perseverance in the longest period of continuous, active ownership and publication of a newspaper by an individual in the State of Nevada; and be it further

Resolved, That a copy of this resolution be prepared and transmitted forthwith by that legislative counsel to Mr. Jack McCloskey.

BYELORUSSIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, on March 25, 1918, Byelorussians proclaimed their national independence. Living at the crossroads of East and West, the Byelorussian people have had a turbulent history in which war and suffering were all too common, and opportunities for peace and national stability all too limited. Nevertheless, Byelorussians have not only maintained their spirit of national integrity throughout the centuries, but have continued to make important cultural contributions.

Fifty-five years ago it seemed that Byelorussian aspirations for a free and independent life might at last be fulfilled. A provisional constitution was adopted by the newly proclaimed Republic which provided for elections by direct and secret ballot, and for freedom of speech, press, and assembly. Byelorussians were not, however, to enjoy this newly won freedom, as their Republic was soon forced to become a part of the Soviet Union. March 25 continues, nevertheless, to be a symbol of independence, and we take this occasion each year to join with Byelorussians everywhere in recognizing Byelorussia's legitimate aspirations.

TELEVISION AND NEWSPAPERS: DIVIDED WE FALL

Mr. HUMPHREY. Mr. President, the freedom of the press concerns us all. Mr. Bill Monroe, the distinguished and well-known reporter and commentator for NBC News, recently addressed the Minnesota Newspaper Association on this topic. His insights on press freedom, coming from 20 years of broadcasting experience, are perceptive and important.

Mr. Monroe points out that distinctions frequently cited between the printed media and broadcast media are false ones. Television and radio are as much a part of the press as newspapers and magazines. We are living in an age of electronic journalism, and electronic journalism deserves the same constitutional protections as the print media.

Government attacks on the press have produced an antimedia climate. In this climate we are drifting closer than ever before to State regulation of the news. In this type of environment, "ideological plugola" is likely to be defined by a station manager as "anything that might anger the White House."

The NBC Washington editor also warns us of the differences between a fair

press and a free press. In a democracy, first priority must be given to a free press. When we start substituting arbitrary definitions of a fair press for a free press we have nullified the intent of the first amendment.

Mr. President, I ask unanimous consent that the text of Mr. Monroe's remarks in Minnesota on February 24, 1973, be printed in the RECORD.

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

TELEVISION AND NEWSPAPERS: DIVIDED WE FALL

(By Bill Monroe)

I appreciate your invitation to be here today and to sit in last night—first, because I believe deeply in the common cause of newspaper and broadcast journalists; second, because I have a special regard for Minnesota related to the quality of its politics and its politicians. And I've always assumed, I believe rightly, that high-quality politics and high-quality journalism are generally found side by side.

One of your politicians did us quite a favor a couple of weeks ago—Hubert Humphrey, who just might hold the record for the number of Washington interviews by one political figure on the Today show, if somebody wanted to count it up. He had come in to be interviewed and boil over on the President's budget. Waiting for the interview to begin, his eyes lit on the remarkably scruffy, battered-looking coffee table in front of us. "My God," he said, "look at that table. You fellows certainly know how to put a guest in his place. You'd think a big network like this and a big program like Today would have a halfway decent piece of furniture on the set. We have better-looking tables than that in every home in Waverly."

I told him they also had better-looking politicians in every home in Waverly. It would have been a fairly good squelch for anyone else, but Hubert just went on scathing that table.

Well, it so happens that thousands of politicians have been interviewed in front of that miserable table without complaint. But three days after Senator Humphrey took after it, somebody went out and bought another one—brand new, beautiful, modern, unscratched, the Hubert Humphrey Today Show free speech coffee table. We're going to invite the Senator back next week to take a close look at our chairs.

What I see as the essential problem of press freedom in our time goes to the fact that the American government never had much of a chance to get hold of the American press—until now. But now it does have a chance. It has a chance because the press has changed shape. It hasn't changed function, just shape. The television station has joined the local newspaper in dispensing news and comic strips to the community. But it's a newscast instead of a front page, and it's Archie Bunker instead of Dick Tracy. But that new form of press, broadcasting, is not specifically protected by the First Amendment. The First Amendment doesn't call it by name. It says press, not media. And you've got to have somebody allocate broadcast licenses to keep multiple traffic off of the same frequencies. So the different shape of this new form of press and the license problem give the politicians a feeling that they can move in on electronic journalism, make their own rules for it, tell it how to play the news (particularly the news that affects politicians).

Hot attention is being focused these days on the jailing of newsmen who won't yield up confidential information and sources. That is a clear assault on press freedom and one product of the anti-media climate we're in. But, it seems to me to be, in the long run, a less-than-critical problem. Less than critical because it's well-defined, clearcut, out in the open. We all recognize it. We're agreed on it among ourselves, print newsmen and broadcast newsmen. We have a lot of public support. We have a lot of political support in the Congress for some kind of shield law. Everybody's working on it. And, if nothing else works, we have a messy but perhaps adequate solution. All we have to do is keep going to jail. Do you know of any newsman who has betrayed a source to stay out of jail? There must be one somewhere but I haven't heard of him. This is a case where the outcome seems to depend on whether newsmen have a conviction about the First Amendment, and they do seem to have it. Eventually, probably within the next several years, the newsmen who are going to jail are going to overturn the Supreme Court in the big, bottom court of public opinion. Every time somebody goes to jail, the First Amendment wins a little. It's obvious that honorable people are going to jail for the sake of a principle without their jailing producing any benefit to society. And the grudging refusal of some officials and judges to recognize the bedrock importance of confidentiality for newsmen is, I believe, one way or another, simply going to crumble. The first sign may come when we find prosecutors and judges growing disinclined to use their blunt instrument.

But the problem of genuine First Amendment freedom for electronic journalism, the problem of a press half free and half government-manipulated, is something else. It is not well-defined and clearcut, recognized or agreed on. Everybody is not working on it.

I once heard a city editor end a telephone argument with a politically powerful city councilman by telling him to go to hell. Then he hung up. That editor may have been rude and ill-tempered. But he was a newspaperman and he had a deep sense of security about his independence from government.

My experience in broadcasting, 20 years' worth, is that broadcasters do say no to the politically powerful but, even if provoked, they just don't allow themselves the luxury of strong language. You don't have that sense of security in an organization that's got to get a government okay every three years to stay in business. To their credit, the station managers tell their news directors to go ahead and air the news stories offensive to politicians. But they feel a compulsion at the same time to worry about the possible backlash. They can't help it. Regulation of editorial content builds in a timidity factor.

What kind of First Amendment is that? It's no kind of First Amendment.

Government guidelines contradict press freedom. And once you've accepted the value of government guidelines for one medium, the idea that such guidelines provide net benefits to the public, then you've quit really believing in the First Amendment, though you may keep saying out of habit that you do believe in it. You're on the way toward the next step, which is simple: having improved one medium by government guidelines, to set about improving other media the same way. If government can make television news fair and balanced, it can make newspapers fair and balanced. If the assumption is valid, the logic is impeccable.

I happen to think the assumption is wrong. I am convinced that government guidelines contribute little or nothing to fairness and balance in broadcasting. To the contrary, they contribute a great deal to blandness in broadcasting, to a tendency to duck tough issues so as to stay out of trouble with the government. But the whole process of broadcast regulation is slowly selling the American people month by month, year by year, on that anti-First Amendment assumption: Government guidelines improve the news media. If you don't like a program, write your congressman a hot letter about it. If you want equal time, send a formal complaint to the Federal Communications Commission. It's up to the government to keep the networks in line. It's up to the government to see that every group, every faction, gets its share of media attention.

So the country is looking to government to force good performance from broadcasters. The value of a fair press (government certified) is going up, the value of a free press is going down. The original meaning of the First Amendment—clean, complete independence of the media from government—is fading from the minds of Americans.

And growing out of this atmosphere, which has been building up for decades, we come to Spiro Agnew in 1969 questioning the rights of newsmen on the basis, among others, that they're not elected. Now there is an interesting challenge. It asserts the legitimacy of the elected official as representing the people and the illegitimacy of the unelected journalist. It suggests there is something arrogant, something out of order, something almost intolerable, about the unelected talking back to the elected. It suggests the basic fitness and propriety of government guidelines for the media.

It's enlightening, incidentally, to examine some of the specifics that seem to have brought on the Vice President's outburst against "instant analysis." Not many people have looked into what the actual offenses of the analysts were. President Nixon, you will recall, in a speech on Vietnam, had made a case to the effect that we were ready to work out a peace but Hanoi was being unreasonable and intransigent. As one bit of evidence, he described a letter he had received from Ho Chi Minh as a hardline letter. After the President's talk, various correspondents on each network gisted it and commented on it. Marvin Kalb of CBS mentioned, among other things, that some State Department experts on Ho Chi Minh and Vietnam felt the Ho letter was not altogether hardline, that it had some moderation in it. That was one of the observations that called forth from Mr. Agnew these words:

"When the President completed his address—an address that he spent weeks in preparing—his words and policies were subjected to instant analysis and querulous criticism . . .

"One commentator twice contradicted the President's statement about the exchange of correspondence with Ho Chi Minh. Another challenged the President's abilities as a politician. A third asserted that the President was now 'following the Pentagon line.' Others, by the expressions on their faces, the tone of their questions, and the sarcasm of their responses, made clear their sharp disapproval."

So, just taking up one of his complaints, the Vice President was saying that Marvin Kalb, one of the most experienced American reporters on foreign affairs and the man to whom Henry Kissinger gave his exclusive prime time interview just the other night, had no right supplying the American people with any different slant on the Ho letter than the one they got from the President. Or, he seemed to say, if Kalb did have such a right, it should certainly not have been considered valid right after the President spoke; it should have been exercised if at all, only a respectful hour or two later. Obviously a new approach: a First Amendment, like pro football, subject to occasional blackouts.

But the danger to broadcasting, and eventually to newspapers, is not just a matter of guerrilla warfare with this Administration. The whole regulatory process exerts a chilling effect on the broadcaster.

Much of this regulatory structure was built, remodeled and added on to over the years by those happiest of regulators, the Democratic liberals. FCC commissioners,

congressmen and senators, federal judges—men with the highest intentions—have constructed rules, laws and decisions designed to make a medium do right, be fair and responsible, especially to politicians. It started out in the days of radio when the new medium looked more like an entertainment box in the home than a source of news. And they've been tying government strings on broadcasting ever since. It's been happening so slowly, bit by bit, that nobody has stopped to recognize out loud what has now become obvious: that we have fashioned a powerful news and information medium for the first time in American history which is accountable to the government.

If you don't think this regulatory process affects the psychology of broadcasters, consider some of the problems with government the broadcaster faces and ask yourself whether the same conditions, if imposed on newspapers, might make publishers a bit nervous:

The broadcaster must apply to a government body every three years for the right to stay in business. Special interest groups are increasingly challenging station licenses to force concessions in employment and programming.

The broadcaster, in his decisions on political coverage, has to go beyond his own professional judgment to consider the attitudes of a government commission. For example if you carry in prime time Senator McGovern's announcement of Sargent Shriver to replace Senator Eagleton on the Democratic ticket, will the FCC agree it's legitimate news or call it an equal-time problem?

If a news program stirs up official or popular criticism, the broadcaster may get a letter from a government commission directing him to explain and justify the program within 20 days. The FCC sends out about 200 of those letters every year.

The broadcaster is forbidden by law to present a debate among major candidates unless all fringe candidates, including the crackpots, are included. This is a law that's supposed to be in the public interest. What it actually serves is the politicians' interest as a law to hide behind when they don't feel like debating.

Believe me, with this much second-guessing from government, a station manager soon begins to feel he needs every friend he can find inside the government, and he just may wind up less eager than a newspaper publisher to expose hanky panky in Washington or even in a governor's office.

Consider the plight of a documentary producer who, let us say, put out a controversial documentary one month ago. His boss, the station manager, caught a lot of flak as a result. He got an official fairness doctrine complaint from the FCC, to which a long, carefully documented reply had to be prepared. He got 240 letters from viewers, two thirds of them crying bias. He got protests from two congressmen. So, one month later, the station manager feels he has done nothing the past four weeks other than defend that program, telephone Washington lawyers for advice, write letters of appeasement and explanation. And at this point the producer comes into his office and says, "Look, I've got another good hot subject I want to do my next documentary on and I want to get your clearance." The station manager would be only human if he said, "Tom, for God's sake, why don't you do a travelogue-type thing this time and hold off on the tough subjects for awhile. I just feel I need a little rest before inviting the government to jump on my back again."

Fred Freed, an NBC producer, once said, "If you do something controversial, you know you will spend months defending yourself to the government. That's not conducive to doing something controversial."

These, gentlemen, are chilling effects. They represent whether intended or not, government inhibition of journalism.

And the climate of broadcasting's involvement with government, nervousness about government, provides the background against which the Nixon Administration has launched its efforts at intimidation. Vice President Agnew didn't confine himself to criticising the networks, which he has every right to do. He branished the licensing process at them. He said he did not advocate censorship and that answers to his questions had come from the media. But, after describing broadcasting as "a monopoly sanctioned and licensed by government," he said two sentences later, ". . . perhaps it is time that the networks were made more responsive to the views of the Nation and more responsible to the people they serve." Then, when broadcasters accused him of threatening them, he replied that they were over sensitive to criticism.

The Administration is, of course, still whirling that power to license around in the air like a stone in a sling. There's a brand new office set up inside the White House called the Office of Telecommunications Policy. The man who runs it, Clay Whitehead, speaks for the President. He says the networks dispense what he calls "ideological plugola" and that local stations should be held responsible at license renewal time for stopping that sort of thing. Mr. Whitehead declines to give any examples of "ideological plugola." But I believe, if I were a station manager, I'd define it as anything that might anger the White House.

Anybody inclined to wonder whether Mr. Whitehead really meant to sound all that tough is free to contemplate the state to which the Administration has reduced public television. The government has now broken through the insulation intended by Congress and gotten a firm hand on public TV. As a result, it is now half strangled and gasping for air. But you can bet there will be less "ideological plugola" on public television next year because the Corporation for Public Broadcasting seems intent on simply killing most of its news and information programs.

Despite all the myths, all the acceptance that has evolved around the kind of broadcast regulations we have now, there is no necessity for us to continue to put up with such anti-First Amendment process. There is a form of regulation possible which is compatible with the First Amendment and there's no reason why we can't start moving toward it. It is, of course, a minimal form of regulation, almost no regulation at all. It would involve allocating station licenses on a permanent basis, licenses in perpetuity. They could be granted orginally the way they are now, or they could be awarded by lottery, or they could be auctioned off.

But once granted, each company would operate indefinitely on its assigned frequency—subject only to the technical requirement that it keep its signal on that frequency. At that point, broadcasting would become, quite simply, exactly as free as the printed press. It would be free of government harassment but not, as some would have it, irresponsible, because it would remain, like newspapers, amenable to the disciplines of competition, the trials of the market place and the necessity of public acceptance for a mass medium.

Most of us have become so brainwashed over the years by the doctrine that broadcasting must be guided by government that the idea of genuinely free broadcasting hits us with some shock. All of the cliche arguments against genuine application of the First Amendment to broadcasting crowd to mind: Anybody can start a newspaper. The public owns the air waves. Television stations make too much money. Some stations might abuse their freedom. The networks are too powerful. I wish I had time to analyze one by one these well-worn but empty articles of faith. If you can shake loose the habit of accepting them, they do not stand up under challenge, especially against the background of where today's regulation is going: toward radio stations, television stations and networks answerable, not to a free journalistic conscience, but to the federal bureaucracy.

What it boils down to is that the public ownership of the air waves, whatever that means, need not be turned against the public. There is *nothing* the public can gain from those air waves more vital than clean channels of information, clear of government contamination. If we look straight-on at the obvious press function of broadcasting, if we continue to believe in a living First Amendment, we can find a way—the Congress can, the courts can—to provide to these new media that essential vitality of almost-absolute independence from government. It makes no essential difference that some television stations, like some newspapers, may be highly profitable or may put on one-sided news. Democracy is not perfect, and they would be subject to the check of other stations and the newspapers. The danger is not that any network may be overly powerful. The danger is that our power-gathering central government may slowly domesticate and gradually take over all of the networks to provide us one day with one, single, official source of news.

The need to reverse this already begun process is beginning to come clear to concerned people, including some outside of broadcasting.

Abe Rosenthal, managing editor of the New York Times, had a piece called "Save the First Amendment" in the Times Sunday magazine just two weeks ago. He was talking about the fact that governmental standards of fairness for the press lead to governmental control of the press. And he said this:

"Even in our own society . . . we have the phenomenon of civil servants and politically appointed officials telling television and radio, two of our most important news distributors, what's fair and what's not fair, and using the whip of licensing renewal to enforce conformity with Government news standards. "My own belief," Rosenthal continued, "is that this is unconstitutional, and it is sad to see the printed press being so bland about the growing incursion into the freedom of the electronic press and never seeming to hear that tolling bell."

Quoting one more paragraph from Rosenthal:

"Certainly television and radio news broadcasts are press within the meaning of the First Amendment, but our society has accepted grievous pressures on electronic press freedom simply because it cannot yet figure a way out of the technological problem—not foreseen by the writers of the Constitution—that there are a limited number of air waves and channels. Some day cable TV or another breakthrough will vastly open up the number of channels, but will the freedom of the electronic press be restored? History is not full of examples of forfeited freedoms regained." End of quote.

In November of last year, Judge David Bazelon, Chief Judge of the U.S. Court of Appeals for the District of Columbia, issued a dissent in a case that involved the FCC canceling the license of a Philadelphia radio station because it violated the fairness doctrine. In his dissent, Judge Bazelon raised a question that judges have *not* been facing: whether the fairness doctrine does not, in fact, conflict with the First Amendment and in the long run inhibit, instead of encourage, the free expression of ideas. In challenging the fairness doctrine headon, Judge Bazelon said: "To argue that a more effec-

tive press requires a more regulated press flies in the face of what history has taught us about the values and purposes of protecting the individual's freedom of speech."

The present uneasy condition of broadcasting—not quite free, not quite captive—will certainly change in one direction or another, toward greater freedom or toward a deeper captivity. If it slips down toward heavier obedience to government, I believe newspapers will find themselves slipping also . . . slowly . . . over a period of years and decades . . . down the same slope!

The present regulation of broadcasting subverts the First Amendment itself, undermines it, teaches every citizen who grows up in this atmosphere of regulation that the highest journalistic value is not a free press but a fair press. The concept of fair press is driving out the concept of free press. The two are incompatible, of course, because fair press, as anything other than an ideal, requires what its advocates do not yet recognize—government intervention in the media, government influence, eventually government control.

If broadcasting continues slipping into government captivity, the stage will soon be set for a future crisis involving the First Amendment. It will involve a contest between the government and the printed media, and it may not be much of a contest. By then the government may be able to pressure the electronic media, from which people get at least half their news, to stand by quietly as the battle rages or even to tilt to the government side. Today's broadcast journalists would not be so pressured, I assure you. I hope that will remain true tomorrow. But, given the mounting pressures, who can guarantee that the broadcast journalist of the year 2000 will not identify with government, will not see himself as a domestic Voice of America man?

Three days ago in Washington, at one of those familiar conferences on media and government, a former counsel of the FCC, Harry Plotkin, suggested that government is already exerting a not-so-subtle pressure on those newspapers which own broadcast licenses. A publisher with a TV station might normally have some concern about his relations with government. Today there is something else in the picture which Mr. Plotkin mentioned: People connected in various ways with President Nixon are challenging two different television licenses owned by the Washington Post company. Of 20-odd stations in Florida up for renewal, the Post stations are the only ones being challenged. The White House says they know nothing about it.

We already have people suggesting technical handles by which the government might get a direct hold on newspapers. One former FCC commissioner, Kenneth Cox, has predicted that the FCC will be able to fasten the fairness doctrine on the printed press once newspapers begin going into the home by electronic transmission.

There are college professors here and there working on an access doctrine which says individuals and groups have a right to a say in the media, a right to broadcast time and newspaper space. In effect, they are trying to re-interpret the doctrine of free speech as a battering ram against the doctrine of free press. And they do want to apply it to newspapers with government refereeing the process.

A federal appeals court recently ruled in favor of certain stock operations by directors of the Denver Post aimed at keeping the paper out of the hands of the Newhouse chain. The court arrived at that opinion, which some of us might applaud, by defining a newspaper as "a quasi-public institution."

The Supreme Court, in the *Red Lion* case, said that government rules of fairness as applied to broadcasting "enhance rather than abridge the freedoms of speech and press protected by the First Amendment." Think about that for a moment. The court said that the government judging what's fair in journalism was an "enhancement" of the First Amendment, not an abridgment. And the court left wide open an implication that such an enhancement would also benefit the public if applied to print.

Despite the media sharing a common cause in our endless confrontation with the government, there are, of course, forces tending to keep the printed press and electronic press divided. There are historic irritations and tensions. There is brutal competition.

But I sense today that government (and we should be grateful to it for small favors) is sharpening our understanding of what we mean to each other and of what a multimedia free press means to this country. And I think it's tremendously important that, without lessening competition, we work on this unity among media in support of the First Amendment. There is, as a matter of fact, something natural about such a common effort that can call forth the best that's in us.

Let me tell you about a moment I will never forget that took place in the Louisiana legislature about 18 years ago. The New Orleans television station of which I was news director had just acquired its first sound film cameras. It occurred to us it would be good journalism if we could use them to cover the upcoming session of the legislature in Baton Rouge. This had never been done before. So we thought about going to the President of the Senate and the Speaker of the House to ask permission. But we decided against it. After thinking about it, we figured they would probably consult committee chairmen, possibly the governor, and, the whole idea carrying a little future shock with it, someone along the line would certainly say no.

But we felt we were American press and had a right to be there with a new journalistic instrument. So, without advance word to anyone, we just set up two cameras on the opening day of the legislature, one in the middle aisle of the House, the other in the middle aisle of the Senate. We did not, of course, really belong in the middle aisle but we didn't have long lenses and the aisles, luckily, were wide. Nobody said a word. For the next four or five weeks we had nightly sound film reports of legislative debate on our evening newscasts.

Then one day we hit a crisis. We had shown some film of the Governor, Earl Long, wandering around the legislative chambers, where tradition said he shouldn't go, and button-holing legislators. The Governor didn't like it. A movement started among the Governor's legislative supporters to throw our cameras out. But we got some support from many of the New Orleans legislators, who felt our coverage had been professional and fair and had stirred new interest in the legislature. And then, just when the Governor seemed to be ready to move against us, a remarkable thing happened. The nonbroadcast newsmen and newswomen covering the legislature—the AP man, the UPI man, and half a dozen newspaper people—went to see the Governor. They told him that, if our cameras were thrown out of the House and Senate, they intended to walk out themselves. They said we had as much right to be there as they did. We hadn't asked them to do it. They just did it. I don't know whether they would have walked out and I have doubts whether journalists, ethically, can afford to boycott news events. But that ended the Governor's television blackout drive, and TV cameras, with nobody's permission, have been in the Louisiana legislature ever since, though not, I hasten to concede, in the middle aisle. I cannot express the gratitude I felt toward those newspaper reporters, nor the rightness, the sense of principle I felt at the core of that solidarity.

I believe, and hope, we're going to see more of that on a national scale in the years ahead, all journalists identifying with each other across media lines in active support of an indivisible press freedom.

Finally, I don't want to be shrilly alarmist. I don't think broadcasting will be brought to its knees during this Administration or the next. I don't think the First Amendment is going to disappear as applied to newspapers during this century. The way things are going, it seems to me there *is* a grim prospect of broadcasting, already entangled with government, becoming a little less free decade by decade, also a prospect of new cracks appearing in First Amendment protection for newspapers during our lifetime. But I believe we can turn around this slide toward government capture of the media if we recognize it and work against it. I don't believe the American people, if the issue comes clear, want to go that route.

In this revved-up world, there are uncertainties about everything, including what kind of values we want to pass on to our children and grandchildren. But I don't think any of us have any doubt that we would be leaving them a hell of an inheritance if we simply manage, and it will not be easy, to pass on to them the First Amendment in the same condition it came to us—strong and intact, relevant to all news media.

SECOND-CLASS POSTAL RATES

Mr. BAYH. Mr. President, I was pleased to learn that the Post Office Committee has scheduled hearings for April 2 and 3 on legislation (S. 842) which I and more than a dozen of my colleagues have sponsored to forestall excessive second-class postal rate increases sought by the Postal Service. I am hopeful that the committee will give prompt, favorable consideration to this measure as a matter of equity and solid public policy.

The need for this measure developed from the Postal Service's shortsighted decision to increase second-class postal rates—affecting newspapers and periodicals—by an average of 127 percent over a 5-year period. In many cases the increases would actually amount to three and four times the present rate and would almost certainly force many publications out of business.

The Postal Service would do much better, Mr. President, to direct its attention to improving its poor record of service than in devising schemes which would bankrupt many important publications. The constantly miserable quality of Postal Service is also under committee study, and I trust that steps will be taken to reverse the unhappy, indeed, the unacceptable, trends of recent months.

On the matter of second-class postal rates, the Postal Service has lost sight of the fact that the United States began public post offices in the earliest days of our country for the precise purpose of encouraging and fostering the widest possible dissemination of varying views via the mails.

Today, 200 years later, millions of Americans rely on small, local, often weekly newspapers for news of their communities. These newspapers are most often distributed through the mails and the possibility of substantial rate increases threatens the viability of many newspapers. The case of one Indiana

weekly newspaper of under 3,000 circulation was brought to the attention of the Postal Service since it faced more than a doubling of its present mailing costs under the proposed rate increases. This is all too typical of the increases which would be faced by weekly newspapers in Indiana and across the country, because the highest percentage increases in rates are for publications mailed within a single county.

Besides the thousands of small, highly valuable newspapers which are endangered by the rate increases, many periodicals of special interest are also threatened with extinction. Limited circulation periodicals, which are an important medium for sharing varying political views and specialized information in our highly complex society, cannot afford to bear the rate hikes.

And suggestions that the increases be passed along to subscribers are pointless, since a significant increase in subscription costs will mean the loss of some readers, thereby lowering advertising revenues, and ultimately creating economic pressures which will force many periodicals to stop publishing.

Our Founding Fathers understood the necessity of the free exchange of political views to the success of democracy. This need for open discussion of matters of public affairs goes to the heart of the first amendment, and has been reaffirmed many times through our history by the Congress which enacted preferred mailing rates for newspapers and periodicals. To shut off this flow of opinion and information is to do damage—unnecessary and harmful—to democracy itself.

Our bill (S. 842) has two key elements to protect mailers qualified for second-class rates. First, the increased rates would be phased in by 2-year increments over 10 years, instead of annually in 5 years. Second, the first 250,000 copies of a publication would be charged at two-thirds of the regular rate to give deserved consideration to the small newspapers and periodicals which would be most severely hit by increased mailing costs.

Mr. President, the urgency of the situation has been amply testified to by publishers from every part of the country. The need for congressional action to forestall the unreasonable second-class postal rates is clear. I trust the Post Office Committee will respond to that need and take prompt action on the legislation so the full Senate can work its will in defense of the free and uninterrupted flow of opinion and information.

ARNITA BOSWELL: CIVIC LEADER

Mr. PERCY. Mr. President, I would like to call to the attention of my colleagues an article from the March 13, 1973, Chicago Sun-Times, about one of Chicago's leading citizens, Arnita Boswell. Mrs. Boswell is one of those people who seem, by virtue of their extraordinary ability, to be forever thrust into leadership. She is also a perfect example of the idea that those people who have the most to do, the most contributions to make, always seem willing to take on more responsibility.

As the article points out, and as I know firsthand, Mrs. Boswell is not the kind of woman who is inclined to call attention to herself. But her vast contributions to the well-being of Chicago residents speak for themselves far more eloquently than she—or I—can do. Her efforts, however, are bringing her to the attention of the general public in the Chicago area, and they are so outstanding that I think my colleagues would profit from learning about her activities.

Although she has recently received recognition from the YWCA as being one of the six outstanding women in Chicago, and she has, among other things, been appointed by the President to serve on the U.S. Commission on Population Growth and the American Future, perhaps her single outstanding achievement is the League of Black Women, which Mrs. Boswell founded and nurtured into the growing, influential organization it is today. She is the league's spokesman and leader in such issues as support of black colleges and artists, and she has begun a program which encourages black couples to adopt black children.

Mrs. Percy and I, as well as our children, have known Mrs. Boswell and her husband, Dr. Paul Boswell, for many years and we have been grateful for their personal friendship, as well as their assumption of civic responsibility. Their lives have been an inspiration for us and many others. I know that Mrs. Boswell always prefers to remain in the background, organizing and implementing projects rather than publicizing them, but I must say that I feel her creative work on behalf of so many Chicago citizens deserves the attention it is receiving.

Mr. President, I ask unanimous consent that the Sun-Times article about Mrs. Boswell be inserted in the RECORD at this point.

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

A LEADER WHO PREFERS TO STAY QUIETLY IN THE BACKGROUND

(By Patricia Anstett)

Says Arnita Boswell: "Women weren't created to walk behind their men or ahead, but side by side."

Arnita Boswell is not the kind of woman who likes to go about the business of promoting herself.

Publicity has a way of engulfing, sometimes overpowering, public figures, and Mrs. Boswell knows that. So she shuns a heavy schedule of public speaking and lengthy press interviews. She doesn't even like to be called a leader.

In the groups in which she is a member, she maintains the same low profile. She doesn't avoid leadership jobs, but she doesn't seek them either. She almost seems to prefer—like an unheralded Hollywood stunt man—the understated, difficult stand-in shots to the more glamorous close-ups.

In 1973, however, Arnita Young Boswell—sister of the late civil-rights leader Whitney Young—may no longer be able to stay on the sidelines.

A string of recent appointments and awards—including a recent one from the YWCA as one of six outstanding Chicago women—have brought the University of Chicago professor to the attention of thousands of Chicago-area people. President Nixon recently appointed her to the U.S. Commission on Population Growth and the American Future, and dozens of groups, from the American Civil Liberties Union to the League of Women Voters, have sought her assistance in organizational projects. She now sits on more board directorships than almost any other Chicago woman—second only perhaps to Chicago's Jewel Lafontant.

A group which Mrs. Boswell has founded, the League of Black Women, also is growing in membership and influence. Increasingly, she has been called upon, as chairperson of the league's board, to make policy statements on league positions. In the last week alone, she has made public statements for the league in favor of the Equal Rights Amendment and against proposed budget cuts by Mr. Nixon in antipoverty and social-service programs.

Mrs. Boswell willingly accepts these leadership assignments, but with some reluctance. "I don't like to think of myself as a leader and never really thought of myself particularly cut out for that role," she said.

She pauses for a moment, then adds: "I will accept leadership responsibilities if I have to, but I'm more of a representative than anything else. We're really just a group of people working together. And sometimes you need a person to articulate what you're doing."

Mrs. Boswell looks around the league headquarters at 841 E. 63d. It is a small, modest office that can be partitioned off into two pint-sized meeting rooms. A new duplicating machine—the league's only luxury—sits proudly near an old desk.

On this day, three groups were trying to hold simultaneous meetings at the small headquarters. One group of black women had come all the way from Aurora to find out about the league.

Mrs. Boswell points to the league's growth at testimony for the need for women to get involved in community events.

"We started out in a living room (hers), moved to a basement and were forced to move—even before we were economically ready—to an office of our own The demands of women are so great that we have been forced to move even faster than we were prepared. We have more than 300 (dues-paying) members now and even this office is too small. We could use another office, but we just don't have the money."

The league's growth has been a continual source of happiness to Mrs. Boswell. Busy women with a string of time-consuming commitments to black communities—like Ruby Mabry with the Englewood Health Center, Connie Seals with the Chicago Urban League and Nancy Jefferson with the Midwest Community Council—have willingly donated even more of their time to the League of Black Women. The league's staff—Lorraine Johnson, executive director, and Betty Colvin, office manager—spend hours of their time on league business and they aren't even paid. And in the three years the league has grown, so has the bond between its members.

"While our men are about their business, there's a place, I think, for women to be working together," she says. "We know that there will be a point in time for all of us to come together. But right now there's a lot for us (women) to get done."

Mrs. Boswell's personal convictions are closely allied with league activities. She personally sees the need to support black colleges and artists, and the league has made a point of publicizing and patronizing black cultural projects and the United Negro College Fund. She has strong feelings on the need to get more black families to adopt black children, and last year she convinced the University of Chicago (where she is an associate field-work professor in the Graduate School of Social Service Administration) to allow graduate students to work for credit with the league on a special black adoption project.

Mrs. Boswell also carefully disassociates herself, and the league, from women's liberation. She supports virtually all the movement's goals, but she sees a need to support black men, not threaten them the way she feels the movement does.

"Women weren't created to walk behind their men or ahead, but side by side," she says. She follows that same example in her personal life and constantly gives credit to her husband Paul, a physician, and her 22-year-old daughter Bonnie, for supporting her and her work.

As far as her own demanding schedule, Mrs. Boswell isn't quite sure how she finds time for a life of active university, personal and community commitments. Her latest project is the league's first fund-raising drive. It will sponsor the Chicago premiere performance of the Les Ballets Africains on April 13.

"I've found time for all of this because I have a lot of people of good will behind me who have always helped me through," she says.

"My husband and daughter recognize and accept the fact that this is what I am about as a person, and together we have worked out a compromise. The university also has recognized that I am of more value to them as a professor because of my commitments in the community."

INTERVIEW WITH SENATOR JOHN L. McCLELLAN, SENATE'S TOP CRIME INVESTIGATOR

Mr. TALMADGE. Mr. President, in my judgment, no elected official in the history of our Republic has been more able, more vigorous, or more effective in investigating and fighting crime and corruption than the distinguished senior Senator from Arkansas, Senator JOHN L. McCLELLAN.

The March 26, 1973, issue of U.S. News & World Report features an interview with Senator McCLELLAN on morality, corruption, and crime in our society. Certainly, no one is more qualified to speak on these issues than the man who spent 18 years as chairman of the Senate Permanent Subcommittee on Investigations, and who has devoted his life as a public servant to building a safe and wholesome society through law and order and justice. America owes a tremendous debt of gratitude to JOHN McCLELLAN for his courageous and unrelenting efforts in her behalf.

Senator McCLELLAN's remarks, therefore, command the attention of all Members of this body and, indeed, all citizens of our Nation. I ask unanimous consent that this U.S. News & World Report interview be printed in the RECORD at this point.

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

WHAT'S HAPPENED TO MORALITY IN AMERICA

Q Senator McClellan, as a senior lawmaker who has spent 18 years investigating crime, violence and corruption, what do you think has happened to private and public morality in this country?

A I think there's a process of decay in progress. I wouldn't want to say it has such momentum as to cause alarm—I don't mean that. But I do think there is an erosion of ideals and a detrioration of principles that is producing a moral decay.

Q Why do you think this is happening?

A I don't know anyone who has the answer to that. Possibly it's the affluence in our society. When people feel no need—when they seem to be able to get most everything they want—they seem to lose something. There's often a lack of gratitude—of appreciation—when things come easily. What I'm saying is that, among many, there's not a wholesome regard or proper reverance for the true values of life any more.

Q Is that failure attributable to parents, schools or——

A I think you have to start in the home. There seems to be a lack of proper respect and discipline in the home. And in the schools today there is certainly a great lack of discipline.

And I think this is also true in the churches. In my judgment, some churches no longer demand a truly high standard of integrity and morality today. They don't have the same ideals of Christian living that were observed and practiced in the past.

Q Is the constantly rising crime rate a reflection of this situation?

A There's no question about it.

Q What can be done about this crime rise?

A As with any other serious problem, the most effective cure lies in the elimination of the causes. Until there is some kind of a moral reawakening among the people, a restoration of respect and reverence for the home and for the ideals that made this country great, crime may well continue to increase. We need, of course, to deal with the causes in an effort to prevent crime.

Q In the meantime, what is needed in the way of stronger law enforcement?

A We need everything the words "law enforcement" imply: We need to go after the criminal with more-effective means of detection, with strong prosecution and a greater certainty of punishment upon conviction.

The laws as such do not deter crime. As our commerce increases, our economy expands and our technology advances, we may find need for additional criminal laws.

But it isn't the enactment of a given law that deters the criminal. The only thing that will deter the commission of crime is the reasonable certainty of detection, prosecution, conviction and punishment of the criminal.

I do believe punishment is a deterrent to crime. The duty to rehabilitate the criminal, when possible, is a responsibility of society. But the coddling of a criminal—as if society owed him a special kind of consideration or treated him as if he had no corresponding obligation to society—is wrong. It is absurd.

REASONS FOR THE DEATH PENALTY

Q Do you favor the restoration of the death penalty?

A I certainly do. I remember when we were debating the explosions-and-bombings bill which was later included in the Organized Crime Control Act, and Senator Philip Hart [Democrat, of Michigan] offered an amendment to eliminate capital punishment. He said a number of people on death row in prisons had been interviewed, and they all stated the death penalty didn't deter them from committing the crime.

Well, obviously it didn't, because they committed the crime. But I thought a better test would be—and so stated in debate—to ask them this: "If you had known at the time you committed the crime or just before you committed it that you would be electrocuted if you did it, would you have committed the crime?" I think that's a better test, and had it been used, their answers would have been different.

Laws on the books don't deter. It's the enforcement of those laws that is the deterrent.

Q Does this mean that more mandatory punishment should be written into criminal laws?

A Well, we should leave the courts some discretion. There are mitigating circumstances in some cases, and, of course, they should be taken into account. But I do think we should increase the penalties in some instances. And we should make a minimum, mandatory sentence in some others. In the most severe cases, we might also provide for no parole.

We've had cases of murder—mass murder of just senseless barbarism. I think we are wholly justified in making certain these people are no longer menaces to society.

If the death penalty is not imposed, then they should be incarcerated without the right of parole, not just for the protection of society but for their own protection.

Q Can Congress restore the death penalty, or will it require a constitutional amendment?

A I can't predict what the Supreme Court will hold. But I find nothing in the Constitution to prohibit the imposition of the death penalty. "Cruel and unusual punishment" is what the Court has referred to in a previous decision. Well, if the death penalty is that kind of inhumane treatment, then so is incarceration.

As an illustration, take the case of a man stealing an automobile. Just because he wanted an automobile and took one that didn't belong to him, he is imprisoned. Is that inhumane? You see, that can be carried to the extreme.

We can have the kind—the quality—of law and order we want and that we are willing to pay for. But we don't pay for law and order by just passing laws and hiring policemen. There's got to be moral fiber and cooperative support on the part of the people. The general public must give its support and cooperation to the authorities who have the official duty and responsibility to enforce the law.

Our citizens have an obligation they can't escape.

Q The complaint is often heard that judges are too lenient. Have courts actually softened?

A I don't think there's any doubt about it. The Supreme Court in many instances has reversed landmark decisions in order to liberalize and soften the force and effectiveness of criminal laws and procedures.

Q Senator, do we need stricter gun-control laws?

A I think there's some justification for limited gun control. The problem is—and it gives me deep concern—that if we can't enforce our laws against carrying guns that many States have now, how can we expect to enforce a law prohibiting the ownership or possession of a gun?

What disturbs me is that the good citizen will be disarmed and the criminal will not be. He'll have the gun. The "bad guys" will still be armed while "good guys" will be disarmed.

As an illustration, let's go back to prohibition. Those who wanted liquor got it. Those who want guns today will get them, unless we can have better law enforcement than we have now.

Q Do you think that a law to ban the sale of the so-called "Saturday-night special" would be very difficult for police to enforce?

A I think so. How are you going to ban just one kind of gun? You would have a controversy as to whether it is a "Saturday-night special" or some other kind of handgun. And if you're successful in banning the "Saturday-night special," then the criminal will simply arm himself with another kind of gun.

Q Are authorities making any headway in the fight against organized crime?

A I like to think we are beginning to make some headway. I don't believe we've made what you could call substantial headway as yet. I think we've laid the foundation for it with some new laws and with exposures of the operations of organized crime and the identification of some who are high ranking in the "Organization," or what is known as the Mafia or Cosa Nostra.

Q Some of that exposure was done by your investigating committees, wasn't it?

A Yes, a great deal of it was. Let me say it this way:

I think this type of crime—what we term "organized crime"—would have progressed much further than it has had we not made those exposures and enacted some new statutes to deal more effectively with the problem.

It all comes back to the point I tried to emphasize earlier: New laws are needed from time to time, but laws within themselves do not mean law enforcement.

Q Recently there has been a growing number of attacks on policemen. How do you account for that?

A We have had a very strong wave of antisociety, antiestablishment sentiment throughout the country. The significance was that "anti" meant to many that a policeman was the enemy, particularly among certain elements in our society. And it's only natural that when you feel you have an enemy, you're antagonistic toward that enemy. Those inclined to violence were provided with an incentive—a target—in a kind of rebellious crusade to combat what they regard as an enemy.

Another factor is the weakness of law enforcement. So many known criminals escape with either very little punishment or no punishment at all. If one correctly assumes that it is very unlikely that he'll be punished for a crime, there is little or no deterrent—nothing to inhibit him from committing it. So he will follow his chosen course—possibly his natural instinct—to commit crime.

Q Do you see any evidence of a conspiracy involved in these spreading attacks on policemen?

A I don't know whether they are the results of planned action in sercet meetings. In some instances they may be, but obviously not in all cases. However, I think it is a general attitude that has been encouraged from some sources—by militant and revolutionary elements. To that extent, it may well be termed a conspiracy.

Again, we have those who have undertaken to instill into some people the idea that a policeman is an enemy. The policeman is referred to disparagingly and contemptuously as a "pig." We have free speech, it's true, but we insist that our police tolerate without retaliation any kind of insult. The policeman has to obey the law and be circumspect even though the criminal and the one who wants to degrade and attack him is not required to do so. They feel that "I can do it if I want to; it's very unlikely that anything will be done with me if I commit the crime."

Q Should an attack on a policeman be a federal crime, or should that type of offense be handled by the States?

A I think it should be left to the State jurisdictions. I'm not for creating a police state—a federal police state.

Now, there will be localities where the law is not enforced, where there is corruption and where society is not protected—where it does not get justice at all. We have that. I guess we'll always have it. But we can also have it in federal jurisdictions as well, though maybe not as often. In seeking to eliminate it, I just don't want to create a national police force.

Q How would you assess the so-called white-collar crime situation today?

A I think it is a problem. People who have no reverence for high ideals—for true values—are often inclined to try to get something for nothing. After all, the white-collar worker, the rich and the poor are all human beings. They all have human frailties. You would think that those who are affluent in our society, those who have at least all reasonable necessities and some luxuries of life, would be law-respecting. But unhappily some are not.

The fault is human greed, avarice. These people seem to be imbued with the idea: "Well, I can get even more, and I can get it for nothing." They are willing to take the chance. And they, too, are comforted by the often justified assumption that "well, I won't get caught, and if I am, nothing will be done about it."

Q It has been suggested that white-collar criminals are treated even more gently by judges than street criminals—

A I'm sure that occurs sometimes. I'd hate to think it has become a fixture in our system of justice. While I don't think it has reached that stage, I'm sure it occurs, and it occurs too often.

Q Is there a need for legislation in this area?

A No, you don't need legislation; you need judges who'll do their duty. How can you make a judge do his duty? You give him discretion, and he should have discretion.

What kind of a law could you pass other than a law that fixes a minimum penalty and which says that there can be no parole or suspension of sentence? We might do that in some instances, in some cases where there are no mitigating circumstances. But such provisions should apply to the rich and the poor alike. There should be no discrimination because of social position or financial status.

Q Senator McClellan, your investigating committees probed into many areas during your long chairmanship. Could you recall a few of the important ones?

A There were some major fields of inquiry. I'd start with the improprieties and corruption in labor-management affairs—known as the labor-rackets investigation. That was a very exhaustive investigation.

Next—and I do not list these inquiries necessarily in the order of their importance—was the series of four or five investigations in crime, particularly organized crime.

We also have conducted a number of investigations into the operations of the Federal Government at all levels, with the view of determining its efficiency and economy. The TFX airplane investigation was one example. There were many others which were productive, including our examination in 1965 of the high incidence of failures of federally insured banks.

We also looked into a relatively new criminal area of stolen and counterfeited securities. That investigation was productive because it brought about many corrective actions throughout the financial industry and in the several federal agencies involved.

Much remains to be done. There is no telling how many stolen securities today rest in the portfolios of banks and insurance companies. Reliable estimates place the total figure in the billions of dollars. This field needs even more investigation.

STAFF RECORD: "MIRACULOUS"

Q How many separate investigations did your committees conduct?

A One hundred seven. Let me add this: This investigative work is very difficult and sensitive. I think we've been very fortunate that we've had no scandals, no serious breach of conduct on the part of staff or anyone else that warranted any justified criticism. With the broad scope of work we've done in those 107 investigations covering 18 years, it's just miraculous we haven't had more problems than we did.

Q How would you describe the primary function of a congressional investigation? What purpose does it serve?

A The investigations we've conducted have served very important legislative purposes. Of course, there is exposure, too—exposing conditions that need correction.

Sometimes we've been able to correct these conditions without even holding hearings. We find a situation and expose it—bring it to the attention of the agency involved. Correction is made by administrative action. People do not even hear or read about it. The public generally did not know about many of the minor investigations we conducted. And these minor investigations to which I now refer are not included in the 107 mentioned.

I can give you an illustration:

In 1967, the Air Force awarded a computer contract for 114 million dollars. Four bids were received, and the contract was awarded to the highest bidder.

When we alerted the Air Force to the facts as we discovered them to be, they canceled that contract and readvertised for new bids. The contract was eventually awarded for 60 million dollars. Once this was corrected, there was no need for the subcommittee to hold a public hearing.

Exposure alerts the Congress and the public to conditions that are wrong. Using the information you have developed from investigations, you determine whether any new legislation or additional laws are needed. I don't know how many new laws have been enacted as a result of the work the subcommittee did and the exposures it made, but they are many.

SOME MAJOR RESULTS OF INQUIRIES

Q Can you name one or two of the principal ones?

A Of course, you can start with the labor laws. The Landrum-Griffin Act—the Labor-Management Reporting and Disclosure Act—was a direct result of the investigations into labor racketeering.

Our work also was instrumental in the enactment of the Welfare and Pension Plans Disclosure Act. This Act was later amended, revised and made stronger. It has prevented no telling how many millions of dollars from being pilfered from the welfare and pension funds of union members.

Our investigations in the criminal-law field brought out the need for the Omnibus Crime Control and Safe Streets Act of 1968 and the Organized Crime Control Act of 1970. They also brought about the enactment of laws dealing with treatment of narcotics addicts, interstate racketeering, protection of banks against criminal manipulators, and other areas in criminal law.

Q Can you single out any particular investigation which was of the most personal satisfaction to you?

A Well, all of them were a source of gratification when we used good judgment in determining that an investigation should be made and were able to carry it out successfully and productively.

The one that was the most unpleasant for me personally was the TFX investigation.

Q Why was it the most unpleasant?

A Well, I went into it under a tremendous handicap.

I had the President of the United States, the Vice President of the United States, the Attorney General, the Defense Secretary and all the secretaries under him, the Pentagon, and the press generally opposed to the investigation. They couldn't conceive there was any reason for it.

I also had at that time a very high regard for Secretary of Defense [Robert S.] McNamara. I felt he was a man of unusual, exceptional ability, and the Government was fortunate to have him in that position.

Also, I had been closely associated with the Kennedys. Bob [then Attorney General Robert F. Kennedy] had worked for me as chief counsel of the committee [the Select Committee on Improper Activities in the Labor or Management Field, as well as the Permanent Subcommittee on Investigations, both of which Senator McClellan headed], and I had the highest regard for him. And John [then President John F. Kennedy] served as a member of the committee [investigating labor activities] when he was in the Senate.

And I thought they felt maybe there should have been some way to avoid the investigation. So it was a very difficult duty for me.

I had to do something my good friends didn't want done. It wasn't at all pleasant.

Q. What was the outcome?

A. I think the record reflects that Secretary McNamara made a terrific blunder in the contract he approved for the procurement of this airplane. On the basis of final cost and plane performance, his judgment on the decision in the first place, his management of the program—all contributed to a terrible mistake. And I think time and subsequent events have proved the subcommittee was right in making the investigation.

Q. In your new position as chairman of the Senate Appropriations Committee, do you intend to beef up the investigative duties of that Committee?

A. For a long time I've urged the Congress to pass a bill to create a joint committee on the budget to do this type of work. It has passed the Senate several times, but we've never been able to get the House to accept it.

I think the Appropriations Committee should be investigating with respect to economy and efficiency in Government.

And I think it would be better to have a joint committee on the budget to perform that task. When questions of waste or extravagence arise, we should have a joint committee to make the investigation for the benefit of both the Appropriations Committee of the House and [the Appropriations Committee] of the Senate.

But if we cannot have a joint committee on the budget, as I have proposed, then I feel that we will need to have some investigative staff on the Senate Appropriations Committee.

Q. Senator, what do you think needs investigating right now?

A. Oh, there are always things that need to be investigated. We have the groundwork ready for two or three investigations by the subcommittee. One is in the labor field. Another is a widely expanded inquiry in the field of stolen and counterfeited securities which I mentioned before.

Q. Do you think we need more congressional investigations—or fewer?

A. Well, we don't need fewer. But bear this in mind as the main problem: I don't have the time—and no other Senator has enough time—to give to invesigative work. He has his other legislative duties, so you can only give these things part-time attention. You cannot neglect your other duties.

SECOND HOME DEVELOPMENTS

Mr. NELSON. Mr. President, the epidemic of massive real estate developments for second homes or year-round living outside our cities and suburbs is threatening nearly every remaining scenic area in this country. In effect, giant private interests have been given a blank check to create a second American suburbia with all the accompanying pollution, congestion, crowding, and disruption of all order and balance in the natural environment.

This assault on the most fragile portions of our landscape is so serious and pressing a national problem that it should be specifically addressed in the land-use policy legislation now pending before Congress. In the near future, I will introduce an amendment aimed at the establishment in every State of environmental reviews and permits for these large real estate projects.

Recently, Mr. Robert Cahn did a six-part series for the Christian Science Monitor on the dangers to the environment and to the consumer from the exploding nationwide phenomenon of large-scale residential developments in suburban fringes and rural areas.

The fact that Mr. Cahn won a Pulitzer Prize several years ago for a series in the Christian Science Monitor on pressures on or national parks should be no surprise. He is an outstanding journalist, with the intuition necessary to spot an emerging national problem and the range of abilities needed to understand the issue and effectively present it to the public.

Mr. Cahn's series on the second home development problem is a real public service, an important resource of facts and analysis as Congress and the American public enter a key decisionmaking period on land use policies. I ask unanimous consent that the series be printed in the CONGRESSIONAL RECORD at this point.

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

LAND IN JEOPARDY—FAST-SELL DEVELOPERS: U.S. SCANDAL

(By Robert Cahn)

WASHINGTON.—Across America, buyers and conservationists alike are protesting financial and environmental harm caused by installment selling of remote land.

Too often, dreams of vacation and retirement homes or of "get rich quick" investments are turning to the dust of unfulfilled promises.

Too often, the future of rural or wilderness areas is being preempted by haphazard development.

The broad brush of criticism against pernicious practices of the industries splatters over legitimate land developers, some of whom seek to protect both the environment and the interests of the purchasers. And the voices of many citizens who are satisfied with their purchases are drowned out by the louder voices of criticism.

HIGH PRESSURE USED

Yet in an industry unable so far to correct its own abuses, and with minimal federal or state regulation, the excesses appear to outstrip the constructive elements. Most of the developers use high-pressure, hard-sell tactics after attracting prospects through massive advertising and promotion featuring free dinner parties, gifts of merchandise, vacation certificates, and telephone solicitation.

Criticism began several years ago as scattered complaints from citizens who claimed they had been duped by such tactics into sinking large sums of money into sometimes worthless real estate. Now it has grown into a cause that has elements of a national scandal.

At a series of public hearings held recently in 17 major cities, federal officials heard hundreds of citizens charge land sellers with misrepresentation and fraud. The office of interstate land-sales registration of the Department of Housing and Urban Development (HUD) in Washington now receives more than 250 complaints a week.

Meanwhile, aroused by the national publicity over the efforts of developers to subdivide two large areas within New York State's Adirondacks Parks, environmentalists in many parts of America are organizing to fight irreversible changes wrought by the bulldozer and builder in once wild parts of the nation's coastline, wetland, foothill, mountain, and desert habitats.

DIMENSIONS UNKNOWN

The actual dimensions of the installment land-sales industry are unknown because no statistics are kept. But they are vast. Experts estimate some 10,000 companies may be operating although only about 2,600 have registered with HUD's land-sales registration office. They range from "mom and pop" outfits subdividing and selling off the family ranch or farm to corporate giants such as Boise Cascade, International Telephone & Telegraph, and Tenneco, which have entered the field in recent years.

The top half-dozen companies now control more land than the entire state of Rhode Island. Probably a dozen companies are selling out of holdings in excess of 100,000 acres each.

The problem has international aspects. Several major U.S. developers sell their lots to buyers including American servicemen in Europe and South America. An increasing number of complaints are coming from these foreign buyers.

Here is a land-management disaster calling for strong governmental action. It also demands a new degree of alertness from would-be buyers of "second homes."

LAND IN JEOPARDY, 1: THERE'S NO SUCH THING AS A FREE LUNCH

WASHINGTON.—"It's a national disgrace," says one congressman. "It's a quasi-legal racket with a license to steal," writes a Connecticut woman in a complaint to a federal agency.

The object of their disaffection, and of a growing number of citizens, is the multi-billion dollar installment land-sales industry in which undeveloped rural or wilderness land is sold for second homes, recreation homes, retirement homes, or for investment.

Stories of disillusionment, told in complaint letters, are arriving at the rate of 250 each week at the federal Office of Interstate Land Sales Registration (OILSR) in the Department of Housing and Urban Development (HUD).

"I purchased three acres . . . near Albuquerque two years ago," wrote an Arlington, Va., woman. "When I flew out to inspect the property, the salesman said the whole area would be built up in two years and I would be able to sell and make a profit. So I bought seven more acres. I have it now more than half paid for but it is a vast desert and the building activity is still 10–15 miles from my land with no sign of any possible habitation. I have sunk my life savings into this property and the monthly payments are draining me financially."

A young Illinois couple who wrote to ask Ralph Nader's Public Interest Research Group to look into their problems with a developer expressed a widely felt despair. "I suppose we could build if we didn't need any water, gas, electricity, or sewer," wrote the wife. "None of the salesman's promises have materialized and our dream is turning into a nightmare."

VITAL QUESTIONS

Beyond the financial woe it inflicts on individual buyers, this land boom by ballyhoo is having major impact on the land itself and on the environment.

Decisions about where millions of Americans should be encouraged to migrate are left to land speculators while states and localities give up by default any public say in land use or growth policy. Few public authorities are yet asking the vital questions: Should a new community be placed in a certain place just because one individual has been able to assemble a large tract of land cheaply? What alternatives have been considered and by whom?

The average nearby resident does not know or question until too late just what effects a new development may have on his life or on his taxes.

Few question what provisions have been made to see that the development satisfies the growing environmental conscience in the nation. Does the land have sufficient water

to supply the development without depriving neighbors of their supply? Can water pollution be prevented? What irreversible environmental changes will be made to the land? And finally, or perhaps primarily, is this land that should be preserved intact for future generations?

Once centered in Florida, where in the 1920's the sale of lots underwater became a national joke, the industry has boomed along with an affluent and mobile American society. The industry's tentacles reach across the nation and even stretch overseas.

Not that all land sales are bad. Some types of developments serve useful purposes, especially when a legitimate market for homesites exists, where environmental protections are provided, and where the developer provides utilities and services at the start, or is adequately financed and bonded to guarantee their completion.

SETTING THE SCENE

However, these articles will focus on the abuses of the installment sales part of the industry dealing in rural land and, in particular, on activities that are bringing demands for stricter federal and state regulation. They will suggest needed land-policy reforms and outline the considerations wise land buyers should remember.

The scenario of a typical land installment-sales operation might read something like this: Developer finds cheap rural land for sale and buys or takes option to buy. He cuts land into small lots, often smaller than city lots. He bulldozes roads and may even pave a few streets. He puts in swimming pool, country club, and minimum of improvements. On land bought for $300 an acre or less, he sets price at $4,000 or more a lot with four lots to the acre.

He then launches elaborate sales campaigns. He sends out large mailings of a brochure picturing the country club or an artist's sketch of the completed "new community." He hires a sales force to run "free" dinner parties. During these, guests are subjected to an intense sales pitch from expert salesmen who offer a "money-back" guarantee with hidden strings. Or the developer issues thousands of low-cost vacation certificates to lure prospects to site. Or he hires a battery of telephone salesmen to reach prospects. Or he sets up sales rooms at tourist attractions such as Las Vegas and Reno casinos or even at spots Americans frequent overseas.

A land merchandiser may advertise his project as a new community in the making. He may prepare a core area of higher-priced lots complete with improvements. He may even require the purchasers of those lots to build within a year or two.

But most of the land consists of comparatively cheaper priced lots in the boondocks, lots that may not even be adequately surveyed. The buyer, if he reads the fine print carefully enough, might discover that "this property is unimproved, unsurveyed, without roads or improvements and not useful for building purposes."

Lots of this type are sold as investments for the future. Development of roads and improvements is promised, or implied, 10 years later when all the purchasers' installments are paid and when the core area ostensibly will have grown out to the boondocks site. If the buyer wants to build before the improvements are in, the developer will attempt to switch him, via a trade-in, to a higher-priced lot in a buildable area or to another nearby project.

CAPE CORAL EXAMPLE

One of the few "raw land" subdivisions to actually become an independent, planned new community is Cape Coral, on Florida's gulf coast near Fort Myers. It was started in 1958 by Gulf American Land Corporation. It now is owned by the biggest, in terms of sales volume, of the developers, GAC Properties. Cape Coral has 18,000 residents who purchased and built in a small core area of the 61,000-acre development.

Cape Coral residents have fared reasonably well, although the amount of building, 6,000 homes in 14 years, is far behind projections.

However, thousands of other buyers from all parts of the nation who purchased land several miles from the core area still cannot build if they want to because of lack of roads, sewers, and utilities. And they find that instead of their original $3,000 to $5,000 lot having doubled or tripled in worth during the 7 to 10 years they were paying on it, plus paying interest, as they thought would happen, it appears to be worth much less than when they bought it—if they could find a purchaser.

GULLIBILITY FAULTED

Those who buy on the 10 percent down, long-term deals are at least partly responsible for their own predicament. Their ranks are heavily sprinkled with lawyers, doctors, dentists, and merchants, as well as relatively low-income wage earners, pensioners, and young couples starting out. It is hard to understand how normal citizens who might ponder for weeks and carefully check comparative values before deciding on a $300 television or refrigerator, can at one free dinner after a 90-minute sales pitch and with no time to think it through, sign a contract committing themselves to a $10,000 investment in land 3,000 miles away.

Perhaps it can be explained when one looks more closely at the slickness of the sales promotions, as will be done in a later article, and considers the normal reliance of most Americans on "money-back" guarantees.

But basically the lack of sales resistance by many people to this land-buying spree can be traced to the hoped-for fulfillment of dreams: the dream of the landless to own a piece of America; the dream of the city-bound to get into the wide open spaces; the dream of the snowed-in Northerner to have year-round sunshine living in Florida or the Southwest; and the dream of making it rich by investing in land.

Too often, however, the dream is only an illusion.

NEED FOR REGULATION

Although most of the major developers and many smaller ones are attacked in the complaints received by federal and state agencies over the past year, some of the companies do keep all their promises, control their sales material, and satisfy their buyers. But when an industry is unable to regulate itself, as has been the case with this one, the stigma of the unethical tends to rub off on all.

The latest association in the industry, the American Land Development Association (ALDA), which represents about 500 developers, but none of the very large installment land-sales companies, last summer adopted a 10-point code of ethics which took a stand against false advertising, declared for environmental objectives, and even renounced the doctrine of "buyer beware" in favor of on-site inspection and full disclosure.

ALDA has no real control over its members. Three days before the ALDA's annual convention last October, it was embarrassed when the federal government announced grand jury criminal indictments alleging misrepresentation and fraud at a Georgia subdivision whose developer was a member of the ALDA. One of the company officers named in the indictment was then serving, but now has resigned, as chairman of the board of the ALDA.

No one knows how extensive the installment land-sales industry is. Some observers estimate the amount spent on raw-land purchases, excluding urban subdivision land, to be in excess of $5 billion a year. And this probably is low.

GAC Properties Inc., which was having financial problems and lost money in 1971, sold land to 25,597 purchasers during the year and ended the year with $414.6 million in contracts receivable.

The estimated number of developers given by the ALDA is 'in excess of 10,000." Land sellers are required to register their developments and disclose certain facts with HUD's Office of Interstate Land Sales Registration (OILSR). The agency at present lists 4,431 subdivisions from about 2,600 developers who have land to sell in 49 states, all except North Dakota.

Many companies qualify for exemption from the federal law which requires registration from companies with more than 50 lots, or when all lots are five acres or larger, or when the seller contracts to erect a building on the lot within two years.

DISTRUST VOICED AT HUD

"I don't trust any of the figures about numbers of developers," says HUD's tough, aggressive Interstate Land Sales administrator, George K. Bernstein, who has just completed 17 hearings in major cities around the country to listen to complaints of citizens. "The hearings showed that many, many developers have not bothered to register," he adds. "We are going to try to track them down."

Florida has the most subdivisions registered with HUD—815—and Albert L. Baker, director of the state's Division of Florida Land Sales, estimates more than 500 developers are selling in the state, with about 200,000 new lots registered each year. Several large companies control more than 100,000 acres each for developmental purposes in the state.

California, with 561 subdivisions registered with HUD, may have the biggest annual dollar total in installment land sales. Boise Cascade sold more than $300 million worth of lots at 18 recreational sites within the state over the past five years. California City, a subdivision in the Mojave Desert, covers 100,000 acres, with sales in excess of $100 million.

Arizona, New Mexico, and west Texas bear the bulldozed scars of raw land developments, especially around Tucson, Albuquerque, and El Paso, to indicate that their states are prime areas for retirement-home exploitation. One authority estimates that one million acres of Arizona have already been sold in remote subdivisions. And 461 subdivisions are registered with HUD.

SALES PITCH AIMED AT GI'S

Overseas, some of the same large developers are hawking their wares to Vietnam soldiers on "rest and recreation" at Hong Kong, Bangkok, and several other Asian cities. The newspaper Stars and Stripes, in a series of articles published last month, estimated that U.S. companies sell $30 million worth of land a year to American military and civilian personnel in Europe.

Americans touring in Rome, Spain, and London are sold land in Florida and the Southwest, after being approached at tourist attractions or outside the American Express office with "free dinner" offers.

Europeans and South Americans, anxious to invest outside their countries, are purchasing, sight unseen, undeveloped U.S. land at prices they do not realize are highly inflated.

In Norway, 97 citizens who invested several hundred thousand dollars in Florida swampland that cannot be built upon, now are trying to get their money back from a New York-based corporation with assets over $100 million.

And in a reverse thrust, Americans are also taking the often large risks of buying land on installment in foreign countries. Developers have filed registrations with HUD to sell land in Mexico, the Bahamas, Spain, Israel, Canada, France, the British West Indies, British Honduras, the New Hebrides, Costa Rica, Ireland, Australia, Colombia and Jamaica.

Although the amount of rural land being subdivided still appears to be on the increase, at least as can be measured by HUD registrations, many of the major developers and some smaller ones now are experiencing financial difficulties. A combination of factors hit the industry in 1972, putting many developers on the defensive for the first time, sharply reducing profits, and bringing promises of corrective measures against sales misrepresentations.

County and state governments imposed new restrictions. HUD's hearings, civil and criminal lawsuits against developers, and revelations by citizen crusaders produced a spate of publicity that turned on caution lights for many potential buyers.

And Congress began to rumble.

Rep. Morris K. Udall (D) of Arizona, the congressman who labels the problem a "national disgrace," is preparing new legislation to tighten control of the industry.

"Land-sales abuses are robbing future generations of their right to have a quality environment just for the benefit of a few speculators," say Mr. Udall. "We must act to stop this rape of the land before it is too late."

LAND IN JEOPARDY, 2—BATTLING THE BULLDOZER—THE BIG LAND THREAT

ADIRONDACK PARK, N.Y.—When the "vacation home" land developer meets citizens who want to keep a park as a park, something has to give.

That is why controversy over a 24,345-acre site within the boundaries of New York's 6 million acre Adirondack Park has erupted into a national cause celebre.

That is why lobbyists for developers and citizens environmental groups vie to push their conflicting views on state legislators who must soon vote on a proposed use plan for the 3.7 million acres of private land within park borders.

Their conflict represents a tension felt across America as installment land-sale development projects threaten "instant urbanization" of rural or wilderness areas or preempt potential future conservation lands. This is forcing state and local governments to face two key issues:

1. How to deal with the growth policy and land-use aspects of potential new population centers promoted by large land use sales developments in remote areas.

2. How to cope with immediate problems of pollution, soil erosion, water shortage, or ecological disruptions posed by the development plans.

AREAS OF FRICTION

These issues are particularly troublesome in Florida, California, New Mexico, and the Poconos of northeastern Pennsylvania, as well in New York, where they now are so sharply in focus.

Last spring, the Horizon Corporation of Tucson, one of America's major installment land-sales companies, ventured out of its bailiwick to purchase the Adirondack site from a lumber company. The developer's plans were disclosed privately to officials from the neighboring village of Colton (population: 400) and St. Lawrence County. They included subdividing the property into 6,000 to 10,000 lots. Horizon expected an eventual population of more than 25,000. Some would stay the year-round. Most would be summer or winter vacation residents.

The Horizon plan, plus another company's proposed 18,500-acre vacation-home development near Tupper Lake, also within the park boundary, brought conservation forces into battle. The Citizens to Save the Adirondack Park soon drew 2,000 members and hired one of the nation's top conservation attroneys to seek ways to halt the Horizon development.

On the other side are Colton village officials, nearby landowners who would benefit from development, and other growth boosters. These interests are determined that the conservationists will not be allowed to block future expansion inside the park boundaries. They argue that growth is needed to aid an economy that is depressed in some areas. Also, more than one-third of the private land is owned by 626 large landholders, some of whom might want to sell their holdings to land developers.

The Adirondacks fight is focused on a land-use plan recently proposed by the Adirondack Park agency to be submitted to the Legislature Feb. 1, and on which hearings now are being held throughout the state. The plan would drastically limit the number of dwellings per acre allowed on much of the private land and might prevent or seriously hamper new subdivisions in remote areas.

GREATER ISSUE SEEN

This western edge of the park, not too far from the Canadian border, is not majestic Adirondack wilderness of the type found 50 miles to the east near Mt. Marcy. It is comparatively flat. It has been logged. It has 60 miles of roads. But as you drive along a narrow, dirt road within the tract, especially when the fall colors are in full display, park qualities are still there: woods and meadows, swamps, streams, and absolute quiet except for chattering birds and squirrels.

What would be left of these features if there were a house every hundred feet? What would remain if the streams were dammed for lakes, if stores, gasoline stations, laundromats, schools, and the like were added to service the residents?

Conservationists see an issue here that transcends the value of this one small piece of the park. They feel they are in a war. They feel that a score of other land developers are ready to move in if Horizon wins.

TITLE CLAIMED

In Florida, for example, several state agencies, the Army Corps of Engineers, and the U.S. Department of Interior are contesting with a number of Florida developers on dredging problems. At Cape Coral, the former Gulf American Land Corporation development now owned by GAC Properties, Inc., had a permit to dredge only 100,000 yards for an access channel. The developers, however, dredged 5 million yards, filled 172 acres of state-owned lands, and sold lots on the land. To settle the dispute, GAC is giving to the state 9,500 acres of marshland on Fakahatchee Strand, just west of Everglades National Park.

The state claims title to some Marco Island land on which the Deltona Corporation has already sold 9,000 lots; many of them still need to be filled in order to be developed. The corporation has offered to give the state 4,000 acres of adjacent, islands in exchange for permission to dredge 17.2 million cubic yards for landfill and canals.

A newly announced $500 million subdivision on Estero Bay near Fort Myers Beach has brought protests from conservationists and some state officials who claim that much of the land was state trust land illegally given by the state to the developer. In these controversies, the state is not without blame for past actions in giving away land or rights in an effort to promote development.

Dredging, necessary for many Florida rural real-estate developments at times, has been devastating to natural conditions.

FISH NURSERIES

The mangrove-lined estuaries of southern Florida and the grassy marshes of northern Florida are among the most biologically productive fish nursery grounds on earth. But when deep cuts are made for canals and the dredged material is piled high above the natural level, the productivity is wiped out. The area often becomes almost sterile.

Then when the developers landscape the subdivision, a standard imported item, the coconut palm, and acres of turf replace the indigenous oaks and pines or the dense mangrove and undergrowth, which had served as a filter. Many of the canals deadened in stagnant green water polluted by increased nutrients from fertilizers and sewage.

NO NATURAL IMPEDIMENTS

A danger that may not be discovered until too late is the possibility of saltwater intrusion into coastal water supplies caused by extensive pumping to drain swampland for building sites.

"With no mountains or gorges, Florida has no natural impediments to man-made changes," says Joel Kuperberg, director of the state's Internal Improvement Fund, which controls state-owned lands. "Florida is like a big bag of silly putty," he adds, "and it is being reshaped irreversibly in the hands of the big subdivision developers."

The newest large project in Florida, ITT Community Development Corp's Palm Coast, is producing environmetal problems although the developer claims to have spent $1 million on environmental planning, says it will not build in tidal wetlands, and is devoting much land to open space. Homes now are being built in an attractive, well-planned core area set around canals. But most lots are sold in the undeveloped sections.

The 100,000-acre development accounts for one-third of the land in Flagler County. The current population of 4,500 would be overwhelmed by the 750,000 people projected by ITT when the development is complete. Neither state resource officials nor local citizens were involved in the original planning for the project.

Establishment of a company-controlled water district that would regulate sewage and rainage now is being contested by the state. The state and federal government are also concerned about the impact of 200 miles of canals planned by ITT. They have embargoed any further canal connections to waterways.

The state's department of pollution control is embroiled in hearings and controversy with four major developers and 30 smaller ones after having denied water certification for new subdivisions. The Deltona Corporation on Marco Island, Punta Gorda Isles, General Development Corporation at Port Charlotte, and GAC properties at River Ranch Shores have been denied permits. And Cavanaugh Leasing Corporation is selling lots and digging 33 miles of canals at Rotunda West, although it has not yet applied for water-pollution control certification.

GROWTH EFFECTS SKETCHED

"We are having problems with 95 percent of the land sales developments that are adjacent to any water," says Bernard A. Barnes, certification officer for the Florida Department of Pollution Control.

The effects of unregulated growth on agriculture and small towns are most visible in central Florida near Disney World, where many urban subdivisions and rural installment land-sales operations have sprouted.

Land prices have shot up like a Cape Kennedy missile. With tax assessments escalating, farmers can no longer afford to keep their land in agriculture. This produces overnight millionaires, but it radically changes the face of central Florida.

For a town like Kissimmee, 15 miles from Disney World, (1970 population, 7,119 present total according to the chamber of commerce, 18,000) a tremendous burden on services, has evolved with little increase, so far, in tax revenues. A newly started 20,000 kw. electric power plant, expected to meet the town's needs for years to come, is already inadequate.

FOOTHILL SUBDIVISIONS

Sewage service is near capacity and being doled out on a first-come, first-served basis to new applicants. Those who start home or motel construction today get no assurance

of sewer service for years to come. The estimated cost for expanding sewage treatment facilities to meet projected demands is $7 million—$3 million higher than the city's entire annual budget.

Meanwhile, in California the state's Division of Soil Conservation reported in 1970 that 500,000 acres of land had been carved up in foothill subdivisions during the previous five years, resulting in polluted streams, loss of fish and wildlife habitat, severe erosion, and sedimentation.

At Lake Tahoe, shared by California and Nevada, one developer was halted by court action because construction activities were causing erosion and polluting the lake. And due largely to pressure from proposed subdivision developments in what was wilderness a few years ago, the Tahoe Regional Planning Agency drastically restricted future growth by dropping the zoning limit by two-thirds. Instead of the planned 700,000 daily limit for daily use of the 200,000-acre Tahoe basin by residents and recreation visitors, the agency has set building regulations to keep the maximum daily use at 216,000.

DAMAGE IDENTIFIED

A report on a coastal area near San Francisco by two expert geologists concluded that a new land-sales development, Oceana Marin Property, is "subject to very active landsliding." They strongly suggested that the planned development would be unsuccessful. They advised that "some of the proposed buildings and roads will eventually slide down the bluff toward the sea."

A 1970 "memorandum of facts" by the California Environmental Quality Study Council, an advisory group to the governor, stated that in one area, Nevada County, 160 miles or 37 percent of the stream mileage had been damaged by siltation, stream bank alterations, and domestic waste discharges resulting from subdivision development. The study council also said that much of the land being subdivided is deer winter range already in critically short supply.

WATER AVAILABILITY

In the Shelter Cove subdivision in Humboldt County in northern California, the council said, roads, drainage ditches, and some utilities were washed out by heavy rains and required replacement by the county soon after all the lots were sold at a cost to taxpayers of $2 million.

In New Mexico, the availability of water has been a central issue. Experts estimate that, given the present demands for water, the state's supply can only support 850,000 people without taking away from farming or industry or without tapping exhaustible groundwater. The population now is 1 million, and more than 1 million acres have already been subdivided in remote areas. Sales of New Mexico lots for future building are being strongly promoted across the nation.

Whatever water is taken from underground to supply the needs of these developments will be at the expense of existing users. The Albuquerque City Commission recently voted to deny extension of water and sewage lines to any subdivisions outside of the city limits.

In the Poconos, this relatively small, mountainous sector of northeastern Pennsylvania has become a much-sought-out recreation area. An estimated 35,000 to 45,000 lots have been sold at high prices for vacation homes, mostly to urban residents of New York, New Jersey, and Pennsylvania. Trees have been bulldozed mercilessly in many of the more than 100 rural land-sales developments. To make every lot accessible, roads have been constructed, often without regard for soil runoff and erosion. Small lots are frequently laid out four or five to the acre. Some are on steep slopes or in floodplains. Worse problems are yet to come when the lots are paid for and more people start to build.

MOSTLY SEPTIC TANKS

A recent survey by Lehigh University showed that, among Pocono developers contacted, 89 percent said they supplied no sewers, thus forcing most home builders to use septic tanks. Yet the Pike County Soil and Water Conservation Commission says that the county's soils "are not suitable for septic-tank systems because of shallow soil conditions, tight substrata, and a high water table. Erosion and excessive surface runoff are creating problems in most areas of development." And in Monroe County, state and township regulations now require satisfactory soil percolation tests before granting septic-tank permits.

In the Poconos, as is the case throughout the nation where remote land is sold for vacation or retirement homes or for investment, the environmental problems of a subdivision often directly affect the purchaser of a lot. The immediate or future environmental costs frequently are hidden from the prospective customer of installment land sales. This requires more stringent state and federal control of developers and consumers who are alert to find the truth before signing for a 10-year, $10,000-or-more purchase contract.

LAND IN JEOPARDY, 3: CAUTION: LAND SALESMEN AT WORK

MIAMI.—Facing a hearing panel of federal land-sales agency officials, Russell Boyle related his tale of woe. It could have been told by many another buyer or remote land sold for "investment" or "second homes."

His tale began in 1964 when Mr. Boyle and his wife attended a sales-promotion party in Pittsburgh. That evening they signed a contract for $6,700 to buy a five-acre parcel of land in Golden Gate Estates in southwestern Florida.

Two months later they went to see their Florida purchase. The miles of wilderness they viewed from the realtor's small plane was not what they had envisioned. As they were about to sign a form canceling the deal, however, the salesman made what appeared to be an extremely attractive counteroffer—a five-acre, commercial-zoned site that had just become available.

Mr. Boyle's story unfolded early last month at a hearing sponsored by the federal Department of Housing and Urban Development's (HUD's) office of interstate landsales registration (OILSR). He said that the salesman for Gulf American Land Corporation, subsequently bought by GAC Properties, Inc., told him the better lot would cost only $9,750. "And the salesman assured us that within two years we could sell it for $30,000," recalled Mr. Boyle. "He said it was the opportunity of a lifetime. So we tore up the cancellation, traded in the five acres that wouldn't be buildable for 10 years, and sank our life savings into paying off the entire amount so we could avoid $1,400 interest."

WHAT A . . . DUD!

The Boyles moved to Hollywood, Florida, not long afterward and two years later realized their "opportunity of a lifetime" was a dud. A realtor near Golden Gate told them their land might be worth $3,000—if they could find a buyer.

Last March, when they visited their five acres, it was still undeveloped. Except for graded roads, the entire 113,000-acre area was trees, grass, and marsh. No telephone, no sewage, no canals connecting to the Gulf Coast as promised. No commercial development anyplace. Building permits for all of Golden Gate Estates in 1972 totaled only $1,000 worth. The nearest neighbor is more than six miles away. And there is no market for the Boyle lot.

Change the particulars, and Russell Boyle's complaints were echoed in the 17 cities at which hearings were held. Frequently, the citizens admitted they had been foolish in acting too quickly and not checking out the deals. Many had been looking for an easy profit. Some were possibly giving one-sided testimony, unfair to the developers.

But they all had one thing in common—the dream of owning a piece of America for retirement, of moving to a newly started town, of enjoying a second "recreation" home, or making an investment. Many were still shelling out large sums each month. They were shoring up a wavering belief that they eventually would come out all right and fearing to stop payments and lose their stake plus doing possible harm to their credit rating.

Not that all installment land sales are bad. The number of known dissatisfied customers so far is relatively small, but growing. Thousands of people, especially those who bought for the purpose of immediate building in newly started towns or communities or in vacation-home developments around the country, have found varying degrees of satisfaction.

HAPPIER ENDINGS, NOW

Wald and Mary Mitchell from Akron, Ohio, who also bought in Golden Gate Estates in 1964, have a happier ending to their story than the Boyles. Gulf American promised to clear their 2½ acres, plant shubbery, and build a house for them. Mr. Mitchell retired. They moved to Florida. Although many of the promises were not kept, their house was completed in 1969.

What had been described in advertisements as "the world's largest subdivision in the strategic path of progress" has not materialized. The Mitchells have no neighbors. They believe they are the only land buyers to have completed a house on any of the 73,268 lots sold to date.

But except for not having a telephone, which would cost $2,880 to install, and having had to personally set backfires to save the house when a forest fire swept the drained swampland, the pioneering Mitchells have "no complaints."

"We love it out here," says Wald Mitchell. "No kids trampling your grass. And no busybodies around."

A somewhat different kind of self-avowed "satisfied land buyer" was uncovered at the HUD hearings held in Detroit. Clarence R. Clawson told interstate land-sales administrator George K. Bernstein he had been buying lots since 1964 and is confident they are good investments.

Through attending land-sales dinner "parties" in Detroit, and by answering advertisements in periodicals, Mr. Clawson has purchased from five developers a total of 15 lots in Florida, Nevada, New Mexico, and Arizona. Over the nine years this 28-year-old bachelor has invested $22,000. Sometimes he finds it difficult to dig up the $297 he pays monthly on his lots. His salary as a toy salesman at a department store is not much higher than the land payments. But he firmly believes all the promises that have been made to him about facilities that will be built. He believes the value of his property is rising every year as the developers report to him.

In spite of such varied customer satisfaction, Mr. Bernstein points out that 250 complaint letters arrive each week at OILSR headquarters bringing allegations of misrepresentation, shady dealings, and outright fraud.

"The abuses we have learned about are incredible," says Mr. Bernstein. He explains he scheduled the HUD hearings partly to get greater public awareness of the potential hazards in purchasing remote land on an installment basis. "I think it is important to let the American public know as forcibly and as frequently as possible that they are dealing with an industry that, while it contains reputable and honest developers, also contains quite a few crooks, both in manage-

ment and among salesmen. And if the citizens don't act with utmost caution, they are going to be taken."

SLIDE SHOW COMES NEXT

One of the most popular sales devices is the free dinner party, usually given in a small banquet room of one of the good restaurants or hotels of a city. The "guests," whose interests were whetted by direct mail or telephone, come with the expectation of hearing a sales presentation.

What they are not prepared for is the intensity and skill of the sales pitch. The operation is based on getting the prospects' signatures on a sales contract before they have time to think about whether the investment is a good one or whether it meets their specific needs.

Following dinner, a talk and film or slide show is presented on the virtues of land buying and of this particular development. Often the scenes are from another project of the developer—"this is what yours will look like." Television, movie, and sports stars appear in many of the promotions movies. Sometimes they are part owners of the companies. An "adviser," or "investment counselor," will start the sales pitch, with one salesman to each small table. He softens up the prospects with a primer on why land is such a good investment.

("Did you ever stop to think that the only thing you can't manufacture is earth? The world can never get any bigger. But the population will get bigger. So land will get scarcer and scarcer. And that's why the best investment in the world is a piece of earth.") He may have a choice quote from Andrew Carnegie or Bernard Baruch at tongue-tip to prove his point.

Then he tells about this particular subdivision, what the developer is going to do and why it's a great buy.

About this time one of the "consultants" at another table may jump and shout: "Put a hold on lot No. 122."

Often as not, this is a plant, and the "buyers" at that table are shills. But it has its effect, and pressure mounts. The salesman says he has only a few lots that can be offered this evening. He hints that the company plans to raise prices next week. Now is the time to buy. He is authorized to give a $500 discount to buyers who sign tonight.

Above all, the salesman works toward a "close"—to get the prospect to sign something. He may say it is only a reservation, or an option to buy, that he really isn't selling anything, and that there is a money-back guarantee.

RUSH TO CLOSE

"It is not the type of 'close' that is most important, but how many times you try to close," says a training guide for salesmen issued by one developer. "Too many salesmen wait too long to close and are baffled when the customer says 'no.' The reason is that he has not used enough trial closes. As in all facets of selling, management is not interested in salesmen, only closers."

The much-touted, money-back guarantee contains important stipulations in the fine print. To get out of most "sales contracts," buyers must visit the site, usually at their own expense, within six months or a year. They must take a company-guided tour of the subdivision and, on the spot, fill out a form saying that the lot they bought is not what it was represented to be. Even then, a skilled salesman may switch the buyers to another and often higher-priced lot which "suits you better" or "just has to double in value in two years time."

Under federal law, developers are required to furnish buyers a property report listing key statements about the condition of the land, the availability and approximate costs of sewer, water, and other utilities, and so forth. Sometimes the property report is given only at the time of signing. It may be buried among a sheaf of papers.

If the prospect says, "I'll have to think it over," or "I just want to show it to my lawyer, but I'll be back," the pressure increases. Another salesman (Mr. Jones, our "vice-president") may take over to try to "close." In the jargon of the business, there are no "be backs." If the client has time to think it over, chances are he won't be back.

Some companies, such as Horizon Corporation, shun the party techniques. Their sales efforts are centered on having the salesman come to a prospect's home.

Regardless of whether an individual has bought at a party or some other form of presentation, it is the practice of most major developers to get the client to visit the site as soon as possible. The companies whose land is attractive and who have some development under way—a pool, a country club, a few homes built—find that most buyers who visit the site do not cancel. A good salesman at the site can always paint a picture of what might be there when the project is complete. Or the buyer, who may have a long-suppressed pioneer spirit, may feel challenged by the raw land.

Some installment subdividers sell only at the site. They depend on full-page ads with varied gifts and cut-rate lots to lure prospects to the area. Rarely is the low-priced "come-on" lot shown to the prospect. The salesman says it wouldn't be good enough for the prospect's needs. But he just happens to have a much better deal at a higher price.

Salesmen at such highly advertised subdivisions often go far beyond the facts of a property report. Often they do not turn over the report until the prospect signs the sales contract. Claims from buyers of salesman misrepresentation are frequent, especially as to completion dates for lakes or other amenities. The salesmen hide such key details as the fact that the county won't allow a home-builder to use septic tanks while the developer has no plans for sewage disposal.

CAR RADIO CRACKLES

On a tour of the site, the two-way radio in the salesman's car may crackle with announcements . . . "put a hold on lot C–258. . . . Scratch A–21, I have a buyer."

One complaint to HUD said that when he and his salesman arrived at a lot, another salesman with clients were just arriving. The two salesmen almost came to blows over who had rights to sell the lot. His salesman finally prevailed, so he bought the lot. Later he found out the whole affair had been staged to pressure him into buying.

The newest center for land hucksterism is Las Vegas where an estimated $300 million worth of installment sales were made in 1972 to non-Nevada residents by non-Nevada companies selling mostly non-Nevada land.

Meanwhile the old telephone pitch has been made into a profitable venture by a number of land merchandisers operating in Miami. The south Florida investigator of the state land-sales division says 39 "boiler-rooms" now operate in which from 2 to 20 salesmen make several thousand calls a day all over the nation using WATS (wide-area telephone service).

In their cubbyholes, these fast-talking salesmen use prepared "scripts" cleared with Florida authorities, although they often deviate from them. The "front" call is the initial offer of land. It goes to names obtained from lists acquired or purchased. The "drive" call later puts pressure on promising prospects to send in a check. The "load" call is to those who have already bought once. Its purpose is to load them up with more land.

Although the percentage of sales is small, the system pays off, especially when the salesmen make more than 5 million calls a year. Needless to say, much of the property sold this way is inaccessible swampland.

LAND IN JEOPARDY, 4: WHEN PROMISES TURN TO DUST

WASHINGTON, D.C.—Forty-five miles west of Atlanta, the lake bed at Treasure Lake is half dug out, a dam partially built, the golf course nearly complete. Along the streets, markers display names of lot buyers. But the sales office is out of action—at least temporarily.

Just outside of Santa Fe, sand drifts from piles placed near yet-to-be-built golf course greens at the new land development, Colonias de Santa Fe. Signs along vacant ground read: "club house" or "tennis courts." Lots on unpaved streets also show buyers' names. But here, too, the sales office is not selling.

Near Cape Haze on Florida's Gulf coast, the fading billboard reads: "Portofino—Italian Riviera in Florida." Behind it, tattered flags, a few canals that lead nowhere, vacant streets, and two tennis courts. No sign of activity anywhere.

EVIDENCE ACCUMULATES

In many other states the telltale evidence accumulates. Land developments are halted in midstride or have become dormant. Some have financial problems. Some are being sued by federal or state agencies or by citizens. Some have run afoul of environmental restrictions and cannot get necessary construction permits.

"The vacation home seeker who buys the future, not the present, has to be especially cautious," says Richard H. Heidermann, chief of enforcement for the federal government's Office of Interstate Land Sales Registration (OILSR). "However good intentioned and honest the developer may be—and unfortunately many are not—that is not enough. The value of what is being sold is based entirely on the developer's making good on his promises."

Many of these premature subdivisions differ basically from the new communities in which the developer first builds the lake, golf course, utilities, and improvements and then sells the lots or lots and dwelling units combined. Some vacation homesite developers use whatever capital they have to finance their promotional campaigns. They then use the down payments for salesmen's commissions. Thus they depend on cash flow from buyer's monthly payments to finance the promised improvements.

COMPANIES LISTED

Mr. Heidermann lists some of the companies that have recently entered some form of bankruptcy proceedings:

The Wendell West Company of Seattle with large subdivisions in Washington, Arizona, Texas, Pennsylvania and New Mexico, Cochise College Park and Great Southwestern Land Company in Arizona, Four Seasons of Georgia. He lists operations that have been shut down because of lawsuits or for environmental reasons—Boise Cascade's 19 subdivisions in California and Nevada, Lake Havasu Estates in Arizona, Charnita in Pennsylvania, and Lake Winnebago in Missouri.

When a developer fails to deliver on his promises, either because of his own actions or due to factors he claims are outside his control, it brings disappointment and distress to purchasers. Every time federal officials have to consider taking an action against a developer, Mr. Heidermann says, they weigh carefully the potential harm to buyers against the possibly more serious harm that may come from not taking enforcement action, especially when it may mean hundreds or thousands of others becoming victims of a developer's mistakes or malfeasance.

LIMITS OF THE LAW

"The law provides only that developers fully disclose the facts of operation and use ethical practices," says Mr. Heidermann. "But when they continue misrepresentation or illegal practices after we have warned them, we have no choice."

"The Land Sales Registration Office, which administers the federal law, has been criticized for its registration procedures. The law itself is basically weak, requiring only disclosure or the pertinent facts. The developer is allowed to prepare his own property statement. OILSR accepts what the developer says, checking only the documents submitted. Admittedly, the small office which must split its 60 people among registration, enforcement, and administrative duties, is inadequate to investigate all of the more than 4,400 subdivisions now registered.

This incomplete scrutiny of registration is used to advantage by some developers. They note in their advertising that the subdivision is registered with the Department of Housing and Urban Development, thereby giving it an unofficial aura of approval. Few readers know that the HUD property report stipulates that registration does not constitute a recommendation or endorsement.

INVESTIGATORS HIRED

OILSR has received some praise for its enforcement activities, especially since the appointment last March of George K. Bernstein as administrator. Mr. Bernstein hired six ex-FBI men as special investigators to supplement the four staff investigators. He held public hearings in 17 cities to encourage citizen complaints. He has encouraged and assisted the Justice Department in starting criminal actions against flagrant violators of the act.

The latest case to result in a criminal conviction concerned two subdivisions south of Kansas City—Lake Winnebago and Lake Winnebago South. The developer, Robert V. Steinhilber, started a dam to form a lake. He sold 400 lots on "Lake" Winnebago, promising, and so stating in official registration records sent to OILSR, that a 304,000-gallon water tank and a water purification plant were under construction.

More than 160 homes had already been built by the time complaints began to arrive. These charged that neither the water tank nor purification plant had even been started. They also charged that all properties were being served through a single one-inch water line from a town seven miles away. At times water uses were restricted.

DEVELOPER CONVICTED

When the developer also started Lake Winnebago South, he sold more than 300 lots, some on the edge of a proposed lake. Then the federal government obtained an indictment based on alleged false statements made to HUD. Last month, Mr. Steinhilber was convicted and given a three-year sentence. The case now is being appealed.

Meanwhile, the subdivider has been in bankruptcy proceedings for over a year. Home and lot owners are in a quandary. Buyers who built around "Lake" Winnebago won't have a lake until the dam is completed. That will cost more than $350,000. They are hoping someone can be found to take over the properties.

In another case, Treasure Lake of Georgia has also run into trouble recently. There, the developer used television spots and other advertising showing people swimming, riding, and playing golf and tennis. The ads did not mention that the scenes were taken at another subdivision.

William and Cherry Siebert, a young Atlanta couple, visited Treasure Lake of Georgia in May, 1971. They were curious about the development. But they had no plans to buy land. Before they left, though, they were purchasers of a lot.

BUYER SUES

"The salesman assured us that the lake would be finished within 120 days, the golf course and clubhouse within a year, the swimming pool soon," recalls Mr. Siebert. "We could buy a $5,500 lot with only 10 percent down and pay it off in seven years. Meanwhile, we could use the golf, tennis, boating, and other facilities.

"He told us the lot would appreciate 35 percent annually. And if, at any time, we were not satisfied, Treasure Lake would sell the land for us at a substantial profit."

Mr. Siebert claims that during the tour the salesman had a two-way radio switched on which several times announced lots being sold that day to other buyers. This produced a feeling that, unless they acted fast, they would miss out. The Sieberts also encouraged his father to come out a few weeks later. The elder Siebert purchased a "lakefront" lot for $16,495.

A year later, none of the salesman's promises had come true, says the younger Siebert, who, with his father, has led a $25 million class-action civil suit to void all Treasure Lake sales contracts, and collect damages." Treasure Lake was still only a big hole in the ground with little construction activity, our sewer lines had not been started, no clubhouse or swimming pool had been built," William Siebert says.

COMPLAINTS FILED

Other Georgians, and some buyers from other states, also became disenchanted with their land purchases. They complained to federal and state authorities. Investigations were started by the federal trade commission and by the federal Office of Interstate Land Sales Registration together with the U.S. attorney for the Northern District of Georgia. The FTC issued a proposed complaint in July, 1972, alleging that Treasure Lake of Georgia and its parent company, Great Northern Development Company, used false and misleading advertising and also violated the Truth in Lending Act while selling.

In October a federal grand jury in Atlanta issued a 22-count indictment, charging four corporate officers and eight salesmen with misrepresentation and fraud.

Listed in the indictment are false advertising, use of high pressure sales tactics, promises of completion dates that were never met, and preparation of plans for construction of water and sewer service for only 900 of the 3,600 lots in the subdivision.

The 2,000 lot buyers at Treasure Lake of Georgia may get their lake and at least some of what they feel was promised to them. Westinghouse Credit Corporation, which had been financing Treasure Lake and its parent company, has taken over control and now is working to complete the facilities substantially as represented to buyers in the property report.

DEVELOPER SETTLES

On the other side of the country, Boise Cascade is trying to extricate itself from a much more massive array of lawsuits as it attempts to complete an out-of-court settlement of charges by the State of California, and by five citizen class-action lawsuits, all alleging fraud and misrepresentations. Boise Cascade had sold $360 million worth of land in 19 subdivisions in California and Nevada. Yet according to the lawsuits and numerous complaints received by government agencies and consumer groups, recreational amenities and utilities were not completed in many subdivisions, or in some cases, not even started.

Last month, in a settlement proposal accepted by the litigants, Boise Cascade offered $24 million to buyers who want cash refunds. It also offered $34.5 million in maintenance and assurance of promised developments for those who decide to keep their lots. Now the company is seeking to get out of the recreation land-sales business. It would like other companies or associations of property owners to take over its projects across the nation.

Meanwhile, enforcement efforts by HUD's Office of Interstate Land Sales Registration has halted a number of other developers. Twenty-four companies agreed to voluntary suspensions of sales for failure to disclose facts in their property reports. And 47 more were suspended after formal proceedings.

In addition to the Steinhilber conviction, two other developers were sentenced in federal courts. Edward L. Parker of Miami was fined $5,000 for selling lots at two North Carolina developments without registering with HUD or providing property reports to purchasers. Charles G. Geotis of Danvers, Mass., was given a two-year sentence for fraudulent use of mails, for failure to file required details about land he was selling, and for selling lots by misrepresentation and deception.

COSTS CAN SKYROCKET

In New Mexico, the Colonais de Santa Fe development now is halted because of environmental, legal and administrative actions. These have been suspended by OILSR for misstatements and misrepresentations in their disclosure statement.

Also, the City of Santa Fe and the state say the developer has not complied with local ordinances. The availability of water for the development has been questioned. And a federal court of appeals in Denver has ruled that, even though the land is being leased from the Tesuque Indians, an environmental impact statement must be prepared before development can continue.

A number of subdivisions have been halted by state, local, or federal agencies on environmental grounds. While most of these suspensions are temporary, the costs of putting in the required environmental measures often may be more than an underfinanced developer can afford. In any case, the delays may force increasing construction costs above what had been planned. As a result, lot owners may find themselves forced to pay large assessments to meet costs the developer had been expected to pay. Otherwise, the whole project may fail.

Despite protests from some developers that OILSR administrator Bernstein has been treating the land-sales industry unfairly, Mr. Bernstein shows no signs of stopping his outspoken opposition to the practices of the industry.

"I believe the idea that an agency such as ours should be an extension of the industry is all wrong," says Mr. Bernstein. "I feel we are in an adversary position with the land-sales industry. Our responsibility is to the people who purchase, not to the developers. And because of the abuses of the industry are as widespread as they are, the consumers need all the help they can get."

LAND IN JEOPARDY, 5: WHAT IS LAND REALLY WORTH?

CALIFORNIA CITY, CALIF.—For a new town destined at its birth in 1959 to attract a million citizens, and literally sold halfway around the world, California City appears to be making a slow start. The lonely city-limits sign on the desert road several miles from town reads "population 1,900."

Intent on learning more about this 100,000-acre, installment land-sales development in the Mojave Desert 110 miles northeast of Los Angeles, we stopped at the information center. Although we said we weren't buyers, just lookers, the sales representative pointed us in the direction of the Galileo Estates section, his "favorite place," and gave us a tract map.

MILES OF DESERT

The map, with its neat numbered squares in bright colors to denote various zones, was just like one for suburbia. Areas were set aside for open space, commercial and industrial use. There were residential blocks for 641 lots, most of them smaller than one-quarter acre.

When we arrived after crossing 13 miles of

desolately beautiful mountain-rimmed desert, we could understand why they call this type of development "premature subdivision." We found graded dirt roads, some faded wooden street signs, and stark desert for miles around.

One of these small lots would cost from $3,500 to $4,500, payable in 10 years when the services and people are scheduled to move out to it—if water then is available. Most of those who buy, do so for investment. If they want to build immediately, they can get land at slightly higher prices in the already-developed core area.

But what really would a lot be worth in Galileo Estates or in other California City subdivisions? Is the purchase of land both here and in hundreds of other future-oriented subdivisions sold throughout the nation really a good investment?

SUBJECTIVE VALUE

To one who seeks a home here in this high country desert with its quiet, clear beauty and extreme cold and heat, the value of a lot becomes subjective. It may well be worth any price one is willing to pay, although the aesthetic value might be greatly reduced if and when the foreground of this tableau is filled with the accoutrements of congested suburban America, 20 homes to the block.

As an investment, installment land purchases in remote areas can be considered in two ways—as the developer presents it in his sales talks and literature or as it might be seen by a discriminating potential buyer with some knowledge of the economics of the land sales business.

"Why land?" asks a brochure published by California City's parent company, Great Western Cities, Inc. It explains that, if you buy in a new community where there is a good pattern of growth, your land increases in value because you are buying at the start of a rise and not near the top.

The brochure quotes state Board of Equalization statistics showing that California property "increases in value about $400 per second. In other words," reads the brochure, "in the time it took you to read this short paragraph, the value of California property increased a little over $2,000."

A clinching point is made by showing how banks, savings-and-loan associations, and insurance companies can do it for you. Why can't you do it for yourself?

"The sooner you start, the more money you will make. This simple philosophy of investment is the keynote to success and has been the foundation of many a millionaire's bank roll," the brochure adds. And it winds up with a quote from Andrew Carnegie: "Ninety percent of all millionaires become so through owning real estate. More money has been made in real estate than in all industrial investments. The wise young man or wage earner of today invests his money in real estate."

MISLEADING SALES PITCH

Advertisements for this desert land that led many buyers to the dotted line, formerly featured the statements that California City was the 10th largest (in area) incorporated city in the United States, and was the site for "America's largest intercontinental airport" with 100,000 passengers per year by 1980. "We believe that land in such selected growth areas (California City) is a good and safe investment and offers great profit potential for investors."

The advertisements and sales pitches along these optimistic lines had to be changed, however, after a cease-and-desist order issued last October by the Federal Trade Commission.

"In truth and fact," the FTC said, Kern County, in which California City is located, increased its population by only 11 percent from 1960–1970 while the average rate of growth for all California counties was 25 percent; California City may not be successful in competing for residents with older areas cities closer to the Los Angeles area; the growth potential would be diminished if the (controversial) proposed airport was not built; and "California City's record to date does not indicate that profits will be made by all persons buying land at respondents' price after owning it for a reasonable amount of time."

MORE COSTS LATER

As for the argument in favor of "buying at the start of a rise and not near the top," the investment brochure of California City does not mention that the "start" for investment profit was really made 14 years ago by developer N. K. Mendelsohn. He bought 100,000 acres in 1959 for $109 an acre, and by the time he sold out to Great Western in 1969, he had sold 32,000 lots to people in the United States, Germany, and the Philippines for $102 million.

The prospective buyer at California City might consider whether the quoted purchase price is all he would have to pay.

A careful reading of the property report which must accompany each sales contract, shows that water, streets, and roads are covered by a deferred improvement plan which obligates a lot purchaser to pay at least $900 over 100 months. But the improvements promised by the developer do not need to be made until 1981. They can be postponed thereafter until at least 10 percent of the property owners in the tract ask for them.

PROPERTY TAXES PLUS

A property tax now is charged and the buyer may be subject to assessment for retirement of general obligation bonds already issued by the city. A $200 fee is required for recreational privileges but can be used for other purposes by the city.

No sewage disposal system is contemplated. Costs for a septic tank will be at owner's expense, and septic tanks could be banned by county health authorities if population density becomes too great. Also the purchaser will be required to pay for extension of electricity and telephone which might be costly.

OPPONENT'S FIGURES—NO PROFIT

The property report also notes—in capital letters—that "A purchaser who contemplates future resale of his lot or parcel should consider the possibility of competition with the developer and with sellers of other lots which have surfaced roads, water, and other amenities."

To date, 42,886 lots or parcels have been recorded. Most of them have been sold. Yet fewer than 3 percent of the subdivided lots have houses on them.

In another part of California, District Attorney Harold Berliner of Nevada County has compiled figures about the pluses and minuses of installment sales buying. Mr. Berliner holds environmental credentials as one of the founders of California Tomorrow, a statewide citizen group. He has been battling vacation-home subdividers for many years through speeches and writings and in the courts.

For the investor who hopes for resale profits, he offers an example based on the experience of buyers at a typical development in his county. "To buy a $10,000 lot, the buyer puts $1,000 down and pays off the balance over 10 years," he says. "His principal, interest, taxes, and assessments for recreation and maintenance would come to $19,460.98 before he got his deed. And over the 10 years, all kinds of things could happen to delay completion of the project.

"But if the buyer had put the same monies regularly into an account paying 5 percent interest at a savings-and-loan association, he would at the end of 10 years have $30,464.02 on deposit with no risk or bother. Just to break even, on resale, and allowing for 10 percent commission, the lot would have to increase in value 338 percent of the original price—unheard of in such subdivisions. But so many lots in these subdivisions are now on the market for resale that most sellers take large losses."

PUT MONEY IN A BANK

For the buyer planning to build a vacation or retirement home when the lot is paid for, Mr. Berliner says: "By putting the money in a savings and loan, *earning* instead of *paying* interest, and saving years of maintenance and taxes on a vacant lot, the family would have the advantage of being able to choose their own lot wherever they want it when they are ready to build and not be stuck with an earlier decision they may regret a decade later."

Mr. Berliner also criticizes subdividers for cutting up the land far ahead of any possible use. He points out that, over the past 10 years in Nevada County (population 26,346), permits have been given to subdividers for the sale of 19,317 lots. Yet only 319 homes were built during that time.

As buyers of these lots soon discovered, the hidden costs can pile up. Some are buried in the small print of a property report. Others may arise when the developer finds he cannot complete a project at the cost predicted and assesses land buyers for the difference. Also, the county may decide that septic tanks will no longer be allowed. Then land buyers are assessed for central sewers and hookups.

BILLS THAT JOLT

In states where developers pay the taxes and do not give deeds to purchasers until the contract is paid up, buyers may get a jolt with their first tax bills. With improvements being made and houses being built, the tax assessor increases the assessment many times over what the developer had been paying on raw land.

An example of the extra costs not always mentioned by salesmen can be found in the experience of a Washington, D.C., woman who mailed in a coupon for "information" about Rotunda.

This is a new development of Cavanagh Communities Corporation in a remote area off Florida's gulf coast, 40 miles south of Sarasota.

She soon had a phone call from a Cavanagh representative in Florida offering her a five-day, all-expense-except-transportation vacation to see the site.

Then came a large package of materials, including a sales contract, to be signed and returned with down payment of $45 for a $4,360 lot in "Rotunda Villas."

EXTRA CHARGES

The contract listed finance charges of $2,105. The balance of $6,420.87 to be paid in 146 payments (12 years). The prospect was also asked to sign a statement saying she would not be using the property as a principal residence and that she had read the Florida offering statement (property report) enclosed.

In bright red capital letters on the first page of the offering statement was information not given in the phone call. The buyer's proportionate share of the cost of water facilities, drainage, and roads is approximately $2,475 per lot," to be paid starting 60 months after signing. The buyer's share of sewerage is approximately $1,692." To this should be added $250 for water hookup, $300 for sewage hookup, and an annual assessment of about $30. Here are another $5,077 in hidden costs on top of the $6,420.87.

While, these examples in Florida and California are typical, hidden costs vary greatly from state to state and development to development. In Florida, for instance, the developer usually pays the taxes, often assessed on the basis of raw land valuation, until the buyer's contract is finally paid off. Only then does the buyer get a deed.

California requires the developer to furnish

a deed encumbered by the mortgage for the unpaid balance to the buyer after the sales contract is signed. The buyer must then pay the taxes.

CALIFORNIA'S FAIR VALUATION

California, alone of the states, requires sellers of land located outside of the state to have their land evaluated by appraisers from the California Department of Real Estate. If the selling price of lots is found to be excessive, the sellers are ruled not to have met the law's requirement that prices be "fair just, and equitable."

As a result, none of the major installment land-sales companies is registered to sell in California. This law does not apply to California land being subdivided. But the State Real Estate Department may write into a California developer's property report the assessed valuation of the land for purposes of showing potential taxes.

Land value means something quite different to the developer. At a 1970 hearing of the Arizona State Property Tax Appeals Board, GAC Properties, Inc., complained that lots at its Rio Rico development were assessed too high.

The Santa Cruz County tax assessor had set a value on the one-third acre lots at $1,600. The GAC thought the assessment should be $185 because improvements had not yet been put in. But the GAC was asking buyers to pay about $5,000 for these same lots. Half of the selling price, the GAC claimed at the hearing, represented sales expense and the cost of future improvements. The GAC has sold 23,127 out of 31,664 lots at Rio Rico, but has fewer than 250 homes completed.

DEVELOPER'S VALUATION

Further indication of how a major developer considers the value of the land being sold is evidenced by a prospectus put out by a Wall Street investment firm for a 1970 debentures issue for GAC Properties Credit Inc. The prospectus states that "the price at which the GAC Properties sells land under installment contracts does not reflect the current market price for cash purchases of comparable developed or undeveloped land." And the prospectus adds: "There is no significant resale market for installment land contracts."

Because of the extraordinarily high promotion and commission costs in the industry, a down payment of even 10 percent often leaves the developer in the hole financially even if he is selling the land for 50 times what he paid for it.

Such deficit financing, especially for smaller, underfinanced developers, means that they are on a merry-go-round needing cash flow from volume sales to build the improvements promised to buyers, but losing money at the start for each lot sold.

If the developer can hold out long enough, he can make millions. But he can also go bankrupt—and the resulting ghost subdivisions now litter many parts of the nation.

LAND IN JEOPARDY, 6: WHAT IS BEING DONE ABOUT INSTALLMENT LAND SALES?

WASHINGTON.—In the cramped, Spartan offices of the Retired Professional Action Group, a cadre of retired citizens organizes to battle abuses by land developers across America.

Most of them had written to Ralph Nader's Public Citizen, Inc., asking how to help his work. They have signed on as members of a newly formed Nader task force that, among other things, will seek out evidence of illegal land-sales activities.

Meanwhile across town at the House of Representatives, Congressman Morris K. Udall (D) of Arizona seeks support for two proposed bills he has authored. The legislation would place added consumer and environmental controls on subdividers who are selling millions of acres of the nation's rural and wilderness land, including big chunks of Arizona.

And in Santa Fe, N.M., as a new session of the New Mexico Legislature opens, a block away, Sally Rodgers, Harvey Mudd, and Brant Calkins gather interested citizens at the Clearing House to plot strategy. They will try to defuse industry-lobbying efforts which last year narrowly defeated a strong bill to control and regulate the sale of subdivisions that now cover more than a million acres of the state.

These activities typify a growing undercurrent of resistance to the sales tactics and land-development actions of the installment land-sales industry. Many land-sales companies feel its pressure at their most vulnerable point, the cash drawer, as prospective buyers become more cautious. Almost overnight windfall company profits have turned into huge corporate losses. Some elements of the industry now look inward and seek ways of correcting abuses and improving their public image.

NEW DISCLOSURE LAW BACKED UP

Nevada, for example, has a new disclosure law augmented by stiff regulations on advertising and promotion. State real-estate administrator R. E. Hansen, with assistance from federal investigators, has been cramping the style of developers who have been using the Las Vegas gambling and vacation center as the locale for their biggest off-site sales operations. Where a year ago 16 developers were running major operations out of sales rooms located just off of casino floors, only six companies now are operating. And the biggest seller, GAC Properties, Inc., has dropped from 11 sales teams to three.

GAC is the largest of the land-selling companies in terms of volume. It is the subject of much consumer and environmental criticism. Now it is in the midst of major changes, GAC officials say. According to Edward J. Wren, vice-president for public relations, the sales force has been cut from 2,000 to approximately 550, sales sessions are being monitored by professional investigators, and services of salesmen who engage in misrepresentation have been terminated. Instead of the former concentration on land sales (91 percent of the present sales volume), emphasis now will be placed on increasing home construction at GAC subdivisions. GAC's high-pressure telephone sales operation and vacation certificate programs have been eliminated.

Legislative battles now are shaping up in a number of states as conservation and consumer groups seek stronger controls. Generally, states have a long way to go. While 39 of them have some form of control over remote land sales, many vest jurisdiction in a real-estate commission dominated or heavily influenced by subdividers.

No states provide adequate manpower or investigative funds to land-sales supervisory organizations that are established. And no state yet has a model law in this field.

CALIFORNIA LEADS THE WAY

California now leads the way with its 14-day unwaivable right for buyers to cancel a land-sale agreement, its appraisal of fair value for out-of-state lots marketed in California (although it has no such requirement for California land), its requirement for surety performance bonds, and its framework for environmental controls by counties.

New York State law is strict on out-of-state sales. The inspection of proposed subdivisions is better there than in most states. And the state attorney general's office has been praised for its work in getting restitution for buyers victimized by misrepresentation.

Florida has a weak law. It gives little support or funds to its land-sales division. The 1972 state land-use law should help protect the environment when implemented. But the desires of most citizens not to tarnish the state's image or ruin the land are not as yet reflected in political action.

For its part, the federal government's ability to cope with corporate, consumer, and environmental problems associated with the industry remains inadequate. The Federal Trade Commission, Securities and Exchange Commission, and postal inspectors work on a few flagrant violations of existing law but they are not equipped to discover or investigate most abuses. The Office of Interstate Land Sales Registration (OILSR) of the Department of Housing and Urban Development (HUD) tries hard to correct abuses. Its capability also is limited by size, budget, and legislative authority.

What can be done to correct some of the consumer and environmental abuses pointed out in previous articles in this series?

To protect the consumer, several actions could be taken:

Passing a law for federal appraisal of "fair value" pricing for all lots to be sold in interstate commerce, similar to the California requirement for out-of-state land.

Requiring developers to have surety bonding under federal supervision to guarantee performance of all proposed improvements.

Requiring federal licensing of salesmen.

Requiring prior approval of a developer's advertising by federal or state agencies, or restricting of advertising to those elements of a subdivision already completed.

Providing a longer "cooling off" period that is nonwaivable, so that buyers can have an opportunity to think over their actions and cancel sales agreements made during a high-pressure sales pitch.

Passing a law to give an individual the right to sue for himself and others in a class action regarding alleged fraud in installment land sales.

To protect the land requires difficult actions at many levels. The possibilities include:

Provision that environmental-impact statements be required for all proposed subdivisions before any actions are taken by the developer to alter the natural resources.

Provision that all zoning, dredging, draining, or sewage permits be in hand before any lots are sold, and that an adequate water supply be assured for maximum allowable density if people should build on all the lots offered.

Most needed, however, is a method for states to control location of subdivisions. This requires state and county land-use plans, and state and county officials willing to withstand the pressures from developers to get exemptions once plans are adopted.

A first step would be for Congress to pass the proposed national land-use policy act which would require states to inventory their natural resources and devise plans, under federal standards, to protect critical areas. As part of state plans, regulations should specifically require that all applications for remote subdivisions be in conformity with the environmental carrying capacity and the population-density criteria set by state and local governments.

Many other actions could be taken, but are not currently feasible. A change in tax structure to penalize those who speculate with land has been suggested. And formation of an independent federal regulatory agency just to control installment land sales is sometimes voiced but not currently being considered either by the administration or by Congress.

Clearly, in an industry where fraud and high-pressure tactics exist, the average citizen needs more than normal protection. But even more important is the urgency for environmental safeguards, not just because of laws prohibiting harm to the land, but because of a too-often-forgotten ethic: Man is a steward of the land. He has a respon-

sibility to future generations to insure that those who inherit the earth will have something worth inheriting.

WHAT DO YOU THINK SHOULD BE DONE?

(This questionnaire appeared at the end of the series when it ran in the Monitor, with a request that readers fill it out and mail it in. It is included here as a concise recap of the series.)

1. Promised facilities

Many people buy land on the basis of what the development will be like in the future, expecting lakes, ski slopes, roads, and adequate utility services. These facilities will only become a reality if the seller has the money or takes the action to install them. Complaints from numerous buyers indicate that facilities promised are not delivered. To solve this problem, federal law should:

(A) Require developers to post performance bonds prior to making sales, to guarantee the installation of promised facilities.

(B) Require the sales contract to list all promised facilities and legally bind the seller to complete them.

(C) Require that the improvements and facilities be completed before allowing any sales in the development.

(D) Leave the situation as it is. Anything that requires bonds or pre-completion money would hamper development and would raise the price of lots.

2. Cooling-off period

Some people sign installment sales land contracts hastily without thorough consideration. Most buyers who send complaints to federal and state agencies say they never would have bought if they had "thought it over." Most land companies admit that the vast majority of sales are made the first time they meet a buyer. To solve this problem federal law should:

(A) Provide the following specific period of time during which the buyer may revoke his contract for any reason whatsoever and get his money back—2 days ( ); 3 days ( ); one week ( ); two weeks ( ).

(B) Provide a cancellation period which cannot be waived by the buyer despite offers he may get from a developer.

(C) Allow no cancellations except for fraudulent sales practices. It is not up to the government to protect buyers as long as the developer has made full disclosure in a property report. A deal is a deal and people should live up to obligations.

3. Solicitation

Many prospects for land sales are lured into signing contracts by elaborate advertising sent through the mail or by sales pitches made by telephone, at free dinner parties, or in conjunction with free gifts or vacations. Later, they may find that the land is not as it was represented. To solve this problem, developers should:

(A) Be required to submit all advertising to the government for approval before use.

(B) Be required to advertise only those facilities which already exist or whose provision is guaranteed by bonding.

(C) Be required to perform everything advertised.

(D) Be required to incorporate all advertised promises in the sales contract.

(E) Not be interfered with. The government should not act as a censor. Federal Trade Commission laws now cover fraudulent advertising adequately.

4. Sales practices

Some people are induced to buy land by exaggerated statements about potential profits, by promises made by salesmen, money-back guarantees, offers to resell property for the buyer at any time, or by verbal assurances that the contract only makes a "reservation" for a lot and not a commitment to buy it. To solve this problem:

(A) The government should appraise the land to reveal its present and projected value. It should require this information to be used in advertising and property reports.

(B) All salesmen for installment subdividers should be required to obtain a federal license.

(C) Developers should be required to advise all purchasers in writing that they do not buy back or resell the land for buyers unless they actually do provide this service.

(D) All that is needed is better enforcement of the present federal Land Sales Act and the Federal Trade Commission's regulations which prohibit unfair, deceptive, or fraudulent sales practices. No new legislation is needed.

5. Environment

Premature subdivision of land before adequate state land planning has taken place may harm natural areas that should be preserved for future generations. Development activities such as building roads, destroying trees, digging canals, and making artificial lakes may lead to pollution or other environmental problems. I believe that:

(A) States should require all remote subdivisions to conform to a land use plan prepared by a public agency as a prerequisite for selling any lots.

(B) Developers should not be allowed to sell any land until all pollution control and land-use permits required for lakes, canals, sewage, or solid-waste disposal have been authorized by federal agencies.

(C) Bonds should be required of developers to compensate for damage to the environment.

(D) Resort-land developments for vacation homes should provide recreational open space more ample than in ordinary subdivisions.

(E) State and local authorities already adequately provide for prior environmental control of such developments. No new regulations are needed.

6. Federal regulation

Many observers feel that the federal law regulating the developers is not strong enough and that there are loopholes in the law. The industry itself is opposed to strict regulation. The government should:

(A) Increase regulation of the industry.

(B) Decrease it.

(C) Be allowed to represent complaining buyers in civil class action suits for damages.

7. Personal experience

Have you:

(A) Ever been solicited to buy such land?

(B) Been promised gifts or free vacation trips to buy land?

(C) Ever purchased land in remote subdivisions?

8. If you bought land, did you:

(A) See the land before you bought it?

(B) See a lawyer before buying it?

(C) Build a house and live in it?

(D) Cancel your contract and forfeit your money?

(E) Cancel your contract and get your money back?

(F) Make a profit from selling it?

(G) Take a loss in selling it?

(H) Feel generally dissatisfied with your deal?

(I) Feel generally happy with your deal?

A MONITOR EDITORIAL—THE LAND: TO DRESS AND TO KEEP IT

The scandal-tainted development of huge tracts of land in the United States, explored in the six-part series just completed by this newspaper's environment editor, Robert Cahn, touches all citizens. Regardless of whether or not one is living in states where haphazard development is threatening environmental harm; regardless of whether or not one has bought, or is thinking of buying, a house lot in some yet-to-be-developed remote site; regardless of whether one lives in a crowded city or in a rural area ripe for speculators and exploiters, every American is affected by the problem.

Land, as the hucksters themselves argue when pushing for a "close" with a reluctant potential buyer, is a limited natural resource. People are not. The population is expanding. And the value of land is directly related to the demand for it. More people, more demand, more money.

As the Monitor series points out, unscrupulous operators are misusing this centuries-old formula of land values—and potential profits—as shamelessly today as the con man of earlier years who greeted immigrants just off the boat with offers to sell them the Brooklyn Bridge. Sad to say, in this era which we like to consider far more sophisticated, there are still thousands of innocents who should know better, but do not. The inevitable result: enormous profits to less than honest land speculators, and endless hard-luck stories from those who find they have purchased acreage so remote in time and space from such necessities as electricity, water, sewage, and telephone service as to be worthless in their lifetimes.

But what of those visionary new Utopias which actually do begin to take shape on the landscape? Too often new towns are being carved out of wilderness areas without any reference whatever to county or state land-use planning. Or without reference to the ecological framework within which they must exist.

Where the first kind of phony land scheme primarily hurts the finances of the gullible purchaser, the second hurts everybody. The automobile and airplane have exposed some of America's most beautiful but inaccessible spots to get-rich-quick land schemers. As a result we are witnessing the rise of new developments, some with highly uncertain futures, in every part of the country—from Florida's sandy marshlands to California's spectacular coastline, from Vermont's lush green hills through Pennsylvania's wooded mountains, to Arizona's bleakly beautiful desert.

Where such schemes do "succeed," that is in terms of actually getting houses and supporting government and commercial services packaged together, what is the result? What economic base exists to support the future of such new towns? Do they offer a potential for steady, sturdy, useful development as good places for Americans to live? Will they function, as they should, as population safety-values for the over crowded metropolitan areas? Or are they tomorrow's future slums?

These questions and others need to be thought through. Their answers must be anchored in facts and these facts must be made public so that future development can be kept under public scrutiny and control. New state laws are needed. Buyers must be protected from hard-sell salesmen, with such laws as California's "cooling off" proviso, allowing a buyer to cancel a sales agreement within 14 days. With developers operating on a national basis, even internationally, the federal government should use its powers to regulate interstate commerce to intervene in fraudulent schemes. It should beef up the existing underfunded, understaffed Office of Interstate Land Sales Registration so that it can do the job its energetic administrator wants to do.

In addition to the series of consumer protection proposals outlined in the Monitor series, the federal government should pass a long overdue national land use policy act. Not until Congress leads the way with such an act can the states be expected to do the job, which is primarily theirs to do, of inventorying their land resources and planning its intelligent development or conservation.

That land scandals of the kind exposed by Mr. Cahn's series can still occur in the United States reveals that the old Ameri-

can chimera of limitless land, open to all comers to exploit for personal profit, continues to delude public thought. Belatedly, thoughtful observers are beginning to recognize that this continuing rape of the land is a betrayal of the trust which gives each new generation the land in stewardship, with a mandate "to dress it and keep it" for the next generation.

A reawakening this sense of trust seems to be taking place. Now it must be translated into laws and policies to control future land use. If so, then the experiences of those who have suffered economic loss and dashed hopes from development frauds and failures may at least have contributed to the future by helping convince their contemporaries that America's latest wave of land fever must be the last.

CONCURRENT RESOLUTION ADOPTED BY SOUTH CAROLINA GENERAL ASSEMBLY ON FEDERAL FORESTRY INCENTIVES PROGRAM

Mr. HOLLINGS. Mr. President, on behalf of Senator THURMOND and myself, I would like to bring to the attention of the Senate a resolution passed by the South Carolina General Assembly on March 14 expressing support for the enactment of a Federal forestry incentives program as expressed in H.R. 8.

Last June, the Senate passed by voice vote, S. 3105, the Forestry Incentives Act of 1972. It should be noted that presently there are many small nonindustrial forest lands totaling more than 300 million acres that are in a low state of productivity with about one-fourth in need of planting and nearly one-half in need of other forms of conservation. The Forestry Incentives Act would encourage landowners to plant seedlings and apply necessary treatment to produce timber, expand recreational opportunities, enhance environmental values, protect watersheds, and improve fish and wildlife habitats. It seems this bill will go a long way toward increasing forestation and providing overall management of these lands.

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:

A CONCURRENT RESOLUTION

Expressing support of the South Carolina General Assembly for the enactment of a federal forestry incentives program as expressed in H.R. 8 by Congressman Sikes of Florida and to memorialize the Congress of the United States to enact such legislation

Whereas, almost two million acres of abandoned cropland and cutover unproductive woodland have been planted to forest trees during the past thirty years in South Carolina; and

Whereas, incentive programs of Soil Bank and REAP have substantially contributed to this reforestation effort, accounting for approximately one million acres of the reforestation by private non-industrial owners; and

Whereas, increased growth potential of commercial forest trees as shown by the 1968 Forest Survey has encouraged forest industry to invest new capital in the State for logging equipment, sawmills, plywood plants, hardboard manufacturers and pulp manufacturers, amounting to approximately two hundred fifty million dollars during the past five years; and

Whereas, reduction of reforestation on small private ownerships will discourage new industry and could in fact result in decreased environmental protection and improvement; and

Whereas, there are more than three million acres of unproductive cutover woodland owned by small private non-industrial owners which could contribute substantially to South Carolina's economy if reforested; and

Whereas, forests are a renewable resource providing multiple benefits to everyone, such as watershed protection, wildlife habitat, recreation areas, esthetic improvement, etc., contributing to cleaner air and noise abatement; and

Whereas, harvesting of mature forests, and using these products, can help relieve the energy crisis since building material from wood requires four to eight times loss energy to manufacture than does steel and concrete and at the same time does not deplete a nonrenewable resource.

Now therefore,

Be it resolved by the House of Representatives, the Senate concurring: That the General Assembly of South Carolina does hereby express its support for Federal legislation proposed (H.R. 8—Mr. Sikes, Florida) which will provide Federal funds for forestry incentive payments to non-Federal public and to non-industrial private landowners to do reforestation and other forest management practices, and it does respectfully request South Carolina's Congressional Delegation to work for implementation of such legislation.

Be it further resolved that copies of this resolution be forwarded to each member of the South Carolina Congressional delegation, the President of the United States Senate and the Speaker of the House of Representatives in Washington, D.C.

INCREASED PARTICIPATION IN NATIONAL ELECTIONS

Mr. PELL. Mr. President, several days ago, I introduced in the Senate a bill, S. 1303, providing that our national elections be held on Saturday instead of Tuesday. In introducing that bill, my objective was and is to explore means of increasing voter participation in elections by making voting more convenient with fewer conflicts with other activities.

It was my intent in introducing the legislation to provide some focus for public discussion and suggestions of alternative ways to combat voter apathy and increase public participation. Saturday, as an alternate election day, was suggested as only one of many possible changes.

Since introducing the bill, I have received messages from representatives and spokesmen of Orthodox Jewish Congregations, pointing out that faithful observance of their Sabbath would preclude participation in Saturday elections by Orthodox Jews and certain other groups observing Saturday Sabbaths.

Mr. President, I think these spokesmen have raised a valid point. As I have stated, the intent of my legislation is to explore ways of increasing voter participation. And I want to assure everyone concerned that I have no intention, as chairman of the Senate Subcommittee on Privileges and Elections, to proceed with legislation that would effectively disenfranchise a portion of the voting public. That would be exactly the opposite of my objective.

I continue to hope that the bill I have introduced may serve to stimulate thought and suggestions on how we may increase voter participation.

THE FEDERAL TRADE COMMISSION COUNTER-ADVERTISING RULING BREAKS IMPORTANT NEW GROUND

Mr. PROXMIRE. Mr. President, recently the Federal Trade Commission, in proceeding against three producers of over-the-counter pain killers, announced its intention to require these manufacturers to include material in future television advertising counteracting false claims made in past television commercials.

The products whose advertising the FTC found to be inaccurate and misleading included Bayer Aspirin, Bufferin, and Anacin. Claims were made regarding the effectiveness of these drugs as well as the degree to which doctors recommended their use that could not be substantiated by the facts.

This Senator believes that such advertising is not only misleading, but can be positively harmful. It leads young people to believe that a large part of their problems—pain, nervous tension, inability to get along with others—can be solved with a white tablet and a long gulp of water. It predisposes the young to reach out for more easy answers in the form of barbiturates or amphetamines or even hard narcotics such as heroin.

Consequently, I was particularly pleased by the FTC's decision to require these companies and their advertising agencies to either cease advertising the products over the next 2 years or place 25 percent of their advertising dollars in counter-ads that refute the false claims made in earlier commercials.

So that my colleagues in the Senate can better understand the pernicious nature of this advertising as well as the precise kind of remedy being sought by the FTC, I ask unanimous consent that one of the three FTC complaints and notices of intended action be placed in the RECORD at the conclusion of my remarks. All three documents are quite similar to content.

Finally I urge my fellow Senators to support the FTC in this praiseworthy step. And I express my hope that this action will be sustained through the FTC hearing process and by the courts, if the matter reaches the courts.

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

[United States of America before Federal Trade Commission, Docket No. 8917]

COMPLAINT

(In the Matter of Bristol-Myers Company, a corporation, and Ted Bates & Company, Inc., a corporation, and Young & Rubicam, Inc., a corporation)

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Bristol-Myers Company, a corporation, and Ted Bates & Company, Inc., a corporation, and Young & Rubicam, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

Paragraph One: For purposes of this complaint, the following definitions shall apply:

1. "Commerce" means commerce as defined in the Federal Trade Commission Act.

2. "False advertisement" means false advertisement as defined in the Federal Trade Commission Act.

Paragraph Two: Respondent Bristol-Myers Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 345 Park Avenue, New York, New York.

Respondent Ted Bates & Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1515 Broadway, New York, New York.

Respondent Young & Rubicam, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 285 Madison Avenue, New York, New York.

Paragraph Three Respondent Bristol Myers Co., is now and for some time last past has been engaged in the manufacturing, advertising, offering for sale, sale and distribution of certain non-prescription internal analgesic preparations which come within the classification of "drug", as said term is defined in the Federal Trade Commission Act.

The designation used by respondent for said preparations, the active ingredients thereof, and directions for use are as follows:

1. *Designation:* Bufferin

Active Ingredients:

Acetylsalicylic Acid, Aluminum Dihydroxyaminoacetate, Magnesium Carbonate.

Directions for Use:

Dosage: 1–2 tablets, 1–6 times daily as needed. For children 5–12, one-half dose.

2. *Designation:* Excedrin

Active Ingredients:

Acetylsalicylic Acid, Salicylamide, Acetaminophen. Caffeine.

Directions for Use:

Adults, two tablets with water. Repeat if necessary every four hours or follow directions of your physician. Dosage should not exceed 8 tablets per day. For children (6–12) use half the adult dosage.

Designation: Excedrin PM.

Active Ingredients:

Acetylsalicylic Acid, Salicylamide, Acetaminophen, Methapyrilene Fumarate.

Directions for Use:

For best results take 2 tablets at bedtime to help relieve pain and aid sleep. May be repeated once, after 4 hours. For children (6–12) use half the adult dosage.

Respondent Ted Bates & Co., Inc., is now, and for some time last past has been, an advertising agency of Bristol-Myers Co., and now and for some time last past, has prepared and placed for publication and has caused the dissemination of advertising material, including but not limited to the advertising referred to herein, to promote the sale of Bufferin.

Respondent Young & Rubicam, Inc., is now, and for some time last past has been, an advertising agency of Bristol-Myers Co., and now and for some time last past, has prepared and placed for publication and has caused the dissemination of advertising referred to herein, to promote the sale of Excedrin and Excedrin PM.

Paragraph Four: In the course and conduct of its aforesaid business respondent Bristol-Myers Co. causes the said drugs, when sold, to be transported from its places of business located in various States of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent Bristol-Myers Co. maintains, and at all times mentioned herein has maintained, a substantial course of trade in said product in commerce. The volume of business in such commerce has been and is substantial.

Paragraph Five: In the course and conduct of their said businesses, respondents Bristol-Myers Co., Ted Bates & Co., and Young & Rubicam, Inc., have disseminated, and caused the dissemination of, certain advertisements concerning the said drugs by the United States mails and by various means in commerce, including but not limited to, advertisements inserted in magazines and newspapers, and by means of television and radio broadcasts transmitted by television and radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said drugs, and have disseminated, and caused the dissemination of, advertisements concerning said drugs by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said drugs in commerce.

Paragraph Six: Typical of the statements and representations in said advertisements, disseminated as aforesaid, but not all inclusive thereof, are the following:

A. By respondents Bristol-Myers and Ted Bates, for Bufferin:

1. The television commercial entitled "Solarization" opens with a surrealistic depiction of two women's bodies. One woman's stomach contains a tablet marked "A", and the other's, a tablet marked "B". In the illustration, the tablet marked "B" disintegrates more quickly than the other, and the disintegrated particles move more quickly to the head.

ANNOUNCER. "What happens inside your system to plain aspirin and Bufferin? This illustrates most of Bufferin—with its extra speed is already going to your headache, when most of plain aspirin is still in your stomach. So with Bufferin, there's less to upset your stomach, when there's more pain reliever going to your headache. Bufferin—Faster to your headache. Better for your stomach."

2. The television commercial entitled "Camping" shows a family at a rustic camp site. The father does not appear to feel well as his children ask him to fix something and to take them into the canoe. A Bufferin bottle is shown, and the commercial then depicts a wrist watch cut in half to illustrate the statement that Bufferin goes to work in half the time. After taking Bufferin, the father again is shown with his children, returning from a fishing trip in the canoe. Instead of appearing to have a headache, he is happy and smiling.

GIRL. "Daddy, breakfast's ready.

BOY. "Hey, Dad, will you fix this for me? It got all tangled up."

GIRL. "Daddy, when are you going to take me out in the canoe?"

ANNOUNCER. "What a time for a headache. You could take aspirin. But Bufferin goes to work in half the time. Half the time. Why? Because in the first critical minutes, Bufferin speeds its pain reliever to your headache twice as fast as simple aspirin. So Bufferin goes to work in half the time. Half the time—that's Bufferin's time."

3. The television commercial entitled "Changing Face-Revised" opens showing a woman's face. At first, she is shown in the film negative and appears to have a painful headache. Gradually, the negataive portions of the film disappear, and the woman begins to smile, her headache obviously gone.

ANNOUNCER. "Headache, every second can be a painful throb. Bufferin can change that fast. Bufferin goes to work fastest of the three leading headache tablets. Its pain reliever starts to your headache in just sixty seconds. Minutes later, relief without the stomach upset plain aspirin can cause. Of all leading brands you can buy, doctors specify Bufferin most. Faster, gentler, Bufferin."

4. The television commercial entitled "Arthritis/Applause" opens showing a grandmother with her grandchild at a concert. At the end of one musical piece, they begin clapping. However, the grandmother obviously finds clapping to be very painful because of arthritis in her hands. She takes two Bufferin tablets, and then is shown clapping with apparently no discomfort or pain.

GIRL. "Didn't you like it, Grandma?

ARTHRITIC. "I loved it, dear."

ANNOUNCER. "Arthritis can do this. Its minor pain and stiffness can take a lot of enthusiasm out of hands, fingers. Take Bufferin. Doctors specify Bufferin for minor pain more than any leading brand of pain reliever you can buy. Tests published in medical journals show that in the first critical minutes, Bufferin delivers twice as much pain reliever as simple aspirin. Twice as much. Bufferin brings fast relief. Hours of relief from arthritis' minor pain and stiffness, so arthritic hands and fingers regain flexibility. And Bufferin can prevent the stomach upset aspirin often causes arthritic sufferers. For relief of arthritis' minor pain and stiffness, rely on Bufferin."

5. The television commercial entitled "College Professor" opens in a book-lined office, as a college professor is having a confrontation with a student militant. The student makes demands and the professor arranges a meeting for later in the day. The professor, who appears upset and emotionally involved in the situation, then takes two Bufferin tablets. He appears to become more relaxed.

STUDENT. "Why don't you listen to us? This college has got to change."

PROFESSOR. "Agreed."

STUDENT. "But not your way."

PROFESSOR. "All right. I've read it, Greg. Now can we keep our cool and all get together here at six?"

STUDENT. "Okay."

ANNOUNCER. "Often, people who are sensitive to others can be more sensitive to headache pain. Bufferin is for these people. It's strong medicine that treats you gently. Plain aspirin's fine, but Bufferin goes to work much faster, yet is gentler to your stomach. Because tough problems are tougher on sensitive people, we believe the strong medicine you need should treat you gently. Faster, gentler Bufferin. Strong medicine for sensitive people."

6. The television commercial entitled "New Housing" opens with a government relocation official preparing to inform an elderly couple that their apartment building has been condemned and that they must move. He appears to be emotionally upset at the prospect of informing the tenants. In anticipation, he takes two Bufferin tablets. He then appears calmer and is shown smiling and telling the aged couple about their new home.

ANNOUNCER. "What you have to tell them isn't easy. Not for you. Often, people who are sensitive to others, can be more sensitive to headache pain. They want all the help they can get as quickly as possible. Bufferin is for these people. It's better than plain aspirin because most of Bufferin has already started working at your headache when most of aspirin is still in your stomach."

MAN. "That's the way it is. So you'll have to be out by Thursday."

OLD MAN. "You know, our kids were born right here."

MAN. "Wait'll they see your new place."

ANNOUNCER. "Bufferin. For sensitive people. It's much better than plain aspirin."

7. The television commercial entitled "Father/Son" shows a father, mother and teenage son standing in a wooded area. The father shoots a rifle at a target and then offers the rifle to his son. The son states that he does not want it and walks away. The father appears angry and abruptly turns and fires the rifle. The mother tries to calm him by stating that the son does not believe he

can shoot as well as the father. The scene then shifts inside the house where the son is shown looking out the window at his father, while the mother takes two Bufferin tablets. She then appears more calm and is shown moving towards her son, obviously attempting to console him.

FATHER. "Go ahead, Son try it."

SON. "I don't want to, Dad."

FATHER. "I bought it for you. It's expensive. Now look."

MOTHER. "You're such a good shot. He'll just feel inferior."

ANNOUNCER. "Often, people who are sensitive to others can be more sensitive to headache pain. Bufferin is for these people. It's strong medicine that treats you gently. Plain aspirin's fine, but Bufferin goes to work much faster—yet is actually gentler to your stomach. We believe the strong medicine you need should treat you gently. Faster, gentler Bufferin. Strong medicine for sensitive people."

B. By respondents Bristol-Myers and Young & Rubicam, for Excedrin:

1. The television commercial "First Baby" shows a man sleeping in bed. His pregnant wife wakes him and informs him that she is about to have the baby. He appears very nervous and excited and has trouble finding his clothes and shoes. Finally, half dressed, he rushes out what he believes to be the front door, but which is really a closet, leaving his wife still in the house. The commercial then depicts the chemical formulae, but not the names, of Excedrin's four ingredients. One ingredient is described as giving "quick relief", one as giving "long lasting" relief, one as a tension reliever, and one as an antidepressant.

ANNOUNCER. "Excedrin headache Number 27. The first baby."

WOMAN. "Honey, wake up."

MAN. "I'm awake."

WOMAN. "Let's go to the hospital."

MAN. "You're going—"

WOMAN. "I'm ready."

MAN. "You're going to have the baby?"

WOMAN. "Right away."

MAN. "Are you? You're okay?"

WOMAN. "Everything's fine."

MAN. "I just need my pants."

WOMAN. "I have them."

MAN. "I got my pants honey."

WOMAN. "Better put some shoes on honey."

MAN. "There they are. Oh, I've got the worst headache I've ever had. I got an Excedrin headache."

WOMAN. "Oh, sweetheart, just a minute, I'll get you some Excedrin."

MAN. "Would you, honey?"

WOMAN. "Here we are. And a little water."

MAN. "And a little water."

WOMAN. "That a boy. Easy."

MAN. "OK now. Can't waste anymore time. Gotta go. I'll see you later, honey."

ANNOUNCER. "The modern Excedrin formula gives you quick relief, long lasting relief, a tension reliever to relax you, an antidepressant to help restore your spirits. Four ingredients, not just two. That's Excedrin. The Extra-Strength pain reliever."

2. The televison commercial "Garner/Voodre/Arico" shows two women and a man describing how Excedrin helps them cope with everyday tense problems, such as fighting traffic and monetary trouble.

ANNOUNCER. "These are Excedrin Headaches. Listen."

Mrs. GARNER. "You know, you have to drive back and forth fighting the freeway traffic and everything."

Mr. VOODRE. "Like I said, we've been having money problems."

Mrs. ARICO. "Being a mommy. (laughs)"

ANNOUNCER. "For Excedrin Headaches you want the Excedrin formula, with four ingredients, to relieve pain and its tension."

Mrs. GARNER. "Well, it's fast. Your headache doesn't come back.

Mr. VOODRE. "When you take two Excedrin you're able to cope with your problems a lot better."

Mrs. ARICO. "My biggest reason for buying it and using it is because it works for me."

Mrs. GARNER. "Well, it's extra strength. It does the job."

ANNOUNCER. "Four ingredients. Not just one or two. That's Excedrin. The Extra-Strength pain reliever."

3. The television commercial "Miss Teresa Parkening" shows a young woman explaining how Excedrin relieved her headache quickly.

ANNOUNCER. "What is an Excedrin headache? Listen."

TESTIMONY. "Last night as a matter of fact, I was at a recording session and they had, oh, so many strings and a Moog synthesizer and tympani players and gongs, and it was so loud, and I walked in there with a headache. So I took two Excedrin during one of the breaks, ten minute breaks, and it was gone. The sound was still loud but it went away."

ANNOUNCER. "Excedrin works fast. It has a special ingredient for quick relief."

TESTIMONY. "Something that works ZAP! It's really good."

ANNOUNCER. "There are all kinds of Excedrin headaches, but there's only one Excedrin. The Extra-Strength pain reliever."

4. The television commercial "Snowdrift" shows snow blowing across a field. The audio describes how Excedrin is more effective for the relief of colds than other cold remedies.

ANNOUNCER. "It's common about this time every year. And everyone seems to catch it. It's the common cold. But this year, you don't have to settle for common relief of its aches and pains. You can take Excedrin. It has more pain relievers, more fever reducers, more total strength than the common aspirin tablet. For the pains of the common cold, take Excedrin for uncommon pain relief."

5. The television commercial "Atlantic City" shows the actor David Janssen standing on a balcony overlooking Atlantic City, New Jersey. He describes a hospital study comparing Excedrin and aspirin.

DAVID JANSSEN. "This is David Janssen. A hospital study has shown there may be something even more effective than aspirin for pain relief. At a medical convention held right here in Atlantic City, doctors heard the results of a new clinical study about how pain relievers perform among hospitalized patients. A study on pain, different, more prolonged than headache pain. In this study it took more than twice as many aspirin tablets to give the same pain relief as two Excedrin. More than twice as many aspirin to be as effective as Excedrin. Not three aspirin, not even four aspirin. But more than double the recommended dosage of aspirin to give the same pain relief as two Excedrin. Yes, there may be something even more effective than aspirin. That's what this study among hospitalized patients showed. Two Excedrin were more effective for the relief of pain than twice as many aspirin. Isn't it time you tried Excedrin."

C. By respondents Bristol-Myers and Young & Rubicam, for Excedrin PM:

1. The television commercial "Difference" opens with the actor David Janssen.

DAVID JANSSEN. "This is David Janssen. I'm not here to tell you about Excedrin. I'm here to tell you about Excedrin PM. They are different. Excedrin PM is the extra-strength night-time pain reliever. Its special formula contains three pain relievers plus a mild sleeping aid. So it gives you extra-strength for relief from nighttime pain, and extra help to sleep. Two very good reasons to try Excedrin PM. The nighttime pain reliever."

2. The television commercial "Day into Night" opens on a scene showing several houses during the day. Gradually, night falls, and the lights in the houses go out one by one. Finally, one light is left, and it too ultimately is turned off.

ANNOUNCER. "Daytime pain and nighttime pain can be different as day and night. Because at night, when it's quiet, even a tiny pain can hurt a lot. You could take a simple pain reliever. But it doesn't have anything extra to help you sleep. Excedrin PM does. It combines pain relievers with an additional ingredient to gently help you to sleep. Excedrin PM. The nighttime pain reliever."

3. The television commercial entitled "Sleeping Man" shows a middle-aged man sleeping peacefully.

ANNOUNCER. "A short while ago, John Martin was too tense and achy to sleep. Nothing serious enough for a strong sleeping tablet. So he took Excedrin PM, a new nighttime formula from the makers of Excedrin. It combines pain relief with a special nighttime ingredient, that gently helps you sleep. Excedrin PM is a new idea. Excedrin PM. The nighttime pain reliever."

Paragraph seven: Through the use of these advertisements, and others similar thereto not specifically set out herein, it was represented directly or by implication.

A. By respondents Bristol-Myers and Ted Bates, that it has been established that:

1. Bufferin relieves pain faster than aspirin relieves pain;

2. Bufferin relieves pain twice as fast as aspirin relieves pain;

3. A recommended dose of Bufferin relieves twice as much pain as a recommended dose of aspirin will relieve;

4. Bufferin will not upset a person's stomach; and

5. Bufferin will upset a person's stomach less frequently than aspirin.

B. By respondents Bristol-Myers and Young & Rubicam, that it has been established that:

1. A recommended dose of Excedrin relieves more pain than a recommended dose of aspirin or any other non-prescription internal analgesic will relieve;

2. A recommended dose of Excedrin relieves twice as much pain as a recommended dose of aspirin will relieve;

3. Excedrin relieves pain for a longer period of time than a recommended dose of aspirin or any other non-prescription internal analgesic;

4. Excedrin relieves pain faster than aspirin or any other non-prescription internal analgesic relieves pain;

5. Excedrin reduces fever more effectively than aspirin;

6. Excedrin is a more effective pain reliever than aspirin or any other non-prescription internal analgesic;

7. Excedrin is a more effective pain reliever than aspirin or any other non-prescription internal analgesic because it contains four active ingredients;

8. A recommended dose of Excedrin PM will relieve more pain than a recommended dose of aspirin;

9. A recommended dose of Excedrin PM is more effective for the relief of pain which occurs during the night than a recommended dose of aspirin or any other non-prescription internal analgesic; and

10. Excedrin PM is a more effective pain reliever than aspirin because it contains three analgesic ingredients.

Paragraph Eight: In truth and in fact, none of said representations has been established, for reasons including, but not limited to, the existence of a substantial question, recognized by experts qualified by scientific training and experience to evaluate the safety and efficacy of such drugs, as to the validity of all such representations.

Paragraph Nine: Furthermore, through the use of these advertisements, and others similar thereto not specifically set out herein; it was represented directly or by implication,

A. By respondents Bristol-Myers and Ted Bates, that:

1. Bufferin relieves pain faster than aspirin relieves pain;

2. Bufferin relieves pain twice as fast as aspirin relieves pain;

3. A recommended dose of Bufferin relieves twice as much pain as a recommended dose of aspirin will relieve;

4. Bufferin will not upset a person's stomach less frequently than aspirin;

5. Bufferin will upset a person's stomach less frequently than aspirin;

B. By respondents Bristol-Myers and Young & Rubicam, that:

1. A recommended dose of Excedrin relieves more pain than a recommended dose of aspirin or any other non-prescription internal analgesic will relieve;

2. A recommended dose of Excedrin relieves twice as much pain as a recommended dose of aspirin will relieve;

3. Excedrin relieves pain for a longer period of time than a recommended dose of aspirin or any other non-prescription internal analgesic;

4. Excedrin relieves pain faster than aspirin or any other non-prescription internal analgesic relieves pain;

5. Excedrin reduces fever more effectively than aspirin;

6. Excedrin is a more effective pain reliever than aspirin or any other non-prescription internal analgesic;

7. Excedrin is a more effective pain reliever than aspirin or any other non-prescription internal analgesic because it contains four active ingredients;

8. A recommended dose of Excedrin PM will relieve more pain than a recommended dose of aspirin;

9. A recommended dose of Excedrin PM is more effective for the relief of pain which occurs during the night than a recommended dose of aspirin or any other nonprescription analgesic; and

10. Excedrin PM is a more effective pain reliever than aspirin because it contains three analgestic ingredients.

Paragraph Ten: There existed, at the time of said representations, a substantial question, recognized by experts qualified by scientific training and experience to evaluate the safety and efficacy of such drugs, as to the validity of such representations.

Paragraph Eleven: Furthermore, respondents made said representations without disclosing the existence of such a substantial question as to the validity of each representation. In light of the representations made, the existence of such a substantial question is a material fact, which, if known to consumers, would be likely to affect their consideration of whether or not to purchase such products. Thus, respondents have failed to disclose material facts.

Paragraph Twelve: Through the use of the aforesaid advertisements, and others similar thereto not specifically set out herein, it was represented directly or by implication:

A. By respondents Bristol-Myers and Ted Bates, that Bufferin relieves nervous tension, anxiety and irritability and will enable persons to cope with the ordinary stresses of everyday life,

B. By respondents Bristol-Myers and Young & Rubicam, that Excedrin and Excedrin PM relieve nervous tension, anxiety and irritability and will enable persons to cope with the ordinary stresses of everyday life, and

C. By respondents Bristol-Myers and Young & Rubicam, that Excedrin PM is an effective mild sedative.

Paragraph Thirteen: There existed, at the time of said representations, no reasonable basis for making the above representations, in that respondents had no competent and reliable scientific evidence to support such representations.

Paragraph Fourteen: Furthermore, in advertising for Bufferin and Excedrin, respondents Bristol-Myers, Ted Bates and Young & Rubicam referred to the results of scientific tests or studies and the following representations were made directly or by implication:

A. By respondents Bristol-Myers and Ted Bates, that such tests or studies prove claims that Bufferin is twice as fast and twice as strong as aspirin in relieving pain; and

B. By respondents Bristol-Myers and Young & Rubicam, that such tests or studies prove claims that Excedrin is more than twice as strong as and more effective than aspirin in relieving pain.

Paragraph Fifteen: There existed, at the time of said representations, a substantial question, recognized by experts qualified by scientific training and experience to evaluate the safety and efficacy of such drugs, concerning the validity, significance, or interpretation of such tests as they relate to such representations.

Paragraph Sixteen: Furthermore, respondents made said representations without disclosing the existence of such a substantial question. In light of the representations made, the existence of such a substantial question is a material fact, which, if known to consumers, would be likely to affect their consideration of whether or not to purchase such products. Thus, respondents have failed to disclose material facts.

Paragraph Seventeen: Furthermore, in advertisements for Bufferin, and particularly through the use of the phrase "Doctors specify Bufferin for minor pain more than any leading brand of pain reliever you can buy," respondents Bristol-Myers and Ted Bates represented directly, or by implication, that physicians recommend Bufferin more than any other nonprescription internal analygesic products.

Paragraph Eighteen: There existed at the time of said representation no reasonable basis for making the above representation, in that respondents had no competent and reliable evidence to support such representation.

Paragraph Nineteen: Furthermore, respondents Bristol-Myers and Ted Bates marketed and advertised Bufferin and respondents Bristol-Myers and Young & Rubicam marketed and advertised Excedrin and Excedrin PM, without disclosing in the advertising for such products that such products contain aspirin and that Excedrin contains caffeine.

Paragraph Twenty: In truth and in fact, aspirin and caffeine are well-known, commonplace substances, widely available in many products. Moreover, the use of aspirin or caffeine may be injurious to health and may cause undesirable side effects. Thus, respondents have failed to disclose material facts which, if known to certain consumers, would be likely to affect their consideration of whether or not to purchase such products.

Paragraph Twenty-one: Furthermore, in advertisements for Bufferin, respondents Bristol-Myers and Ted Bates represented, directly or by implication, that the analgesic ingredient in Bufferin is other than ordinary aspirin; and in advertisements for Excedrin, respondents Bristol-Myers and Young & Rubicam represented, directly or by implication, that the ingredient giving "long lasting relief" is other than ordinary aspirin and that the "anti-depressant" is other than caffeine.

Paragraph Twenty-two: In truth and in fact, the analgesic ingredient in Bufferin is ordinary aspirin; the ingredient giving "long lasting relief" in Excedrin is ordinary aspirin; and the "anti-depressant" in Excedrin is caffeine.

Paragraph Twenty-three: Furthermore, in advertisements for Excedrin PM, respondents Bristol-Myers and Young & Rubicam have represented, directly or by implication, that it contains a special sedative or sleep-inducing agent available only in Excedrin PM.

Paragraph Twenty-four: In truth and in fact, the substance referred to in the advertisement is methapyrilene fumarate, an antihistamine which is available in several other non-prescription preparations including, but not limited to, Cope, manufactured by Sterling Drug Inc.

Paragraph Twenty-five: The advertisements referred to in Paragraphs Seven, Nine, Fourteen, Nineteen, Twenty-One, and Twenty-Three were and are misleading in material respects as alleged in Paragraphs Eight, Eleven, Sixteen, Twenty, Twenty-Two, and Twenty-Four and constituted, and now constitute, false advertisements.

Paragraph Twenty-six: The making of representations as alleged in Paragraphs Ten, Thirteen, Fifteen, and Eighteen constituted, and now constitutes, unfair or deceptive acts or practices in commerce.

Paragraph Twenty-seven: The use by respondents of the aforesaid deceptive representations and the dissemination of the aforesaid false advertisements has had, and now has, the capacity and tendency to mislead members of the consuming public into the erroneous and mistaken belief that said representations were and are true and into the purchase of substantial quantities of said drugs of respondent Bristol-Myers, by reason of said erroneous and mistaken belief.

Paragraph Twenty-eight: In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Bristol-Myers has been, and now is, in substantial competition, in commerce, with corporations, firms and individuals in the sale of drugs of the same general kind and nature as those sold by respondent.

In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Ted Bates has been, and now is, in substantial competition in commerce with other advertising agencies.

In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Young & Rubicam has been, and now is, in substantial competition in commerce with other advertising agencies.

Paragraph Twenty-nine: The aforesaid acts and practices of respondents, as herein alleged, including the dissemination of false advertisements, as aforesaid, were and are all to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute, unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Wherefore, the premises considered, the Federal Trade Commission on this 23rd day of February A.D. 1973, issues its complaint against said respondents.

NOTICE

Notice is hereby given to each of the respondents hereinbefore named that the 17th day of April A.D. 1973, at 10 o'clock is hereby fixed as the time and Federal Trade Commission Offices, 1101 Building, 11th & Pennsylvania Avenue, N.W., Washington, D.C. 20580 as the place when and where a hearing will be had before an administrative law judge of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under said Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the thirtieth (30th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each

ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the administrative law judge shall file an initial decision containing appropriate findings and conclusions and a appropraite order disposing of the proceeding. In such answer you may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and contest the allegations of the complaint and shall authorize the administrative law judge, without further notice to you, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions and order.

The following is the form of order which the Commission has reason to believe should issue if the facts are found as alleged in the complaint. If, however, the Commission should conclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions as to Bristol-Myers Co., or Ted Bates & Company, Inc. or Young & Rubicam, Inc., might be inadequate to fully protect the consuming public of the competitive conditions of the non-prescription drug products or the advertising industries, the Commission may order such other relief as it finds necessary or appropriate.

ORDER I

It is ordered that respondent Bristol-Myers Company, a corporation, and respondent Ted Bates & Company, Inc., a corporation, their successors and assigns, either jointly or individually, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of Bufferin, or any product of like composition, do forthwith cease and desist from:

A. Disseminating or causing the dissemination of any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which

1. Represents directly or by implication that Bufferin relieves pain faster than aspirin relieves pain; or

2. Represents directly or by implication that Bufferin relieves pain twice as fast as aspirin relieves pain; or

3. Represents directly or by implication that a recommended dose of Bufferin relieves twice as much pain as a recommended dose of aspirin will relieve; or

4. Represents directly or by implication that Bufferin will not upset a person's stomach; or

5. Represents directly or by implication that Bufferin will upset a person's stomach less frequently than aspirin; or

6. Fails to disclose that Bufferin contains aspirin;

B. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisements which contain statements which are inconsistent with, negate or contradict any of the affirmative disclosures required in Paragraph A above, or in any way obscure the meaning of such disclosures;

C. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in Paragraphs A(1) through A(5) and Paragraph B above or which fails to disclose the disclosure required in Paragraph A(6) above;

D. Representing indirectly or by implication that Bufferin relieves nervous tension, anxiety or irritability or will enable persons to cope with the ordinary stresses of everyday life;

E. Representing directly or by implication that physicians recommend Bufferin more than any other non-prescription internal analgesic product; and

F. Representing directly or by implication that tests or studies prove that Bufferin is twice as fast or twice as strong as aspirin in relieving pain.

II

It is ordered that respondent Bristol-Myers Company, a corporation, and respondent Young & Rubicam, Inc., a corporation, their successors and assigns, either jointly or individually, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of Excedrin and Excedrin PM or any products of like composition, do forthwith cease and desist from:

A. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which, by use of the phrase "extra-strength pain reliever" or otherwise,

1. Represents directly or by implication that a recommended dose of Excedrin relieves more pain than a recommended dose of aspirin or any other non-prescription internal analgesic will relieve;

2. Represents directly or by implication that a recommended dose of Excedrin relieves twice as much pain as a recommended dose of aspirin will relieve; or

3. Represents directly or by implication that Excedrin relieves pain for a longer period of time than a recommended dose of aspirin or any other non-prescription internal analgesic; or

4. Represents directly or by implication that Excedrin relieves pain faster than aspirin or any other non-prescription internal analgesic relieves pain; or

5. Represents directly or by implication that Excedrin reduces fever more effectively than aspirin; or

6. Represents directly or by implication that Excedrin is a more effective pain reliever than aspirin or any other non-prescription internal analgesic; or

7. Represents directly or by implication that Excedrin is a more effective pain reliever than aspirin or any other non-prescription internal analgesic because it contains four active ingredients; or

8. Represents directly or by implication that a recommended dose of Excedrin PM will relieve more pain than a recommended dose of aspirin; or

9. Represents directly or by implication that a recommended dose of Excedrin PM is more effective for the relief of pain which occurs during the night than a recommended dose of aspirin or any other non-prescription internal analgesic; or

10. Represents directly or by implication that Excedrin PM is a more effective pain reliever than aspirin because it contains three analgesic ingredients; or

11. Represents directly or by implication that Excedrin PM contains a special sedative or sleep-inducing agent available only in Excedrin PM; or

12. Fails to disclose that Excedrin or Excedrin PM contain aspirin; or

13. Fails to disclose that Excedrin contains caffeine.

B. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisements which contain statements which are inconsistent with negate or contradict any of the affirmative disclosures required in Paragraph A above, or in any way obscure the meaning of such disclosures;

C. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inclucing, or which is likely to induce, directly or indirectly, the purchase of any such product in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in Paragraphs A(1) through A(11) or Paragraph B above or which fails to disclose the disclosures required in Paragraphs A(12) and A(13) above;

D. Representing directly or by implication that Excedrin or Excedrin PM relieves nervous tension, anxiety, or irritability or will enable persons to cope with the ordinary stresses of everyday life;

E. Representing directly or by implication that tests or studies prove that Excedrin is more than twice as strong as, or more effective than aspirin in relieving pain; and

F. Representing directly or by implication that Excedrin PM is an effective mild sedative.

III

It is ordered that respondent Bristol-Myers Co., corporation, Ted Bates & Co., Inc., a corporation, and Young & Rubicam, Inc., a corporation, their successors and assigns, either jointly or individually, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of Bufferin, Excedrin, Excedrin PM or any nonprescription drug product, do forthwith cease and desist from:

A. Disseminating, or causing the dissemination of, any advertisements by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which,

1. States or represents, directly or by implication, that a claim concerning the performance, effectiveness, or side effects of such product has been established, when there exists a substantial question, recognized by experts qualified by scientific training and experience to evaluate the safety and efficacy of such drug products, as to the validity of such claim; or

2. Refers to the ingredients aspirin or caffeine by any word or words other than their common, or usual name, unless (a) it is clearly and conspicuously disclosed that such word or words refer to aspirin or caffeine, and (b) it is clearly and conspicuously disclosed that the only active analgesic ingredient in such product is aspirin and the only stimulant ingredient in such product is caffeine, if such is the case; or

3. Fails to disclose, clearly and conspicuously that such product contains aspirin or caffeine, if such is the case;

B. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisements which con-

tain statements which are inconsistent with, negate or contradict any of the affirmative disclosures required in Paragraphs A(2) and A(3) above, or in any way obscure the meaning of such disclosures;

C. Disseminating, or causing the dissemination of any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in Paragraphs A(1), A(2), or Paragraph B above, or which fails to disclose the disclosures required in Paragraphs A(2) and A(3) above;

D. Making any statements or representations, directly or by implication, concerning the performance, effectiveness, or side effects of such products when there exists a substantial question, recognized by experts qualified by scientific training and experience to evaluate the safety and efficacy of such drug products, as to the validity of any such statements or representations;

E. Making any statements or representations, directly or by implication, concerning the performance, effectiveness, or side effects of such products, unless at the time of such representations respondents have competent and reliable scientific evidence to support such statements or representations;

F. Representing directly or by implication that a test or study, or group of tests or studies, proves a statement or representation regarding the performance, effectiveness or side effects of such products, when there exists a substantial question, recognized by experts qualified by scientific training and experience to evaluate the safety and efficacy of such drug products, concerning the validity, significance or interpretation of such tests or studies as they relate to such statement or representation.

IV

It is further ordered that respondent Bristol-Myers Co., a corporation, its successors and assigns and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any product, do forthwith cease and desist from representing directly or by implication that physicians, or any other persons with scientific training and experience, recommend such product, unless at the time of such representations respondent has competent and reliable evidence to provide a reasonable basis from which such a conclusion may be drawn.

V

It is further ordered that respondent Ted Bates & Co., Inc., a corporation, its successors and assigns and respondent's officers, agent, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any non-prescription drug product, do forthwith cease and desist from representing directly or by implication that physicians, or any other persons with scientific training and experience, recommend such product, unless at the time of such representations respondent has competent and reliable evidence to provide a reasonable basis from which such a conclusion may be drawn.

VI

It is further ordered that respondent Bristol-Myers Co., a corporation, and respondent Young & Rubicam, Inc., a corporation, their successors and assigns, either jointly or individually, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any non-prescription drug product, do forthwith cease and desist from:

A. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents directly or by implication that such product contains an ingredient or combination of ingredients which is unique, special or available only in such product, unless such is the case.

B. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains the representations prohibited in Paragraph A above.

VII

It is further ordered, for the purpose of correcting the residual effects of prior false, misleading and deceptive advertising that respondent Bristol-Myers Company, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from disseminating, or causing the dissemination of, any advertisements for the products Bufferin, Excedrin or Excedrin PM for a period of two years from the effective date of this order, unless not less than twenty-five percent (25%) of the expenditures, excluding production costs, in each medium in each market for each product shall be devoted to advertising in a manner given prior approval by authorized representatives of the Federal Trade Commission, and unless each such advertisement consists exclusively of a clear and conspicuous disclosure, that contrary to prior advertising:

1. In the case of the product Bufferin, it has not been established that Bufferin relieves pain faster than aspirin; it has not been established that Bufferin will cause gastric discomfort less frequently than aspirin; and that Bufferin will not relieve nervous tension, irritability or enable persons to cope with the ordinary stresses of everyday life;

2. In the case of the product Excedrin, it has not been established that Excedrin is more effective for the relief of minor pain than aspirin or any other non-prescription internal analgesics; and that Excedrin will not relieve nervous tension, anxiety, irritability or enable persons to cope with the ordinary stresses of everyday life;

3. In the case of the product Excedrin PM, it has not been established that Excedrin PM is more effective for the relief of pain which occurs during the night than aspirin or any other non-prescription internal analgesics; and that Excedrin PM will not relieve nervous tension, anxiety, irritability or enable persons to cope with the ordinary stresses of everyday life.

In the case of radio and television advertising, such approved advertising is to be disseminated in the same time periods and during the same seasonal periods as the challenged advertising for Bufferin, Excedrin or Excedrin PM. In the case of the print advertising, such advertising is to be disseminated in the same print media used to promote those products. In addition, said corrective advertising by respondent may be required to disclose such further information as is deemed necessary for the protection of the public or competitive conditions in the non-prescription internal analgesic drug industry upon development of record facts after a hearing in this manner.

Provided however that at any time after the effective date of this order, respondent Bristol-Myers may petition the Commission to reopen the proceedings to alter, modify or set aside this paragraph of the order, should the results of a survey, conducted in a form and manner given prior approval by authorized representatives of the Federal Trade Commission, show that the purpose of this paragraph has been achieved.

VIII

It is further ordered that respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered that respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered that each respondent shall, within sixty (60) days and at the end of six (6) months after the effective date of the Order served upon them, file with the Commission a report, in writing, signed by respondents, setting forth in detail the manner and form of its compliance with the order to cease and desist.

In witness whereof, the Federal Trade Commission has caused this, its complaint to be signed by its Secretary and its official seal to be hereto affixed at Washington, D.C., this 23rd day of February A.D. 1973.

By the Commission.

CHAS. A. TOBIN,
Secretary.

TOOLS FOR SCHOOLS

Mr. BAYH. Mr. President, I am pleased to join the distinguished Senator from Vermont (Mr. AIKEN) and others in an effort to ensure that the National Industrial Equipment Reserve—NIER—school loan program does not come to an end. The bill which I join today as a cosponsor, S. 589, provides an urgent supplemental appropriation of $1.8 million for the NIER program in the General Services Administration.

The NIER school loan program makes machinery tools in our national stockpile available on a free loan basis to schools for use in their vocational training courses. Today over 8,000 pieces of machinery are on loan to nearly 400 schools in 44 States, providing vital vocational training to some 35,000 young persons.

In my own State of Indiana there are 321 pieces of machinery worth in excess of $2 million on loan to 18 different school systems.

The reason that the urgent supplemental appropriation is needed, Mr. President, is that last year a disagreement developed between the Congress and the administration over whether to retain funds for NIER in the General Services Administration or shift them to the Department of Defense budget. The General Services Administration has responsibility for maintaining and protecting NIER machinery in storage and for the school loan program; the Department of Defense has overall responsibility for the program. The result of the disagreement was that funds for the NIER school loan program were provided to neither Defense nor General Services Administration.

The irony of the situation is that virtually everyone agrees that the school loan program is a good one and provides great returns for a minimal investment. In fact, it appears that it would cost more to end the program than to continue it,

not even taking into account the vocational education benefits which it provides. If it becomes necessary to withdraw the machinery now on loan to the schools and to place it in Government storage the cost would be about $3.8 million. And if the schools attempted to replace this machinery at their own expense it could cost as much as $100 million. No one really wants this to happen, but it could possibly be the result if we do not take the action Senator AIKEN and I and others suggest. I urge my colleagues and the administration to give the most serious consideration to our proposal.

Mr. President I ask unanimous consent that a list of loan agreements by State and a list of NIER school loans in the State of Indiana be printed at this point in the RECORD.

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

LOAN AGREEMENTS AUTHORIZED BY STATES, AS OF DEC. 4, 1972

State	Number of loans	Number of items	Acquisition cost
Alabama	6	126	$530,424
Arkansas	27	506	2,113,555
California	28	501	2,556,645
Colorado	1	35	143,133
Connecticut	10	117	392,295
Delaware	2	22	111,112
Florida	1	43	97,020
Georgia	12	234	993,183
Idaho	3	33	110,098
Illinois	15	229	999,404
Indiana	18	321	2,229,527
Iowa	11	247	1,308,055
Kansas	10	233	897,585
Louisiana	1	14	42,461
Maine	3	41	172,942
Maryland	1	18	65,494
Massachusetts	27	665	2,573,796
Michigan	33	798	4,163,366
Minnesota	12	496	2,512,708
Mississippi	1	24	77,309
Missouri	10	308	1,704,995
Montana	1	5	10,668
Nebraska	4	131	704,464
New Hampshire	7	179	805,634
New Jersey	12	113	500,090
New Mexico	3	48	$176,656
New York	7	49	170,998
North Carolina	5	152	654,548
North Dakota	1	37	183,219
Ohio	31	481	2,604,630
Oklahoma	5	61	401,878
Oregon	13	176	1,288,125
Pennsylvania	19	392	2,144,316
South Carolina	10	289	2,159,518
South Dakota	3	86	336,113
Tennessee	7	86	328,532
Texas	4	45	243,330
Utah	3	76	525,959
Vermont	1	40	137,479
Virginia	13	172	1,198,264
Washington	7	146	732,610
West Virginia	3	81	236,243
Wisconsin	7	284	1,708,968
Wyoming	1	22	156,662
Total, 44 States	399	8,162	41,204,011

INDIANA

12010, Anderson—Anderson Area Vocational Technical School, 41 Items, Acq. Cost, $244,130.

02106, Bedford—North Lawrence Vocational-Technical School, 13 Items, Acq. Cost, $127,481.

02118, Cambridge City—Lincoln High School, 20 Items, Acq. Cost, $103,256.

12014, Elkhart—Elkhart Area Career Center, 17 Items, Acq. Cost, $49,620.

12020, Fort Wayne—Fort Wayne Community Schools, 19 Items, Acq. Cost, $136,141.

93003, Gary—Gary Area Technical—Vocational School, 8 Items, Acq. Cost, $80,880.

22129, Greenwood—Central Nine Vocational Technical School, 34 Items, Acq. Cost, $285,345.

32109, *Hammond—Purdue University (Calument Campus), 5 Items, Acq. Cost, $22,794.

22123, Indianapolis—J. Everett Light Career Center, 17 Items, Acq. Cost, $101,096.

93024, Indianapolis—Indiana Vocational Technical College, 9 Items, Acq. Cost, $216,533.

23185, Kendallville—East Noble High School, 8 Items, Acq. Cost, $32,456.

93025, New Albany—Charles Allen Prosser Vocational Center, 20 Items, Acq. Cost, $113,700.

22808, Sullivan—Sullivan High School, 20 Items, Acq. Cost, $82,672.

32113, *Syracuse—Lakeland Community School Corporation, 13 Items, Acq. Cost, $158,862.

12039, Terre Haute—Vigo County School Corporation—two locations, 31 Items, Acq. Cost, $256,721.

Terre Haute North Vigo High School, 15 Items, Acq. Cost, $129,342.

Terre Haute South Vigo High School, 16 Items, Acq. Cost, $127,379.

23261, Valparaiso—Valparaiso High School, 11 Items, Acq. Cost, $29,271.

23161, Versailles—Southeastern Indiana Area Vocational School, 17 Items, Acq. Cost, $66,759.

23277, Vincennes—Vincennes University, 18 Items, Acq. Cost, $148,810.

REPORT ON CONSTRUCTION CHANGES AT WEST POINT

Mr. GOLDWATER. Mr. President, retired Lt. Gen. Arthur Trudeau is Chairman of the U.S. Military Academy Planning and Advisory Board whose function is to oversee costs and possible overruns in the construction at West Point.

I have read their summary of changes ending February 1973, together with a capitulation of funds available through March of this year, and I think it would be of great interest to my colleagues to find out the good work that this committee is doing under the leadership of General Trudeau.

We seem to have put a stop to the never-ending spiral of increased costs at the Military Academy and we see in its place stability which will result in the better expenditure of funds in the years ahead.

I ask unanimous consent that this report be placed in the RECORD at this point in my remarks.

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

* Authorized loan in process of being negotiated.

SUMMARY OF CHANGES, FEB. 1-28, 1973

Project, contractor, and change number	Date	Description	Reason for change	Estimated cost
Cadet activities center:				
Sovereign Construction Co., Ltd.:				
R-0093	Feb. 6, 1973	Relocate door 108, revise masonry at light control room, revise door 951, etc.	Miscellaneous construction interferences	No change in price.
R-0094	Feb. 13, 1973	Revise NN fixtures	Necessary to relamp from above	$1,500.
Secondary sewage treatment facility: Vicon Construction Co.: R-0027.	Feb. 7, 1973	Add manhole at south site ejector station	Existing 10" not located as shown on contract drawing, manhole necessary.	$800.
Academic facility alteration: Gramercy Contractors, Inc.: R-0024.	Feb. 6, 1973	Revise wall bannister, room 341B, Thayer Hall	Necessary to provide stability for wall	$500.

Note: (1) No further changes to report. (2) No significant foundation changes to report.

FUNDS AVAILABLE AS OF MARCH 1973

Project	Authorization	Committed to date	Balance	Percent complete
Cadet activities center	$27,552,000	$24,230,396	$3,321,604	70.0
Academic science building	16,933,000	16,840,647	92,353	100.0
Thayer Road relocation	2,544,219	2,390,618	153,601	100.0
200 units family housing	7,200,000	6,994,215	205,785	99.9
Secondary sewage	4,289,000	4,189,749	99,251	85.0
B.O.Q.	847,000	826,832	20,168	99.0
Wash. Ruger Road Interchange	[1] 2,718,000	[1] 1,974,086	743,914	99.0
Academic facilities alteration	1,040,000	1,008,135	31,865	94.0
Expansion Camp Buckner	1,864,000	1,359,937	504,063	0
Modification to utilities	[2] 968,000		[2] 528,447	
Primary electrical system ext	([2])	396,152	([2])	0
Building 674 mech. rm. mod	([2])	43,401	([2])	0

[1] Reduced by $990,000. Corresponding increase of secondary sewage: above original amount of $3,299,000.

[2] Includes primary electrical system ext., Bldg. 674 mech. rm. mod. and water system mod. unawarded).

Note: Partial awards: (1) Relocate Washington Monument; (2) Thayer Road relocation, Cullum Road West, Jefferson Road to Washington Road. (3) Washington Road-Ruger Road intersection, Thayer Road-Cullum Road intersection.

THE USE OF COMPUTERS IN CONGRESS

Mr. GOLDWATER. Mr. President, for many years, almost since the advent of the computer, I have felt that it has a definite place in the operation of the Congress. I think it could benefit all of us in the daily operation of our offices; it would certainly be of great benefit to committee staffs and to people engaged in research for those staffs and for individual Members of Congress.

Honeywell, which is one of the major computer manufacturers in the country has done a study on the way it feels computers could benefit Congress. It appeared in the Honeywell Computer Journal, volume VI, No. 4, February 1973. I am sure that many of my colleagues have felt the same way about the advantage of computers in our daily congressional lives. Therefore, I ask unanimous consent that this be inserted at this point in my remarks.

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

COMPUTERS IN THE CONGRESS

(By Ernest C. Baynard)

Niccolo Machiavelli, The Prince (1513): "It must be remembered that there is nothing more difficult to plan, more doubtful of success, nor more dangerous to manage, than the creation of a new system. For the initiator has the enmity of all who would profit by the preservation of the old institutions and merely lukewarm defenders in those who would gain by the new ones."

INTRODUCTION

Information is the lifeblood of the legislative process, yet Congress has not exploited computer technology to meet its needs. Present-day computer technology, applied to the legislative process, would have a dramatic impact upon the effectiveness of the Congress. Most importantly, computers applied to the budget and appropriation cycle would provide information concerning budget requests and the nature and effectiveness of Federal expenditures far beyond the capacity of traditional data processing procedures. There are other areas of computer application—improving retrieval of reference and historical data—an effective bill status system—administrative improvements in the offices of Members of Congress. Applications in these areas that interface with the substantive legislative process is where Congress will obtain the true advantage of the computer.

Congressional payrolls, equipment inventories, and other "housekeeping" applications of computers have come to Capitol Hill in recent years. There have long been discussions of broad application of computers to the Congress. However, the first formal effort to bring this about began in 1965, when Congress established the Joint Committee on the Organization of the Congress to study means by which its operations could be improved. More effective legislative control over the budget and Federal expenditures was a priority item of the Committee.

Congressman Jack Brooks, Democrat of Texas, the leading congressional proponent of effective and efficient use of computers, was instrumental in adding language to the committee's report that recommended the development of a sophisticated computer system to support the budget cycle in both the Executive and Legislative Branches of the Government. Legislation implementing the Committee's recommendations was approved by the Senate, but the House failed to act and the Committee was dissolved in 1968. In 1969 January, Brooks introduced legislation aimed at getting congressional computer operations off the ground. But by then the House Rules Committee, which must give approval to legislation to reach the Floor for debate, had assumed responsibility for congressional reorganization and considered computers as falling within its jurisdiction As a result. this legislation, although approved by the House Government Operations Committee, did not get to the Floor of the House for consideration.

Fortunately, however, the Rules Committee bill, which Congress finally adopted as the Reorganization Act of 1970, included the language concerning computers which Brooks had previously recommended. Thus an affirmative mandate was established calling for cooperation between the Executive Branch (represented by the Office of Management and Comptroller General), in the development of a computer system to support the budget and appropriations cycle.

However, progress has been painfully slow and at times difficult, if not impossible, to observe. The decisive steps necessary to exploit the power of computers in the Congress have not been taken. All the necessary ingredients are available The resources, the expertise in both computers and in the legislative process, are available for the asking. All that seems to be lacking is initiative on the part of key officials in the support units of the Congress, and a comprehensive plan detailing the flows of data that are of value to the Congress and the extent these data are susceptible to modern data processing techniques. There is no plan in existence outlining who in the Congress should do what to make the computer systems Congress needs a reality.

There is an equally important problem—the need to describe this plan in language that people who are not computer technicians, people like Congressmen and their staffs, will readily understand. This is no altrustic requirement. Congressmen are zealous of their prerogatives. "Big" money is involved. Members will want an explanation of the product before Congress writes the checks.

Accordingly, this paper has two purposes. First, it is an attempt to explain computers and their relationship to Congress in simple language that laymen might understand. Second, it is to provide a rough "discussion draft" that could be altered or refined by computer experts and those involved in the legislative process or, in fact, by anyone who might wish to make a contribution. Hopefully this might ultimately lead to development of a coordinated and comprehensive approach to congressional computer system development.

THE COMPUTER

Computers—or, in more precise terms, electronic data processors—as their name implies, process data, information is some recallable or communicable tidbit of data that is oriented to the needs of a specific person or persons, for an identifiable purpose, at a specific time and location.

A computer is a very highspeed adding machine, commonly using binary (base 2) numbers instead of decimal (base 10) numbers. 1 is 1, 2 is 10, 3 is 11, and 4 is 100, etc., etc. Using binary numbers makes it easy for computers to add and subtract. To multiply can be to add repeatedly. To divide can be simply to subtract repeatedly.

The vast potential of the computer flows from this very highspeed computational capacity, coupled with the ability to compare numbers according to some predetermined order or sequence.

These two seemingly limited functions, computing and comparing, can theoretically be structured into any nonintellectual thought process of the human mind. A very simple example is the check reconciliation process, known to practically everyone. The computer, by a series of programmed instructions, calls each check up for examination. After feeding both the information on the check stubs and the returned checks into the computer via cards or tapes, the computer compares the number of the check stub with the number on the check. The computer scans the numbers. If the first number is less than the number on the check, the program "loops" back to repeat the comparison on the next number, and so on until the numbers on the stub and the check match. The amount of the check is then, by a simple follown computer operation, subtracted from the balance and the next check number is brought up for comparison.

This basic concept is simple. The structuring of "software"—the body of instructions and codes that direct the computer—almost always becomes a complex, tedious time-consuming, and costly operation, with the quality of the result depending upon the capability of the programmer.

Computers can process data into information of a quality and at speeds impossible to obtain from traditional data processing methods. A medium-sized computer reconciles the Government's checkbook on a current basis—a task previously employing hundreds of clerks who were usually months behind. Larger computer systems, properly designed and coordinated with the sources of data of value to the Congress, can be applied with equal effectiveness to key facets of the legislative process.

Before discussing the use of computers in Congress, certain fundamental policies must be recognized.

POLICIES PROTECTING THE INTEGRITY OF THE LEGISLATIVE SYSTEM MUST GOVERN THE APPLICATION OF COMPUTERS IN CONGRESS

The legislative process is a direct reflection of our democratic form of government. No computer should be used in any way to alter, or in any substantive sense compromise, the rules of the House or Senate or the basic parliamentary procedures of the Congress. Computer concepts must be moulded to meet the needs of the Congress. The Congress must not be subordinated to computers.

Computers must be used to improve the quality of information available to Members and enhance their decisionmaking capability. Through improvements in the quality of information available to Members and committees of Congress, higher quality decisions, directly benefiting the nation, can be made by the individual Members. Computer applications that might dilute the decisionmaking power of the individual Member or interfere with his representative capacity cannot be tolerated.

In the design and development of computer systems for use in the Congress, no arbitrary restrictions or restraints affecting the ultimate availability of data to all Members of Congress should be allowed.

The committees of the Congress must control the determination of their informational requirements. There are only three acceptable responses to the request of a committee of the Congress for data processing capacity. First, "Yes, the system now in use has the capacity"; Second, "Sorry, the capacity requested is beyond the state of the art"; Third, "Sorry, the system now in use does not have the capacity, but could be improved or extended at the cost of 'X' dollars. If you can obtain this additional funding for us, the data you request will be provided".

Under this approach, the capacity of computer systems available to congressional committees will depend directly upon the state of the art and the ability of the committee requiring information to obtain the resources needed to provide the capacity.

It is unrealistic to assume that any committee having policy control over any aspect of computer system development should limit or deny any request of any other congressional committee.

Computer systems will be very costly, but

if system development is properly coordinated and carried out, the benefits from computer use will be well worth the cost. No computer system should be introduced in Congress without the appropriate Committee of Congress first requiring a full explanation of the computer output in language the average Member can easily understand. Only on the basis of easily understandable explanations of the computer capacity to be provided should the Congress go along with the substantial expenditures inherent to the introduction of computers into the legislative process.

Extensive periods of time are often required to develop computer systems. It is therefore vital to avoid distortion of the effort to get quick results in order to justify the expenditures, when the distortion compromises the ultimate quality of the system.

It is also fundamental that the Congress, in the procurement of computer systems, follow the same policy considerations and businesslike management practices that have been laid down for the Executive Branch under Public Law 89–306. Of particular importance is the constraint that hardware should be procured under competitive conditions.

APPLICATIONS OF COMPUTERS IN THE CONGRESS FALL INTO SIX CATEGORIES

Computers Can Provide Members and Committees of Congress with Better Data about the Budget and Appropriations Process:

Attempt to obtain data concerning the funds available during this fiscal year for any program in the Executive Branch. A response could take days, or even weeks. Most probably the materials obtained would be very general and limited in amount.

Broaden your request to include the amount in the budget for the coming fiscal year covering this specific program. Or ask about the funds expended in prior years, the number of personnel employed, the results achieved, the statutory authority, and other rudimentary data regarding the program. You will find that weeks can elapse before any material is received.

On a more general basis, make a request for the total sum being expended for some particular category of expenditures, such as education. Request data about specific types of expenditures, such as travel on a governmentwide basis. There will be a similar delay, if, in fact, it is possible to obtain the data at *any* time in *any* form.

Relatively simple requests for data concerning the budget, just as outlined above, are preliminary to any evaluation regarding the need for, or efficiency of, any Federal program.

Through the use of computer techniques, a broad variety of data would be readily available within a period of a few hours concerning any facet of government operations. The day a new budget is submitted to the Congress, the committees and individual Members could obtain data concerning those facets of government operations, as reflected in the budget, of specific interest to them. They would not have to grapple hopelessly with the telephone-book-sized Budget Appendix.

Accompanying the basic fiscal data (what agency is to obtain how much for what purpose) would be the ability to obtain a limited, but important, number of basic evaluations. As an example, a Government Operations subcommittee could obtain, on the day the budget was submitted to the Congress, a printout of the funds allocated to each program in each of the departments and agencies under the subcommittee's jurisdiction. These funds could be broken down under the traditional object classification, indicating the amount to be spent for travel, personnel, etc., etc. Accompanying this breakdown could be a comparison with the funds available for these programs during the prior fiscal year. Immediately available would be data as to what programs involved increased expenditures, the areas of activity in which the increased expenditures would fall, and the percentage difference from prior years.

With this data could be a statement of statutory authority corresponding to the specific programs, a present and projected breakdown of personnel by GS rating, together with the ability to develop input-output indexes to indicate changes in operational efficiency of programs as a whole. The same data, but in differing formats to reflect the specific requirements of the legislative and appropriations committees, could be available within the same time frames.

With data of this nature readily available, it would be possible for Congress to significantly improve its control over Federal Government fiscal operations. On a "follow-on" basis, in the years to come, advanced data processing techniques could be used to develop a sophisticated analytical capacity that would assist Congress in evaluating the justifications for expenditures involving the various programs under way in the Federal Government. In the technical area, such evaluations would be a major responsibility of the Office of Technology Assessment which Congress recently established as a part of the Legislative Branch.

In very general terms, evaluations or assessments would be made by using historically-oriented reference or opinion data to evaluate and analyze the budget data. *Example:* Suppose a NASA budget request for $10 billion were before Congress to send spaceships to Mars to collect rock samples. Among other things, the Congress would want to have expert opinion data reflecting the opinions of geologists as to what might be learned from an examination of the rocks. The Congress might well wish to evaluate historical and reference data as to the extent knowledge was gained from collecting rocks on the moon.

Through Use of Computers, Congress Can Obtain More Effective Access to the Vast Store of Historical and Reference Data Essential to the Evaluation of Legislative Proposals and the Budgetary Requests of the Executive Branch:

Even assuming that you have reliable, current fiscal data concerning an identifiable segment of a Federal program, to assess ongoing and proposed new programs, and the efficiency of the operations that are involved, requires a research capability to obtain reference or historical data on the basis of which judgments can be made.

The contemporary testimony of witnesses before Congressional committees, at least in the form that it has been presented traditionally, is not susceptible to computer techniques. However, the *prior* testimony of witnesses and other experts, and the almost infinite store of knowledge in the Library of Congress and other depositories is "on call". It is needed by the Congress to properly evaluate the budget and other matters flowing through the legislative process.

At this time, the extraction of historical and reference data is a difficult, time-consuming process. Library of Congress researchers, following the traditional methods of past decades, examine a series of bibliography cards to locate data pertinent to a request.

In contrast to this inadequate approach, computers can be employed. The Library of Congress, without adequate funds, has been working in this area for years. Modern library science techniques aid the researchers in locating the desired data. Library bibliography cards can be computerized so that key words identifying the data requested will be matched up with synopses of books and periodicals and other materials, allowing for location of the data in minutes, when manual search would have taken hours or days.

Computers do not like unstructured data. Their application to historical or reference material, such as in the Library of Congress, will be a difficult and costly job. But through their use, substantial improvement in access to this type of material can be obtained.

Computers Can Be Used to Develop an Effective Bill Status System for the Congress:

At present, a Member's office or a committee must make at least five or six calls to determine authoritatively the status of a legislative proposal. This is a time-consuming, error-provoking process. A sophisticated bill status system, utilizing computers, can provide a status report on all legislation with one telephone call to a centralized bill status operational center. A computer system operator, given either the bill number or the subject matter of the legislation of interest, could query the system and provide a short response. Example: "H.R. 134 is pending before the House Armed Services Committee; no action is scheduled at this time". If the Member or staff member needed additional information, the operator could obtain a "printout" from the computer system of all information relative to that proposal. This would include the text of the bill, its author, action taken, references to the reports of various agencies, and other data concerning the proposal that an individual would need to make at least an initial assessment of the legislation. Requested printouts would be extracted from the system in the computer room and delivered to the Member's office.

After the system had been established, terminals could be installed at various locations on the Hill where printouts could be obtained. Ultimately, should the House or the Senate feel that the cost could be justified, terminals could be installed in each Member's office.

Computers Can Also Be of Some Possible Immediate Help in the Operation of Individual Members' Offices:

In discussing computers in the offices of the individual Members of Congress, a clear distinction should be made between—the overall development of computer systems that will benefit all Members of Congress—the linkage between these systems to the offices of individual Members for purposes of transmitting data, and—computer systems within the office to process data exclusively for the individual Member.

It is academic to discuss providing individual Members with information as to the (1) budget and appropriations cycle, (2) historically-oriented research or reference data from the Library of Congress, or (3) data from a bill status system, until these basic systems are developed and are in operation.

Aside from the installation of terminal or computer units in individual Members' offices to satisfy their needs for data from the systems enumerated above, computers don't offer any broad or immediate potential to the individual Member. However, there are some applications that would be helpful.

There is a present possibility that a computerized filing system could act as an adjunct in the development and maintenance of the Member's constituent mailing lists and also form the "base" for ultimately bringing into his office direct computer access capability with the systems referred to above.

Using a computerized filing system, a secretary would type, on an electric typewriter linked with a computer, the name of a constituent writing or contacting the Member. A "write-out" would immediately show whether the individual had previously written or contacted the Member, the subject matter of the letter, and the date of the response.

Incident to the final answering of the constitutent's letter or request in lieu of filing a copy of the response or noting the response on a file card, the secretary, using the same method just described, would add the iden-

tifying information as to the letter to the data stored in the computer for future access. The name could then be added to the permanent mailing list under subject matter categories, or could be printed out for whatever purposes the Member might require.

Computers Can Be Used to Improve the Communications Linkage Between Members and Their Constituents:

Computers can be used to vastly improve the maintenance of mailing lists and the processing of correspondence with constituents, and this is already under way in both the House and the Senate.

Computers Are Needed to Maintain the Housekeeping Responsibilities of the House and the Senate:

As in all other organizations, computers are effective in the development and the maintaining of payrolls, inventory systems, and other "housekeeping" activities. However, application of data processing techniques to these areas of activity is not as relatively important as those applications interfacing with the substantive legislative process, which these do not. Unlike the other applications already listed, there is no need for these systems to be compatible or uniform in any way between the House and the Senate. There is no need for compatibility between House and Senate housekeeping computers. There is no need for them to react. In fact, there may be an advantage in maintaining a lack of compatibility to avoid any possible compromise in the independent status of the House and Senate.

All meaningful computer applications in Congress will fall logically within one of the general categories referred to above, and depicted on the facing chart.

NOTES

1. Computer systems depicted in boxes with heavy outline must be compatible because they support or interface with the substantive legislative process. Data from the Office of Management and Budget (located in the Executive Branch), the General Accounting Office (headed by the Comptroller General), the Library of Congress, the congressional bill status system, and any computer capacity provided individual Members' offices, must be compatible so that these computer systems can "talk to each other" and their data can be blended for evaluation purposes.

2. The jurisdiction of the Joint Committee on Congressional Operations would emphasize the overall development of information systems for the Congress as a whole and, *to the extent necessary*, provide the coordinating linkage for the development and maintenance of the unified systems which are needed by both the House and the Senate, shown in the middle column of the diagram.

THERE ARE SERIOUS LIMITATIONS ON THE TYPES OF DATA SUBJECT TO COMPUTERIZATION, AND THESE LIMITATIONS MUST BE UNDERSTOOD IF OPTIMUM USE OF COMPUTERS IS TO BE ATTAINED IN THE CONGRESS

Computers are like some cats. They are finicky eaters. Computers will not accept just any data that comes along. And even if "just any data" is somehow fed into the memory of a computer, this does not mean that access to that data is possible. And even if the data can be gotten out of the computer, this does not mean it will have any informational value. In fact, computer output processed from poor data, or by inadequate computer programs, can be dangerously misleading. Data to a computer must be structured, identified, and classified in advance, in exact terms of its prospective use, or the computer simply refuses to work.

The information on a gasoline pump in a filling station as to the price and amount of fuel placed in an automobile tank is a good example of structured data—data that is identifiable and predictable in terms of form and description. These characteristics of the data remain stable although the data itself may change. On the gasoline pump, which is in essence a very simple computer, experience has shown that information as to the quantity of gasoline and the corresponding price of that quantity will be of value. The data as to these items will be constantly changing and will recur every time gasoline flows through the pump.

In contrast, there is nonrecurring, unstructured data, such as that generally found in testimony before congressional committees and in the vast collection of books, newspapers, and periodicals stored in the Library of Congress. While computers love structured and recurring data, the storage and retrieval of nonrecurring data present formidable problems.

While computer science is making inroads into the use of computers to retrieve data from loosely structured data bases, generally, as the flexibility of data structure increases, the ability to select specific data in the data base decreases.

Generally, data is either structured under some access concept, or is only subject to some library science-type indexing, where a trained researcher must take over from the computer and make the final identification of the data desired. Because of these limitations, only certain flows of data in the Congress are directly subject to computer techniques. They are vital to the legislative process but constitute only a limited part of the total data flow in Congress.

The knowledge of every Member, staff member, committee witness, visitor—the contents of every newspaper and book that is delivered to the Congress—every broadcast or telecast that is heard or seen by anyone interfacing with the legislative process—are all data sources that potentially affect the progress of legislation through Congress. Computerization of this entire flow is impossible. Our interest is in principal data flows, having significant impact on the substantive process, that fall within the perimeter of practical computer application. Note that a principal flow of data into the legislative process, the testimony of witnesses appearing before committees, is not generally subject to computer techniques.

Material submitted in oral testimony or for the record can be similar and related to budgetary and appropriations data received from the Executive Branch. Possibly witnesses in the future will offer material in computerized form that is compatible with and can be merged and evaluated on congressional computers, but in most instances such data will be predominantly current, unstructured, or reference-type. *Example:* "I am against the SST because . . .". Thus the testimony of congressional witnesses, although a principal informational flow into the Congress, is of no immediate concern in applying computers to the legislative process.

To the Congress, (1) budget data from the Executive Branch, (2) historical or reference-oriented data, such as from the Library of Congress, and (3) a bill status system, constitute the principal flows of data essential to the legislative process subject to meaningful improvement through computer techniques. The data flows on a functional basis correspond with the principal computer modules in a congressional computer system as previously described.

THE PRINCIPAL DATA FLOWS IN THE CONGRESS THAT ARE SUBJECT TO COMPUTERIZATION

The Budget, As Prepared in the Executive Branch, Is the Principal and Most Important Data Flow in the Congress:

In 1921, Congress delegated responsibility for the preparation of the budget to the Executive Branch. Each year, the Office of Management and Budget submits to the Congress the President's proposed budget, prepared under his direction on the basis of data supplied to the OMB by the 69 departments and agencies in the Executive Branch.

This flow of fiscal data is most important for two reasons. First, money is involved. Money is always important and achieves a top priority in its own right. In practical terms, the appropriation of funds to carry on the functions of government is the most fundamental aspect of the legislative process. Although it may not be the soul, surely appropriating money is the heart of the legislative process.

The second reason that budget and appropriations data is of prime importance to the application of computers in Congress is that the budget items may be the most extensive and most acceptable "common denominator" needed to unify the various computer applications Congress may require. The basic architecture of a computer system must have a backbone. It is doubtful whether a subject matter index (as would be the backbone of a bill status system) would be as satisfactory as the individual seven to eight thousand budget or cost elements in the OMB's proposed budget and appropriations system.

The budget is a prime candidate for a computer application. The structured fiscal data is highly susceptible to computers. The benefits to Congress are formidable. The computer gives Congress a real opportunity to regain fiscal control over the Federal Government after having delegated the budget function to the Executive Branch in 1921. Such a system could be the keystone of the legislative process, and could with logic and reason be ranked as the most important computer system in the nation.

Historical Material, Such as That Found in the Library of Congress, Is Also a Principal Source of Data Relative to the Substantive Legislative Process:

Unstructured, historical, or reference data that Congress might need cannot be identified in prospective terms and made available systematically in anticipation of the need. Data does not become information, and therefore of value, until related to a specific need. And legislative informational needs, as in most endeavors, are for the most part unpredictable. However, Congress must have the means of acquiring individual items of data concerning practically any facet of human endeavor that might relate to or be pertinent to matters under consideration in the legislative process.

The Library of Congress, the Executive agencies—in fact, the entire outside world—have vast stores of data of this type. Because the need for most reference material cannot be anticipated, data from historical or reference sources must generally be requested. The sum total of these requests constitutes a second vital flow of data into the legislative process. This data, served up "when needed", is what judgments are based on. Nonrecurring data of past events, opinions, and prior decisions are one of the most important sources of information in the legislative process.

Although access of this data for the most part is not subject to direct computer application, the library science and bibliographic data used to identify and locate the desirable material can be processed by computers. Synopses of certain classes of reference material, such as normally accompanies medical and other scientific treatises, can be placed in computer memory and retrieved on a subject matter or "key word" basis.

Other computer techniques with significant potential in the storage and retrieval of nonrecurring data must be exploited. Note that the structured budget data and the contents of a congressional bill status system become reference material after the fiscal year or a particular Congress come to an end. As time passes, reference or historical data on past budgets and prior legislation should be subject to immediate recall.

The Congressional Research Service must provide Congress the highest level of computer capability, recognizing that this is a difficult area for computer applications.

The Flow of Data As to the Status of Bills

and Other Proposals in the Legislative Process Is Also of Vital Concern to the Congress:

The nation's vast telephone system would be useless without telephone books. Likewise, the legislative process, to operate most effectively, must provide individual Members of the Congress and the committees with a flow of data as to the status of the various legislative actions under consideration.

The tendency to underestimate the complexity and the cost of this system should be recognized. Many state legislatures have "bill status" systems. OMB has recently developed a relatively simple system to follow legislation affecting the President's program. But these systems have little in common with the system Congress requires. Experts on the legislative process must "think out" every step of the process and identify in detail the ultimate product or requirement the computer is to provide. Design of a bill status system requires much preliminary work on the part of experts in the legislative process even before computer technicians are involved. A standard and improved subject matter index applicable to the Congressional Record and the U. S. Code must be completed. Fortunately, the Congressional Research Service has done considerable work on a project of this kind.

A number of other exceedingly delicate problems must also be worked out so that the system will be of meaningful value to Congress. There must be an effective way to handle "clean bills" that is, measures that are introduced after committee consideration has been completed, to reflect, in "clean" draft form, the amendments that the committee recommends to the House or Senate. If a Member should query a bill status system concerning "H.R. 1234" and be advised that the bill had been indefinitely postponed, he would be rightfully concerned to learn at a later date that a "clean bill" had been introduced as "H.R. 3456" and had gained the approval of the Congress.

As computers don't like undefined, unstructured data, every bill that goes into the system must be analyzed and given a title or reference in accord with the system's subject matter index. This takes time. Yet the system must be immediately responsive. Think of the logjam at the beginning of a Congress when hundreds of proposals are introduced at one time. There is no requirement, nor is there likely to be one, that Members conform the titles of bills they introduce with some standard subject matter index. To fit each bill into a standard index will require individual evaluation by the Congressional Research Service. This, and other analyses that must be made if the system is to be of real value, will require considerable time for much of the legislation introduced. An apparent solution is a temporary system based on bill number and title. Then, when action is scheduled on the bill, it could be placed in the permanent data system. The delay between introduction and action would give the Congressional Research Service time to analyze the bill and to structure its contents in data forms acceptable to a computer.

There are countless other problems that must be anticipated and researched before a bill status system concept should be allowed near a computer.

THERE ARE A NUMBER OF SYSTEMS DESIGN CONCEPTS AND OTHER IMPORTANT CONSIDERATIONS THAT MUST BE TAKEN INTO ACCOUNT IF THE CONGRESS IS TO UTILIZE COMPUTERS EFFECTIVELY

Computer Compatibility Is Essential to the Efficient, Effective Use of Computers in Congress:

Computer usage in Congress will evolve over a long period of time. It isn't practical or even possible to develop in one cycle a comprehensive system covering all possible computer applications. What Congress must do is develop computer systems on a modular basis with the view that systems that relate to the substantive legislative process will ultimately interface or even merge. Congressional computer development will be like planting plugs of zoysia grass.

The interests of the Congress demand that these modules be capable of mutual interaction at some future date. Computers supporting the substantive legislative process must be able to "talk to each other" through data exchange, as data systems grow and the data they maintain begins to intermingle with data in other legislative systems.

This means that congressional computers in both the House and Senate that support or potentially interface with the *substantive legislative process* must be compatible between themselves and with the basic budget systems maintained by the Office of Management and Budget. Data generated at various points within the government must be merged and evaluated, for understanding by all concerned.

There must be uniformity. Otherwise, computers will not work. If the Senate were to develop a system that stated the date as "3 November 1969", the House were to use "11/3/69", and the Executive branch were to use "November 3, 1969", hopeless confusion would be the computer output rather than valuable information Congress needs.

The development and maintenance of a broad spectrum of classifications, standards, and conventions essential to an acceptable level of compatibility will be a difficult, time-consuming and permanent job. Some people say it is impossible. Others suggest that it is not necessary. But they are wrong. Compatibility is the key to effective use of computers in Congress, and compatibility requires a unified approach *at the operational level* in the development of initial systems Congress urgently requires. A unified approach to the development of computer systems directly relating to the substantive legislative process must either be the cardinal rule, or you can virtually write the future effectiveness of Congress "off the books".

During the Design Stage, the Architecture of Congressional Computer Systems Must Be Tailored To Meet the Needs of the Committees:

Design of effective computer systems for the Congress does not allow all 535 Members of the House and Senate a choice in system structure or data format. Computer systems design must reflect the same considerations that led Congress to develop the committee system, under which the organizational structures of the House and Senate allow special attention to be given specific matters of legislative interest.

Variations in system output, such as the format of the data, must be kept within reasonable bounds. The requirements of Members must be placed in logical categories in the same manner that their interests are categorized under the committee system. This does not compromise the interest of the individual Member. The sum total of committee requirements for data is essentially the same as the collective requirements of the Members. Once the systems are in operation, the data would be available to individual Members under whatever procedures and policies the House and Senate may adopt.

The requirements of the committees during the systems design stage are the immediate goal of any congressional computer effort. Responding to this more specific objective will be difficult enough, even considering duplication in requirements among the committees.

The House has 21 so-called "standing" or regular committees, the Senate has 17. Apart from the rules and administration committees, with no extensive interface with the substantive legislative process, congressional committees are of four categories.

The Revenue Committees: The House Ways and Means and Senate Finance Committees raise revenue. They are interested primarily in a data flow from the Office of Management and Budget as to the fiscal condition of the government and revenue estimates of the funds that will be paid into the Treasury under tax laws now in effect. Most of this is heavily structured, budget-type data.

The Appropriations Committees: The House and Senate Appropriations Committees are interested in structured budget data from OMB in the traditional object classification format. In addition, these committees are interested in related support data justifying an expenditure for the particular item at the level requested, which is a combination of structured budget data and reference or historical data.

The Legislative Committees: The various legislative committees, with subject-matter jurisdiction over varying categories of operations such as "Armed Services," "Labor", "Commerce", etc., deal with the authorization of programs. Although requiring structural fiscal data, their primary interest is in contemporary, reference, and historical data.

The "Oversight" Committees: The House and Senate Government Operations Committees have responsibility to audit and evaluate the economy and efficiency of government, i.e., follow the appropriated dollar to see that it is properly expended in accordance with the legislation authorizing the program. These committees have a primary need for fiscal data, but in a different format than that presented in the budget and used by the Appropriations Committees. The primary need is for Federal expenditures set forth in a program format.

Thus the data requirements of all congressional committees subject to computer techniques can be met by three basic systems: (1) a system providing information as to the budget and appropriations cycle, with the capability for formulating or arranging the data in a manner consistent with the different needs of the four types of committees; (2) a system encompassing the latest advances in library science computer techniques to provide the most effective retrieval capability for historical and other unstructured data that might be stored in the Library of Congress or any other depository available to the Congress; and, (3) a bill status system. In other words, the systems previously described.

The design of these three basic systems, with data structures and formats required to meet the needs of these four basic types of congressional committees, is the immediate goal. This approach reduces the congressional computer system design problem to a manageable size.

It Is Important, As Far As the Use of Computers in the Congress is Concerned, to Distinguish Between the Acquisition of Data by Computers and the Follow-On Analysis of This Data Using Computer Techniques:

The application of computers in Congress will be a long process that will evolve continually for decades. Use of a modern cost-benefit analysis technique in the Congress is a popular concept—and quite reasonably a controversial subject. In practical terms, the broad and meaningful use of such techniques in the Congress is a long way off. *In any event, it will depend upon Congress' first acquiring the data in the proper quantity, quality, form and structure to analyze.*

Meanwhile, broad access to fiscal data alone, without any accompanying analytical capability, would be of the greatest value. Just a simple inventory of the money. Just a simple statement of "who" is getting "how much" for "what" would be 'hawg heaven" for most Congressional committees, in contrast to what is presently available.

Congress must not overlook the data to be analyzed in grasping for analytical capability.

The Most Effective and Efficient Computer System Design Comes from Blending the Technical Expertise of the Computer Expert with the Knowledge of Those Familiar with the Field of Application and Those Who Will Use the System:

While there are always exceptions, computer systems must be tailormade. Few applications programs can be purchased "off the shelf". The system design must reflect the highest level of understanding of the substantive process to which the computer is to be applied. Good system design technique requires a "cycling" or repeated exchange between computer experts and the experts in the field of substantive application. It is essential, therefore, that prospective users demand a complete explanation and data format description of a proposed system before implemenation begins.

This is particularly important if computerization of obsolete systems is to be avoided. Present noncomputer data systems often reflect the limitations of their time, and some of these presently in use in Congress date back to George Washington's administration. These limitations need not be retained after computers are introduced. *Example:* There is no need to limit the requirement for an update of the budget to July 1 each year as provided in the Reorganization Act. Computers can provide for a constantly updated budget, reflecting changes as they are made.

Only through the blending of computer expertise with that relating to the proposed application can such limitations on data flow be identified and discarded. Only by such discussions—in a "give and take" environment—can an optimum system be devised. Such discussions are essential before *any* system is slated for implementation.

THERE MUST BE AN AGREED-UPON PLAN DELINEATING RESPONSIBILITY FOR THE ORDERLY AND EFFECTIVE INTRODUCTION AND USE OF COMPUTERS IN THE CONGRESS

Applying Computers to Congress Immediately Becomes a Question of Who Does What:

There are a number of potential players in the congressional computer game, each with different roles. It is essential that the fundamental question "who does what?" be settled in advance of computer system development. Otherwise, the success of the overall effort will be endangered from even an additional source.

All parties potentially involved in computer use in Congress can be set forth in three categories. First, the users of the system, that is, the committees and the individual Members. Second, those will have policy control over system development and use. Third, those who will have operational responsibility for the development, maintenance, and continual improvement of computer systems.

At this point, a traditional philosophy of congressional operations comes into play. Congressional committees do not become involved in the routine operation of the various systems and services that support the legislative process and the Congress in general. *Example:* The staff of the Joint Committee on Printing does not directly manage the Government Printing Office, but rather asserts policy control over those officials with this responsibility.

The advantage of this policy is that it will allow the congressional committees to maintain the necessary independent "oversight" and policy control. If the committee were to become involved in the day-to-day operations through the use of its staff, then the committee would have no "leverage" in maintaining "oversight" and policy control over the operations.

In keeping with this policy, congressional committees should not become involved in actual computer system design and operations, but should remain aloof. Only thus can the proper policy control and the essential "oversight" function be maintained on a viable basis.

The House and Senate Committees With Administrative Jurisdiction Have Primary Policymaking Control Over Computer System Development and Maintenance in Their Respective Houses:

In keeping with the policy of avoiding change or distortion of the present legislative or parliamentary system, it is logical that the House Committee on Administration and the Senate Committee on Rules and Administration maintain jurisdiction over computer system development and maintenance in their respective houses.

However, the emphasis on the oversight and policy control these two committees assert should be on the final product the committees, the individual Members, and other units of the Congress require. Both of these administrative committees should determine informational requirements and see that whatever operational unit has responsibility for providing these requirements delivers "the goods".

This approach allows the subordinate operational unit in the Congress with jurisdiction over development and maintenance of a particular system to "merge" the requirements of the House and Senate into one system that will provide for the needs of both. Not only will this allow for compatibility in computers between the House, the Senate, and the Executive Branch, but it will also avoid costly and unnecessary duplication in computer systems between the House and the Senate.

There is ample precedent. All major congressional subordinate support units—that is, the General Accounting Office, the Library of Congress, and the Government Printing Office—have always operated under this principle. Both the House and the Senate levy requirements against these units in terms of the product required. Neither the House nor the Senate require some unique auditing approach, library reference system, or printing classification that forces a division or duplication of operations.

The same fundamental policy must apply to computers. With the House and the Senate administrative committees saying what the two Houses of Congress want, rather than how to meet the requirements, the operational units can merge these needs into a unified compatible system.

The Joint Committee on Congressional Operations Should Undertake Long-Range Policy-Oriented Studies of the Informational Needs of Congress as a Whole:

A vast improvement in basic data as to to the budget and appropriations cycle is within our grasp. With additional funds, limited improvements can be made in the reference and research activities of the Library of Congress. An effective bill status system can be developed within a reasonable time period—assuming the magnitude of the task is recognized and proper discipline is kept during development.

The advantages of this data acquisition capacity are small compared to those that will flow from the use of advanced computer techniques in the simulation and analysis of legislative proposals and appropriation requests, and in the audit of government operations. Such sophisticated systems cannot be developed overnight. They must evolve from the more rudimentary computer capacity discussed here. Painstaking analysis must be made of the overall informational requirements of Congress as a prelude to the development of more sophisticated computer capacity.

The Joint Committee on Congressional Operations is ideally suited to carry on such studies and analyses. It has no legislative authority, but no other committee of the Congress has comparable jurisdiction regarding congressional operations. The Joint Committee can operate effectively in this area without concern that its work impinges upon the jurisdiction of other congressional committees. Its reports need not and undoubtedly will not always reflect the optimum approach Congress should follow, but they can provide the essential discussion base, for those who might disagree, to offer affirmative and constructive criticism.

In a sense, the overall application of computers to the Congress requires "discussion drafts" of proposed computed system capacity. The Joint Committee offers the most comprehensive jurisdiction for the development of these studies.

The Comptroller General Has the Responsibility to Establish the Essential Classifications and Other Standards Necessary to Provide the Government with a Computer System to Support the Budget and Appropriations Cycle:

The Legislative Reorganization Act of 1970 requires the Comptroller General to cooperate with the Secretary of the Treasury and the Director of the Office of Management and Budget to "develop, establish, and maintain standard classifications of programs, activities, receipts, and expenditures . . ." necessary for the development of a computer system to support the budget and appropriations cycle. This delegation of authority extends to the Comptroller General the responsibility to develop and maintain a compatibility "linkage" between the various departments and agencies in the Executive Branch and the Office of Management and Budget. While primary responsibility for the development of a computer system to support the budget and appropriations cycle rests with the Office of Management and Budget, the act provides for the Comptroller General's "cooperation" in this task, to see that the various classifications in the overall system that is developed reflect the needs of the Congress.

The Comptroller General should extend the classifications and other standards developed in cooperation with OMB to systems in Congress interfacing with the substantive legislative process. This means that when other units of the Congress develop a computer system, the standards that are necessary to assure compatibility of the new system with the basic system of the Office of Management and Budget will be provided by the Comptroller General. The Comptroller General will not become involved in computer system design and development for other subordinate units of the Congress, but will provide the "rosetta stone" of compatibility that is essential to effective use of computers in Congress.

The Subordinate Units of Congress Should Maintain Responsibility for the Development of Computer Systems under the Overall Policy Control of the House and Senate Committees on Administration:

Those units of Congress with present responsibility to provide the data under traditional systems of processing should be directly responsible for systems design, maintenance, and improvement. The Clerks and Sergeants at Arms of the House and the Senate should have responsibility for applying computers to the various housekeeping operations. These officials should also maintain responsibility for the mailing list operations and whatever computer applications the House and Senate may desire regarding the tabulations of votes on the floors of the two houses.

The other main computer applications referred to earlier are the responsibility of the General Accounting Office and the Library of Congress, with an increasing role by the Government Printing Office as concepts such as "text editing" and computer typesetting prove out and are implemented. To the extent these Congressional support units need computers, then they should be primarily responsible for system development, subject to compatibility standards set by the Comptroller General under authority extended him in Title II of the Legislative Reorganization Act of 1970.

A PLAN FOR APPLYING COMPUTERS IN THE CONGRESS

The Committees on Rules and Administration:

Both the House and the Senate committees, independently, should oversee the development of computer systems by their subordinate units to ensure that the computer capacity to be provided meets the needs of the House and the Senate as a whole. To a great extent this means developing "laymanlike" statements of proposed computer systems. If subordinate officials of Congress responsible for system development can't fully explain the system output to the complete satisfaction of a layman, then they have not gotten to the point where the system should be implemented. Testimony of reports as to "progress" being made should *not* be accepted as substitutes for actual computer system descriptions.

The House and Senate committees should order studies of the individual Members' offices to obtain an authoritative determination of potential computer applications (apart from bill status, and budget and appropriations) that might be of assistance now. Of particular interest should be development of a computerized filing system that would form the basis for updating the Member's computerized mailing lists, as well as relieve his staff of the drudgery involved in the maintenance of present filing systems. As these systems may be linked directly to basic congressional computer systems supporting the substantive legislative process, compatibility should be maintained through the Comptroller General by means of the standards adopted under the authority of the Reorganization Act.

This project should be undertaken on a pilot basis, and the basic system should be "proved out" before any computer peripherals are installed in Member's offices.

Both the House and the Senate should continue the present active development and improvement of computerized mailing lists to improve the communicative link between individual Members and constituents.

The Congressional Research Service and the Library of Congress:

The first job for the Congressional Research Service is to develop requirements for a comprehensive bill status system. This computer application is difficult, but nevertheless within the present state of the art.

The Congressional Research Service and Library of Congress generally, in cooperation with the Joint Committee on Congressional Operations, should study and delineate what computers now offer in areas of reference and research. This problem definition is mandatory before any substantial sums of money are expended on Congressional Research Service computer systems.

The Comptroller General:

The Comptroller General should modularize his efforts in the computer field to maintain identity of different programs and objectives that must be carried out on a parallel basis.

The General Accounting Office should obtain computer capacity corresponding to that which the Office of Management and Budget uses in the preparation and maintenance of the budget. This will allow the Comptroller General's staff and interested Members of the Congress and their staffs to become familiar with the computer operation in the Office of Management and Budget. This familiarization is essential to future budget and appropriations cycle system design and the bringing of this capacity into the Legislative Branch on a broad and effective basis. Members and committees conversant with computer operation would also find this of immediate value. The Congress has data and program tapes for the current fiscal year available, but nothing is being done with them.

Congress must have a budget and appropriations computer system comparable to and compatible with the system used by the OMB of the Executive Branch to prepare and maintain the budget. Fundamentally, Congress must have the capacity to make independent evaluations of its own data for use by the Congress. An independent Congressional computer system is also necessary to solve the "executive privilege" problem. Obviously, the President would never permit the Congress direct access to Executive Branch computer systems. They contain data about discretionary matters, future policies and expenditures, possible courses of action, etc., etc., that the President logically wants to remain confidential. Yet such data is often intermixed with that which Congress can justly claim and must ineed for legislative purposes. Therefore the transfer of data tapes and disks from OMB to Congressional computer systems is the only practical way of communication which also protects the informational integrity of both the Congress and the President.

Plans should be made to bring into the Legislative Branch the new Office of Management and Budget computer system McKinsey and Company has designed to support the budget and appropriations cycle [1]. As with the present system, this will begin with compatible hardware in the Legislative Branch plus the acquisition of Office of Management and Budget computer programs and data base. On the basis of this system, future analytical capacity for the Congress will be developed. Classifications and other standards for this system must be extended to all systems in the Congress that interface with the substantive legislative process.

A clear, laymanlike description of this new budget and appropriation computer system under development in the Office of Management and Budget should be created and provided to the Congress. If Members and their staffs know exactly what the new system is designed to provide in the form of data, much of the mystery and complexity that presently envelop the concept would disappear.

There should be developed a hierarchy of categories of classifications, standards, and conventions that are essential to the development and maintenance of a compatibility linkage between the Office of Management and Budget and legislative computer systems.

The highest order of budget classifications is the budget and appropriations system itself, in that there will be companion systems technically of the same "order" or "level" for use in both the Executive and Legislative Branches of Government!

The next order of classifications is for the variations in which the basic budget can be formatted to meet the unique requirements of different officials. At present, there are 1200 budget accounts in the budget. But these 1200 accounts cannot be rearranged in any simple way to translate the budget data they contain from, say, the traditional object classification the Appropriations Committees require to the program classification the Government Operations Committees require, or any other classifications that are needed in both the Executive and Legislative Branches.

The present Office of Management and Budget effort under the so-called "McKinsey Report" is to go down to seven or eight thousand cost elements that can be arranged into any format that might be required.

Information as to these varying categories or formats must be provided Congress at the earliest possible date. There is at least the outside chance that Congress might require other formats of the budget that do not presently fall within the contemplation of the OMB's proposed system.

Below these basic budget classifications are tiers of other classification standards and conventions relating to systems design and data that directly affect compatibility. These classifications soon become so technical in nature as to be beyond the interest of anyone other than computer technicians. However, congressional computer technicians must understand them to protect compatibility and the general interests of the Congress.

Identification of these various categories is an essential first step in the development of effective standards.

The Comptroller General, in cooperation with the Director, Congressional Research Service, should begin an inventory of substantive data bases in and outside the Federal Government and that might be of interest or value to the various congressional committees. Included would be whatever computerized data bases have been developed either in the Executive Branch or can be obtained, that would be of interest to specific committees.

As an example, data on unemployment and labor trends from the Department of Labor, presently maintained in computer form, could be adapted and made available to the House and Senate Labor Committees. Adequate safeguards, however, would have to be maintained to protect the purity of the basic congressional system from whatever incompatibility may lurk in the data obtained by this means, as well as whatever computer capacity may presently exist in the Congress that interfaces with the substantive legislative process.

This inventory would be reviewed and assessed incident to the preparation of an individual report concerning the potential benefits of computers to each specific committee. In the preparation of these reports, the Comptroller General would adhere to the similarity in structure of various committees referred to earlier in this paper so that he could provide the computer capacity for all committees and Members by the determination of a net requirement to be obtained from the operation of one basic system.

Discussions should be held with the Director of the Congressional Research Service, the Government Printing Office, and other possible support units of the Congress whose data requirements interface with the substantive legislative process, to work out a system of maintaining standards on a legislative-wide basis.

The General Accounting Office's requirements for computer capacity should be evaluated, aiming at the development of a modern audit concept based upon computer usage. By this means, the GAO's requirements could be merged into those developed in the Congress so as to avoid unnecessary and costly duplication, as well as possible problems of incompatibility.

There Should Be a Congressional Computer Working Group:

For reasons already discussed, there is little likelihood of obtaining rigid centralized policy control over computer system development in Congress. Nor is such an approach necessarily desirable except in the area of computer standards, to assure compatibility, and they are of little concern to the average user.

Yet the nature of systems design requires some degree of overall coordination. This coordination could be brought about by a quasi-formal working group. This group would represent the chairmen of the various committees involved in system design and implementation, as well as the Comptroller General, the Director of the Congressional Research Service, and the Public Printer. This group could identify some of the problems that will inevitably plague computer system development in the Congress and report these problems to the appropriate officials so that they might be resolved in a timely manner. Aside from the limited but important function, such a group would have no power and would not undertake any concerted action of a formal nature.

CONCLUSION

As the 93rd Congress begins its deliberations, the complex question of limiting Fed-

eral expenditures will be a primary subject of concern. It is a fact of life that neither man nor nation can live within available resources without reliable information about needs and expenditures. For this reason it is hoped that among the solutions that are devised will be the granting of top priority to the development of the computer system to support the budget and appropriations cycle. Above all other considerations, this is the most critical need of the Congress. With annual expenditures at the $250 billion level, even a minor improvement in the budget and appropriation system would save billions.

Computers are the only hope that our Congress has to acquire the basic data needed to control expenditures. Without this data there can be no effective Congress and, ultimately, no democratic system.

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EDITORIAL

As the 93rd Congress of the United States commences its two years of work, each day's newspaper has some story about it's feeling of inadequacy to do the task that it must. The Congress wishes to regain certain lost powers, yet, despite the saying that knowledge is power, it has done little to gain the ordered knowledge that the computer can help to produce.

In this issue, Ernest Baynard gives an authoritative prescription for setting up the nation's most important computer system, one which now does not even exist. It is a prescription applicable to the legislative bodies of many national governments, and of critical importance to the US Congress at this time.

The changes that computers have wrought upon the operations of the world's business and industries are well known. They are often a competitive necessity. The US Congress recognized this by authorizing billions of dollars, in the past two decades, for computers *in the Executive Branch*, so that there are now more than 5000 computers in use by Federal Departments and Agencies. Yet the Congress itself has less than a dozen, and these are used predominantly for "housekeeping" operations unrelated to the legislative process.

That legislative process must be revitalized. The Congress knows this. Will it act to regain a healthy competence and effective partnership with the other branches of Government?

FINANCIAL DISCLOSURE OF SENATOR CASE

Mr. CASE. Mr. President, the following is a combined statement for Mrs. Case and all of our assets and liabilities at the end of 1972 and our income for that year:

Combined financial statement of Senator and Mrs. Case

ASSETS

Cash in checking and savings accounts (after provisions for Federal Income tax for 1972), approximately	$75,000
Life insurance policies with the following insurers (currently providing for death benefits totaling $138,500): U.S. Group Life Insurance. Aetna Life Insurance Co. Conn. General Life Ins. Co. Conn. Mutual Life Ins. Co. Travelers Insurance Co. Continental Assurance Co. Equitable Life Assurance Soc. Provident Mutual Life Insurance Co. of Philadelphia. Cash surrender value	51,390
Retirement contract with Federal Employees Retirement System (providing for single life annuity effective January 3, 1979 of $33,996 per annum). Senator Case's own contributions to the Federal fund total, without interest	44,491
Annuity contracts with Teachers Insurance and Annuity Association and College Retirement Equities Fund. As at 12/31/72 these contracts (estimated to provide a life annuity—10-year guaranteed period—effective January 1979 of $2,535), had an accumulation value of	16,422
Securities as listed in schedule A	479,752
Real estate: consisting of residence building lot on Elm Avenue, Rahway, N.J., and house in Washington, D.C. (original cost plus capital expenditures)	72,817
Tangible personal property in Rahway and Washington, estimated	15,000
Liabilities: None.	

INCOME IN 1972

Senate salary and allowances, $42,582, less estimated expenses allowable as income tax deductions of $5,850 (actual expenses considerably exceed this figure)	36,732
Dividends and interest on above securities and accounts	18,953
Lectures and Speaking Engagements: Active Ballot Association, Retail Clerks International	1,000
Net gains on sales of property	1,373

Schedule A

SECURITIES

	Principal amount
Bonds and debentures of the following, at cost (aggregate market value somewhat lower)	$46,126

Schedule A—Securities—Continued

	Principal amount
American Telephone & Telegraph Co	$12,000
Cincinnati Gas & Electric Co	$4,000
Consolidated Edison Co. of N.Y	$5,000
Consumers Power Co	$5,000
General Motors Acceptance Corp	$5,000
Mountain States Tel. & Tel. Co	$5,000
South Western Bell Tel. Co	$5,000
Toledo Edison Co	$5,000
Stocks (common, unless otherwise noted) at market:	$433,266
	No. of shares
American Natural Gas Co	200
Chubb Corp	1,000
Consolidated Edison Co. of N.Y., $5 Pfd	50
DuPont	40
General Electric Co	340
General Motors Corp	420
Household Finance Corp	750
International Business Machines Corp	128
Investors Mutual, Inc	2,745
Kenilworth State Bank	27
Marine Midland Corp	563
Merck & Company, Inc	400
Morgan, J. P	22
National Community Bank, Rutherford	600
Reynolds Industries	100
Tri-Continental Corp	1,598
United Counties Trust Co	1,204
Warner-Lambert Pharmaceutical Co	300

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I know of no further morning business.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare may be authorized to meet during the session of the Senate today.

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

PRIVILEGE OF THE FLOOR

Mr. McGOVERN. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture and Forestry be permitted to be present on the floor during the consideration and the rollcalls on H.R. 3298: Harker T. Stanton, Michael R. McLeod, Herny J. Casso, Forest W. Reece, James W. Giltmier, James E. Thornton, John A. Baker, William A. Taggart, Cotys M. Mouser, and James M. Kendall.

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

RURAL WATER AND SEWER GRANT PROGRAM

The PRESIDING OFFICER. Under the previous order, the Chair now lays before the Senate H.R. 3298, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 81 (H.R. 3298) a bill to restore the Rural Water and Sewer Grant program under the Consolidated Farm and Rural Development Act.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry without amendment.

Mr. ROBERT C. BYRD. Mr. President, the distinguished ranking minority member of the committee, the Senator from Nebraska (Mr. CURTIS), is on his way to the floor. I therefore suggest the absence of a quorum at this time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McGOVERN. Mr. President, the matter before the Senate this afternoon is one of utmost importance to the country, and especially to the rural sectors of America. It has to do with the water and waste disposal programs of the Nation.

I think, while the needs of rural America, of our small towns and rural areas, are many, there is perhaps no single program that deserves any higher priority than the need to improve the water distribution systems and the waste disposal programs in our small communities.

The Senate has already approved the substance of this bill (H.R. 3298), which provides capital grants for planning and construction of rural water, sewer, and solid waste disposal systems. We have approved that bill on at least 15 separate occasions, by unanimous votes, since 1965; and except for the arbitrary and unexpected action of the Department of Agriculture, announced on January 10, in suspending and terminating this program retroactive to the first of the year, it would not be necessary for us to reconsider this matter again at this time.

The purpose of the bill before us is to restore immediately to full operation the sorely needed grant components of the rural community water, sewer, and solid waste disposal programs of the Farmers Home Administration. Those programs were terminated in a press release under the date of January 10. It was the first notice given to the public or concerned communities, even those which had applications pending and partly processed, that this popular and very much needed program was slated for destruction by executive action.

Mr. President, this sudden action to suspend the making of grants in connection with the water and waste disposal program, is another of the series of actions taken by the executive branch near the end of last year and the turn of the year to terminate and abolish important farm and rural programs and many other programs of vital importance to the Nation.

Mr. President, the Senate has already acted by overwhelming majorities to restore the rural electric and rural telephone direct loan programs, and also the rural environmental cost sharing assistance program, the school lunch program shortfalls, and the highway funding bill.

This bill this afternoon is another to remedy the damage caused by what I believe to be unwarranted action by the executive branch. This is not a partisan judgment. It is one that is widely shared on both sides of the aisle.

The bill has already been passed by the House of Representatives by an overwhelming majority and we are acting on the House bill today. The temporary termination of the program by the action of the Department of Agriculture raises at least three questions that I think the Senate must consider this afternoon.

First of all, does the Congess have the responsibility and the will and the constitutional right to require that duly enacted and funded laws shall be enforced and carried out by the executive branch?

On that point, as much as I believe the bill has substantive value in its own right in providing desperately needed water and sewer treatment facilities, there is the larger question of whether we are going to face, as each one of these issues comes up, the larger question of whether, once a bill has been passed by Congress and funds provided, the executive branch is then going to be permitted to nullify the actions of Congress.

We are not questioning the President's right to veto legislation. But what is in question here is whether, in addition to using that tool, the executive branch has the constitutional right simply to ignore legislation duly enacted by Congress.

So that the first question has to do with whether the Senate will confront its responsibilities.

The second question is this: Should the Congress restore the good-faith reliability of government when this trust by its citizens has been breached by an ill-advised and unilateral Executive action?

There is no question at all that there were hundreds of communities across the country that fully expected this program to operate on through the fiscal year. There was no hint at all during the recent presidential campaign that important water and sewer disposal programs under this legislation would be terminated once the election was over. That was not even suggested. I am sure it would have been denied by the President or his spokesmen if anyone had hinted that.

So the question is whether communities all across the country, assuming the law should remain in operation, will have their faith in government seriously eroded by arbitrary executive action of this kind.

Then, third, and this goes to the substance of the program itself: Is this program, involving cost-sharing grants for rural community water systems, and water and sewage collection disposal systems, and waste collection and disposal systems, is that program needed? Is it worthy of continuation?

The answer to all three of those questions seems to me must be a resounding yes.

No one can argue that this program is no longer needed. No one with the slightest familiarity with conditions in rural

America can argue that the need for adequate and high-standard solid waste disposal collection systems, for sewer systems that are needed that will meet Federal-State water quality standards and for adequate and modern water systems, that those needs suddenly disappeared on the 10th of January.

Moreover, it cannot be argued successfully that the funds needed for essential planning—capital grants for these purposes—will be available in the amounts required either from general revenue sharing or from the Environmental Protection Agency.

We can show that readily, I think, if that statement is challenged.

Nor can it be demonstrated that the need for either water or waste disposal systems in rural communities can be met by loans alone, without the essential grant components.

Members of the Senate understand that this grant component of this program, one that operates with a combination of grants and loans, was suddenly terminated by action of the executive.

I know, without any question at all, in my State and in other States with which I am familiar, that we are going to kill the chances for water and waste disposal systems if we do not restore the grant portion of the program.

Most of the communities are right up against the limit of their financial resources now. It certainly comes at an inopportune time suddenly to pull the rug from under these desperately needed water projects.

The great nationwide need was led in the Senate by the leadership of the distinguished senior Senator from Vermont (Mr. AIKEN), who is now in the Chamber. The need to adopt this legislation, which was done by unanimous vote in 1965, still exists, and has only partially been met in the intervening 8 years through the combined efforts of the Farmers Home Administration, the Economic Development Administration, the Department of Housing and Urban Affairs, and the predecessor agencies, those now called the Environmental Protection Agency.

As the distinguished Senator from Vermont will recall, through his initial skill in attracting the cosponsorship of almost the entire membership of the Senate—I think the Senator had something like 96 or 97 Senators as cosponsors of the bill—the new legislation was needed and enacted because of the great, unmet rural needs, and because other agencies of the Government had been given the responsibility and authority to meet the needs but simply did not reach out to rural America with their program. So that this situation requires new legislation, giving the job to a tried and tested agency that would reach into rural America and meet those needs—that is, the Farmers Home Administration.

Mr. McGOVERN. Mr. President, the Senate has already approved the substance of this bill (H.R. 3298)—capital grants for planning and construction of rural water, sewer, and solid waste disposal systems—on at least 15 separate occasions by unanimous votes. Except for the illegal and unwarranted action of the Department of Agriculture in suspending and terminating the program on January 1, 1973, it would not be necessary for us to reconsider it again at this time.

Mr. President, the purpose of this bill is immediately to restore to full operation the sorely needed grant component of the rural community development water, sewer, and solid waste disposal programs of the Farmers Home Administration. These were abruptly and unilaterally terminated by the Department of Agriculture effective on January 1, 1973, by a press release of January 10, 1973.

That was the first notice that concerned rural communities, even those with pending applications, or the general public, or the Congress had that this popular and much needed program was slated for destruction.

The announcement abolishing the water, sewer, and solid waste disposal grant programs states that the action was taken:

a. To hold budget outlays for fiscal year 1973 to $250 billion;

b. To keep outstanding public debt within the statutory limit of $465 billion; and

c. To continue the program under funds to be appropriated for the Environmental Protection Agency and general revenue sharing.

The Department's press release of January 10, 1973, follows:

TERMINATE FHA WATER/WASTE DISPOSAL GRANTS

WASHINGTON, Jan. 10.—As a result of an across-the-board review of federal programs to hold 1973 budget outlays to $250-billion, the U.S. Department of Agriculture today announced termination of planning and development grants in the water and waste disposal programs of Farmers Home Administration. The action also will help keep the outstanding public debt within the statutory limit of $465-billion.

Grant funds are still available to rural communities, officials said, under other programs. The Federal Water Pollution Control Act (FWPC) of 1972 and the revenue sharing program make substantial amounts of funds available through the Environmental Protection Agency (EPA) as well as directly to state and local communities. These funds are for use in developing highest priority projects as determined by local officials.

The FWPC Act also authorizes EPA to provide substantial amounts in the form of grants for waste disposal purposes.

Farmers Home Administration will continue the water and waste disposal loan program for those communities unable to obtain the necessary financing to repair or develop urgently needed facilities.

Termination of the FHA water and waste disposal grant program became effective Jan. 1.

Water and waste disposal grants were initiated in 1965 to supplement the FHA's loan program for planning and development of community water and waste disposal projects in rural areas, when funds were not available from other sources.

Mr. President, this sudden action to suspend the making of grants, in connection with loans, for rural community water, sewer, and solid waste disposal systems is another of a series taken by the executive branch at the turn of the year to terminate and abolish important farm and rural programs and many other programs of vital importance to long-term economic growth and quality of life in America.

The Senate has already acted by overwhelming majorities to restore the rural electric and telephone direct loan programs, rural environmental cost-sharing assistance, school lunch program shortfalls, and the highway funding.

This bill is another to remedy the damage caused by the unwarranted action of the executive branch. The bill has already been passed by the House of Representatives by a very large majority.

The temporary termination of this program by the unilateral action of the Department of Agriculture raises three questions:

First. Does Congress have the duty, the will, and the constitutional right positively to require that duly enacted and funded laws shall be enforced and carried out by the executive branch?

Second. Should the Congress restore the good faith reliability of the Government when this trust by its citizens has been breached by ill-advised and unilateral Executive action?

Third. Is the program involved—cost-sharing grants for rural community systems for water distribution, sewer collection and disposal, and solid waste collection and disposition—still needed and worthy of continuations?

Mr. President, the answer—our answer—to all three questions is, and must be, "Yes"

First, Congress can, and must, insist and require that Federal laws that have been enacted by due process shall continue in operation until terminated by congressional action;

Second. Congress can and must restore the faith and confidence of citizens and communities in the reliability of the Federal Government to carry out implicit and implied trust to continue the availability and operation of on-going, duly enacted, and funded programs of long standing until such termination has been subjected to public discussion and congressional debate and action.

Third. The program involved in this restoration bill—cost-sharing for rural community sewer, solid waste disposal, and water systems—is still essential to fulfill a large unmet need in countryside U.S.A. that cannot otherwise be met.

I. NEED FOR THE PROGRAM

Mr. President, no one can accurately and correctly argue that this program is no longer needed. No one who is in the slightest familiar with conditions in rural America can with truth argue that the need for adequate, fully standard solid waste disposal collection systems, for sewer systems that will meet Federal and State water quality standards, and for adequate modern water systems has suddenly disappeared.

Moreover, it cannot correctly be argued that the funds needed for essential planning and capital grants for these purposes are, or will, be available in the amounts required from either general revenue sharing or the Environmental Protection Agency, as I shall show. Nor can it be successfully demonstrated that the need for either water or waste disposal systems in rural communities can be successfully met by loans alone without the essential grant component.

A. UNMET NEEDS ARE STILL LARGE

The great nationwide need and adverse conditions in the executive branch that led the Senate, accepting the leadership of the distinguished senior Senator of

Vermont, to adopt this legislation by unanimous vote in 1965 still exists and has only partially been met over the intervening 8 years through the combined and coordinated efforts of Farmers Home Administration, Economic Development Administration, the Department of Housing and Urban Development, and the predecessor agencies of what is now called Environmental Protection Agency in responding to local rural plans and needs.

As the distinguished Senator of Vermont, whose initial bill attracted the cosponsorship of almost the entire membership of the Senate, will recall, the new legislation was needed and enacted both because of great unmet rural needs and because other agencies of Government that had been given responsibility and authority to meet these needs simply would not reach out to rural America with their programs. This required new legislation giving the job to a tried and tested agency that would reach into rural America and meet its needs—the Farmers Home Administration. As I recall, the legislation was enacted with the initial opposition of the then Bureau of the Budget and the White House. But I am told that after passage by Congress, the distinguished Senator from Vermont was presented with the first pen at the signing ceremony.

I have recent evidence of the need in my State, South Dakota, for Federal assistance for water and sewer improvements in communities large and small.

The South Dakota Development Group, a private organization which I have created in Washington to monitor Federal as well as private programs which may be of assistance in the economic development of our State, recently surveyed the mayors of every community of more than 500 population in South Dakota.

Those mayors responding said overwhelmingly that water and sewer projects were the highest priority need for capital improvements in their communities. Of the 115 communities surveyed, 63, or 55 percent, responded. Of the responding communities, nearly every one of them cited water and sewer improvements as a major priority, and 24 of them said it was their highest priority.

I ask unanimous consent to have printed in the RECORD, a list of those 24 cities which rated water and sewer projects their highest priority.

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

TOWN, RESPONDENT'S NAME, OFFICE, AND RESPONSE

1. Watertown, Dale Freeburg, mayor, storm sewer.
2. Huron, E. H. Peterson, mayor, water and sewer.
3. Yankton, Rufus Nye, city manager, storm sewer.
4. Custer, Gene Reese, mayor, water and sewer.
5. Highmore, Clarence Busse, mayor, water system.
6. Chamberlain, Paul Olson, mayor, waste water treatment plant.
7. Spearfish, Sever Eubank, city council, water tank and sewer line.
8. Springfield, Marvin Schamber, mayor, waste water disposal.
9. Beresford, Carroll Hanson, city auditor, water treatment plant.
10. Lennox, Fred Courey, mayor, water expansion and development.
11. Parkston, Paul Weiss, city auditor, water system.
12. Clark, Vearl Gergen, city auditor, sewer extension.
13. Timber Lake, Eugene Gulm, mayor, water and sewer.
14. Hartford, Emit Edberg, mayor, water and sewer line improvement.
15. Menno, Don Schneider, mayor, water.
16. Bridgewater, William Wagner, mayor, storm sewer.
17. Garretson, Jon D. Wangness, mayor, water and sewer.
18. Big Stone City, Duane Storch, mayor, sewage lagoon.
19. Faulkton, Jarius Brown, auditor, storm sewer.
20. Armour, Dr. Cox, mayor, water main replacement.
21. Viborg, Edwin Graber, mayor, water extension and loop extension.
22. Box Elder, Ethel Moore, city auditor, sewer system.
23. Elk Point, Orville Talbott, mayor, sewage lagoon.
24. Mobridge, Herbert McClellan, mayor, sewage treatment plant improvement.

Mr. McGOVERN. Mr. President, only five of these 24 communities are over 5,500 population, the maximum for priority eligibility under this Farmers Home Administration program. In 19 of these communities, therefore, this program would be of value in meeting this high priority need. Certainly, there are many more communities, especially those below 500, where no central water and sewer system ever will be built without a Federal loan and grant program.

At least five localities in South Dakota, to my knowledge, were very near approval of grants and loans from the Farmers Home Administration for new sewer projects when this program was unilaterally repealed by the administration. As a result of the termination of the grant program, there is serious question that sewer systems can ever be built for Monroe, Astoria, the Vivian Sanitary District, the Renner area, and the East Custer Sanitary District. The feasibility of these was based on grants ranging from $15,500 to $80,000. Lack of grant funds would result in user fees so high as to make them impractical.

Even with the grant program, Mr. President, residents of rural areas are forced to pay water and sewer user fees much higher than the average urban area. One water district in northeastern South Dakota will be charging its customers $9 a month for water. Another district near Egan in east-central South Dakota will have to charge $7 per month for sewage collection and treatment, on top of a $4 per month water bill.

Mr. President, if this Nation is going to have a policy of making rural areas attractive and inviting, we cannot countenance actions which result in higher, rather than lower, utility bills for rural people.

The people in South Dakota tell me that EPA money is not available for these grants. Although EPA has increased its share of those few projects which it does fund, I am told that the increase does little more than cover the sharply higher cost of the physical facilities involved.

The same conditions that led to a need for a special rural water and waste disposal program in 1965 still exist today, as numerous publications of the Committee on Agriculture and Forestry and the Committee on Government Operations attest. Agencies with nationwide responsibility simply do not extend their programs to rural America on a fair pro rata basis in ways that are adaptable to rural conditions. This is every bit as much true now of Environmental Protection Agency as it was of other agencies in 1965.

In 1965, an uncounted number of rural communities, and over 2,500 rural counties, lacked any kind of modern and acceptable solid waste disposal collection, handling, and disposition system.

Over 44,000, or 78 percent, of the rural communities lacked a modern adequate sewer system, in 1965.

And about 35,000, or 62 percent, of the rural communities lacked the adequate water distribution system equaling modern standards.

We are fortunate to have this data from a completely unbiased and scientific source. The situation with respect to water and sewer system in rural America was fully documented in a published report of the Economic Research Service of the Department of Agriculture. I shall not take the time of the Senate to read the entire report, nor shall I burden the RECORD with the entire text. However, I do ask unanimous consent to insert at this point in my remarks the pertinent textual and tabular material which reflects the extent of need for water and sewer grants in rural America at approximately the time when the senior Senator from Vermont and the Senate first initiated successful legislative action to meet these needs.

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

COMMUNITIES WITHOUT WATER FACILITIES

Size and location

On January 1, 1963, 62 percent, or 35,000, of the communities in the United States with populations over 25 persons were without public water facilities (table 1). All but 244 of these communities had less than 1,000 residents: however, 31 places had populations over 5,500. Thus, these data show that most small communities have not established public systems to accommodate their inhabitants. . . Some regional differences are apparent in table 1. States in the East South Central region had the highest proportion of communities without public systems (76 percent), followed by the Middle and South Atlantic regions with 73 percent and 71 percent, respectively. The States within the Mountain region had the lowest proportion, with 41 percent of their communities lacking public water facilities. The Northeast region was the second lowest with 48 percent. The differences between States were great, ranging from 8 percent in Utah to 90 percent in Alaska (fig. 1). Topographic and demographic differences between the States and regions probably account for the variations in water supply . . .

COMMUNITIES WITHOUT SEWAGE FACILITIES

Size and location

The rapid growth . . . of small communities in rural regions has necessitated the development of diverse methods of sewage collection to accommodate scattered groups of houses, shopping areas, and school districts. This dispersion of the population and prohibitive costs have tended to impede the establishment of public facilities. Most widely used in their place are septic tanks and cesspools, which came into prominence after World War II and continue to be widely

used, especially in "new growth" areas. Since the installation of septic tanks and cesspools relieves local governments of the responsibility of providing and maintaining sewage facilities, housing developers and builders have been encouraged, and in some States required, to install the necessary equipment at the time of construction. Use of septic tanks and cesspools, except under the most favorable conditions, should be considered a temporary stopgap until public facilities can be developed, however. Authorities at the Department of Health, Education, and Welfare state that subsurface disposal of sewage by means of septic tanks has caused grave problems in some localities and aroused the concern of Federal, State, and local governments. Nevertheless, until the enactment of Federal assistance programs, costs of establishing public sewage facilities were usually prohibitive for small places and for rural areas.

On January 1, 1962, over 44,000 communities were without public sewage facilities (table 7). Ninety-six percent of these communities had populations of less than 1,000. Of the communities with populations of 1,000 to 2,499, almost 1,400, or 31 percent, were without public facilities. Fourteen percent of the communities between 2,500 and 5,500 persons, and 5 percent of those over 5,500, also lacked public facilities. Nineteen percent of the cities over 1,000 were without public sewage facilities, compared with 2 percent without water facilities.

"Regionally differences were comparatively small. The East South Central region had the largest proportion of communities without public sewage facilities (88 percent). Over 80 percent of the communities in the South Atlantic and Northeast regions also lacked facilities. The West North Central region had the lowest proportion (68 percent) without public systems; the Mountain region ranked just one-tenth of one percentage point higher.

Mr. McGOVERN. Mr. President, the tables which follow indicate the detailed findings State by State of the Economic Research Service as to the need for rural water and sewer systems at about the time that the Aiken-Poage Act went into operation.

I ask unanimous consent to have these tables printed in the RECORD.

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

TABLE 1.—NUMBER OF COMMUNITIES WITH OR WITHOUT PUBLIC WATER FACILITIES, BY SIZE, STATE, AND REGION, 1963

State and region	Total		Size of community							
			26–999		1,000–2,499		2,500–5,500		Over 5,000	
	With number	Without number	With number	Without number	With number	Without number	With number	Without number	With number	Without number
Maine	337	551	248	546	41	3	23	2	25	
New Hampshire	171	271	117	270	30	1	9		15	
Vermont	197	266	157	264	23	1	7	1	10	
Massachusetts	611	198	436	182	56	16	34		85	
Rhode Island	90	66	70	63	3	2	3	1	14	
Connecticut	274	206	188	200	27	3	20	2	39	1
Northeast	1,680	1,558	1,216	1,525	180	26	96	6	188	1
New York	1,597	1,407	1,058	1,394	224	2	124	10	191	1
New Jersey	563	608	205	603	70	3	92	2	196	
Pennsylvania	1,107	3,663	346	3,634	322	26	191	2	248	1
Middle Atlantic	3,267	5,678	1,609	5,631	616	31	407	14	635	2
Ohio	954	1,598	454	1,588	201	8	122	2	177	
Indiana	421	1,392	151	1,390	135		52	2	83	
Illinois	1,018	1,174	448	1,169	246	2	133	3	191	
Michigan	537	1,102	197	1,090	161		72	10	107	2
Wisconsin	517	816	263	802	132	4	56	3	66	7
East North Central	3,447	6,082	1,513	6,039	875	14	435	20	624	9
Minnesota	624	593	363	592	135	1	58		68	
Iowa	725	588	487	588	134		47		57	
Missouri	547	1,064	272	1,064	130		69		76	
North Dakota	207	298	143	298	49		3		12	
South Dakota	254	183	193	182	36	1	14		11	
Nebraska	436	188	324	188	69		21		22	
Kansas	496	461	315	461	94		44		43	
West North Central	3,289	3,375	2,097	3,373	647	2	256		289	
Delaware	39	173	15	173	14		5		5	
Maryland	257	1,159	139	1,157	53	1	22	1	43	
Virginia	536	1,082	396	1,077	65	4	33	1	42	
West Virginia	517	1,157	362	1,155	99	2	29		27	
North Carolina	393	1,175	137	1,151	141	14	57	7	58	3
South Carolina	256	503	87	499	94	3	39	1	36	
Georgia	451	862	213	855	114	7	68		56	
Florida	391	877	135	848	99	7	71	18	86	4
South Atlantic	2,840	6,988	1,484	6,915	679	38	324	28	353	7
Kentucky	346	1,324	159	1,324	99		47		41	
Tennessee	317	1,169	148	1,165	75	4	46		48	
Alabama	386	938	210	935	67	3	59		50	
Mississippi	232	582	97	579	66	2	37	1	32	
East South Central	1,281	4,013	614	4,003	307	9	189	1	171	
Arkansas	254	853	131	852	57	1	30		36	
Louisiana	338	652	152	652	85		48		53	
Oklahoma	415	464	243	464	83		40		49	
Texas	1,117	1,462	539	1,454	260	6	147	2	171	
West South Central	2,124	3,341	1,065	3,422	485	7	265	2	309	
Montana	225	168	158	168	37		16		14	
Idaho	185	142	117	142	34		18		16	
Wyoming	108	64	73	64	16		11		8	
Colorado	320	258	227	258	42		19		32	
New Mexico	255	183	200	182	21	1	13		21	
Arizona	146	213	81	213	30		16		19	
Utah	310	25	228	25	43		16		23	
Nevada	56	61	35	61	9		6		6	
Mountain	1,605	1,114	1,119	1,113	232	1	115		139	
Washington	493	1,181	335	1,175	79	1	38	3	41	2
Oregon	386	290	279	289	47		31	1	29	
California	1,215	694	684	681	156		128	4	247	9
Alaska	33	282	14	278	13	3	2		4	1
Hawaii	90	108	51	106	20	2	11		8	
Pacific	2,217	2,555	1,363	2,529	315	6	210	8	329	12
United States	21,750	34,794	12,080	34,550	4,336	134	2,297	79	3,037	31

TABLE 2.—DISTRIBUTION OF HOUSING UNITS BY SOURCE OF WATER SUPPLY, STATE, AND REGION, 1960

State and region	Housing units						
		Public or private system		Individual well		Other or none	
	Total [1] number	Number	Percent	Number	Percent	Number	Percent
Maine	338,322	192,245	57	112,390	33	33,687	10
New Hampshire	195,537	118,845	61	66,581	34	10,111	5
Vermont	136,307	79,513	58	32,243	24	24,551	18
Massachusetts	940,361	822,305	87	107,937	12	10,119	1
Rhode Island	149,825	119,707	80	28,561	19	1,557	1
Connecticut	568,257	403,653	71	156,180	28	8,424	1
Northeast	2,328,609	1,736,268	74	503,892	22	88,449	4
New York	2,282,160	1,579,672	69	613 459	27	89,029	4
New Jersey	1,438,339	1,193,729	83	231,504	16	13,106	1
Pennsylvania	2,205,565	1,503,008	68	582,640	26	119,917	6
Middle Atlantic	5,926,064	4,276,409	72	1,427,603	24	222,052	4
Ohio	1,915,116	1,235,898	64	606,638	32	72,580	4
Indiana	1,032,004	521,227	51	479,832	46	30,945	3
Illinois	1,749,586	1,243,065	71	473,108	27	33,413	2
Michigan	1,668,537	906,485	54	720,062	43	41,990	3
Wisconsin	939,252	485,292	52	424,339	45	29,621	3
East North-Central	7,304,495	4,391,967	60	2,703,979	37	208,549	3
Minnesota	807,113	364,180	45	404,610	50	38,323	5
Iowa	706,819	420,771	60	274,219	39	11,829	1
Missouri	980,918	586,351	60	318,191	32	76,376	8
North Dakota	194,597	103,113	53	69,329	36	22,155	11
South Dakota	196,470	106,792	54	66,257	34	23,421	12
Nebraska	332,338	199,549	60	125,803	38	6,986	2
Kansas	571,217	395,913	69	158,597	28	16,707	3
West North-Central	3,789,472	2,176,669	58	1,417,006	37	195,797	5
Delaware	110,524	72,949	66	34,834	32	2,741	2
Maryland	644,255	439,974	68	177,529	28	26,752	4
Virginia	784,724	363,327	46	303,104	39	118,293	15
West Virginia	498,722	297,123	56	164,892	33	54,707	11
North Carolina	1,120,180	466,744	42	537,507	48	115,929	10
South Carolina	608,582	311,879	51	238,859	39	57,844	10
Georgia	888,699	531,628	60	286,410	32	70,661	8
Florida	1,266,297	864,425	68	360,335	29	41,537	3
South Atlantic	5,921,983	3,330,049	56	2,103,470	36	488,464	8
Kentucky	756,633	360,956	48	293,086	39	102,591	13
Tennessee	800,004	422,635	53	267,024	33	110,345	14
Alabama	737,943	383,604	52	279,740	38	74,599	10
Mississippi	586,165	273,612	47	206,956	35	105,597	18
East South-Central	2,880,745	1,440,807	50	1,046,806	36	393,132	14
Arkansas	512,088	243,664	48	204,528	40	63,896	12
Louisiana	675,804	432,642	64	173,572	26	69,590	10
Oklahoma	607,356	409,470	67	170,880	28	27,006	5
Texas	1,805,099	1,193,101	66	489,920	27	122,078	7
West South-Central	3,600,347	2,278,877	63	1,038,900	29	282,570	8
Montana	233,285	157,731	67	53,111	23	22,443	10
Idaho	223,533	147,147	66	60,080	27	16,306	7
Wyoming	113,080	84,734	75	21,001	19	7,345	6
Colorado	393,395	289,070	74	71,949	18	32,376	8
New Mexico	220,969	145,116	66	52,988	24	22,865	10
Arizona	203,577	157,089	77	29,524	15	16,964	8
Utah	176,540	157,171	89	14,024	8	5,345	3
Nevada	101,536	86,363	85	11,491	11	3,682	4
Mountain	1,665,915	1,224,421	73	314,168	19	127,326	8
Washington	670,533	491,478	73	136,209	20	42,846	7
Oregon	479,712	330,436	69	118,423	25	30,853	6
California	2,246,755	1,861,991	83	312,967	14	71,797	3
Alaska	67,157	37,084	55	14,833	22	15,240	23
Hawaii	84,730	79,249	93	755	1	4,726	6
Pacific	3,548,887	2,800,238	79	583,187	16	165,462	5
United States	36,966,517	23,655,705	64	11,139,011	30	2,171,801	6

[1] Excludes units in places of 50,000 inhabitants or more and in the District of Columbia.

Source: U.S. Bureau of the Census. U.S. Census of Housing: 1960. U.S. Government Printing Office. 1963.

TABLE 3—POPULATION NOT SERVED BY PUBLIC WATER FACILITIES, BY STATE AND REGION, JANUARY 1963

State and region	Population		
	Total [1] (thousands)	Not served [2] (thousands)	Population not served as percentage of total (percent)
Maine	985	215	22
New Hampshire	646	158	24
Vermont	397	141	36
Massachusetts	5,252	191	4
Rhode Island	877	61	7
Connecticut	2,716	522	19
Northeast	10,872	1,288	12
New York	17,691	2,038	12
New Jersey	6,542	938	14
Pennsylvania	11,408	1,552	14
Middle Atlantic	35,642	4,528	13
Ohio	10,020	2,222	22
Indiana	4,780	1,584	33
Illinois	10,369	1,512	15
Michigan	8,036	1,594	20
Wisconsin	4,059	1,309	32
East North Central	37,265	8,221	22
Minnesota	3,507	1,075	31
Iowa	2,758	861	31
Missouri	4,412	882	20
North Dakota	645	274	42
South Dakota	707	290	41
Nebraska	1,468	427	29
Kansas	2,261	633	28
West North Central	15,758	4,442	28
Delaware	480	70	15
Maryland	3,351	777	23
Virginia	4,288	1,697	40
West Virginia	1,815	644	35
North Carolina	4,786	2,494	52
South Carolina	2,498	1,077	43
Georgia	4,206	1,410	34
Florida	5,532	1,641	30
South Atlantic [3]	26,956	9,810	36
Kentucky	3,121	1,314	42
Tennessee	3,742	1,319	35
Alabama	3,383	1,152	34
Mississippi	2,291	1,309	57
East South Central	12,538	5,094	41
Arkansas	1,907	842	44
Louisiana	3,410	870	26
Oklahoma	2,450	585	24
Texas	10,257	1,637	16
West South Central	18,024	3,934	22
Montana	701	226	32
Idaho	689	239	35
Wyoming	335	86	26
Colorado	1,913	358	19
New Mexico	990	276	28
Arizona	1,517	134	9
Utah	973	166	2
Nevada	391	104	27
Mountain	7,508	1,589	21
Washington	2,961	533	18
Oregon	1,852	479	26
California	17,556	48	(4)
Alaska	251	164	65
Hawaii	685	91	13
Pacific	23,304	1,315	6
United States	188,658	40,221	21

[1] States may not add to regional totals due to independent rounding.

[2] Determined by subtracting number of persons served as shown in State and local public facility needs.

[3] District of Columbia included in U.S. total but omitted from State breakdown because entire population is served by municipal facilities.

[4] Less than 1 percent.

Sources: U.S. Bureau of the Census, U.S. Census, population estimates: 1963, U.S. Government Printing Office, 1967. State and local public facility needs and financing, Subcommittee on Economic Progress of the Joint Economic Committee, U.S. Congress, vol. 1, December 1966.

TABLE 4.—NUMBER OF COMMUNITIES, WITH OR WITHOUT PUBLIC SEWAGE FACILITIES, BY SIZE, STATE, AND REGION, 1962

State and region	Total		Size of community							
			26–999		1,000–2,499		2,500–5,500		Over 5,500	
	With number	Without number	With number	Without number	With number	Without number	With number	Without number	With number	Without number
Maine	114	774	38	756	27	17	25	----------	24	1
New Hampshire	82	360	36	351	23	8	8	1	15	----------
Vermont	54	409	21	400	16	8	7	1	10	----------
Massachusetts	195	614	69	549	19	53	24	10	83	2
Rhode Island	30	126	17	116	2	3	1	3	10	4
Connecticut	99	381	48	340	5	25	9	13	37	3
Northeast	574	2,664	229	2,512	92	114	74	28	179	10
New York	665	2,339	273	2,179	136	90	105	29	151	41
New Jersey	305	866	47	761	25	48	60	34	173	23
Pennsylvania	952	3,818	325	3,655	200	148	180	13	247	2
Middle Atlantic	1,922	7,023	645	6,595	361	286	345	76	571	66
Ohio	516	2,036	72	1,970	159	50	115	9	170	7
Indiana	295	1,518	60	1,481	104	31	50	4	81	2
Illinois	564	1,628	89	1,528	167	81	119	17	189	2
Michigan	292	1,347	25	1,262	91	70	69	13	107	2
Wisconsin	424	909	181	884	121	15	56	3	66	7
East North Central	2,091	7,438	427	7,125	642	247	409	46	613	20
Minnesota	433	784	183	772	124	12	58	----------	68	----------
Iowa	428	885	220	875	126	8	46	1	56	1
Missouri	254	1,357	15	1,321	98	32	66	3	75	1
North Dakota	188	317	124	317	49	----------	3	----------	12	----------
South Dakota	181	256	120	255	36	1	14	----------	11	----------
Nebraska	298	326	188	324	67	2	21	----------	22	----------
Kansas	330	627	155	621	90	4	43	1	42	1
West North Central	2,112	4,552	985	4,485	590	59	251	5	286	3
Delaware	23	189	2	186	11	3	5	----------	5	----------
Maryland	119	1,297	27	1,269	33	21	17	6	42	1
Virginia	214	1,404	101	1,372	44	25	27	7	42	----------
West Virginia	174	1,500	50	1,467	70	31	27	2	27	----------
North Carolina	300	1,268	78	1,210	109	46	55	9	58	3
South Carolina	151	608	24	562	57	40	35	5	35	1
Georgia	237	1,076	45	1,023	75	46	62	6	55	1
Florida	180	1,088	27	956	38	68	37	52	78	12
South Atlantic	1,398	8,430	354	8,045	437	280	265	87	342	18
Kentucky	167	1,503	16	1,467	66	33	44	3	41	----------
Tennessee	160	1,326	26	1,287	46	33	41	5	47	1
Alabama	160	1,164	13	1,332	44	26	54	5	49	1
Mississippi	141	673	29	647	51	17	29	9	32	----------
East South Central	628	4,666	84	4,533	207	109	168	22	169	2
Arkansas	149	958	32	951	52	6	30	----------	35	1
Louisiana	121	869	12	792	28	57	35	13	46	7
Oklahoma	267	612	103	604	76	7	39	1	49	----------
Texas	675	1,904	140	1,853	221	45	143	6	171	----------
West South Central	1,212	4,343	287	4,200	377	115	247	20	301	8
Montana	117	276	57	269	32	5	14	2	1	3
Idaho	90	237	35	224	26	8	16	2	18	3
Wyoming	96	76	61	76	16	----------	11	----------	2	----------
Colorado	190	388	105	380	36	6	17	2	31	----------
New Mexico	66	372	18	364	16	6	11	2	29	----------
Arizona	67	292	21	273	16	14	11	5	13	----------
Utah	190	145	127	126	25	18	15	1	2	----------
Nevada	46	71	26	70	8	1	6	----------	6	----------
Mountain	862	1,857	450	1,782	175	58	101	14	136	3
Washington	224	1,450	101	1,409	55	25	27	14	41	2
Oregon	159	517	67	501	35	12	28	4	29	----------
California	611	1,298	164	1,201	96	60	104	28	247	9
Alaska	21	294	10	282	5	11	2	----------	4	1
Hawaii	21	177	----------	157	7	15	6	5	8	----------
Pacific	1,036	3,736	342	3,550	198	123	167	51	329	12
United States	11,835	44,709	3,803	42,827	3,079	1,391	2,027	349	2,926	142

TABLE 5.—DISTRIBUTION OF HOUSING UNITS BY TYPE OF SEWAGE FACILITIES, STATE, AND REGION, 1960

State and region	Housing units							State and region	Housing units						
	Total [1] number	Public sewer		Septic tank or cesspool		Other or none			Total [1] number	Public sewer		Septic tank or cesspool		Other or none	
		Number	Percent	Number	Percent	Number	Percent			Number	Percent	Number	Percent	Number	Percent
Maine	338,322	140,120	41	130,593	39	67,609	20	New York	2,282,160	962,265	42	1,216,154	53	103,741	5
New Hampshire	195,537	88,099	45	90,392	46	17,046	9	New Jersey	1,438,339	951,633	66	460,734	32	25,972	2
Vermont	136,307	63,161	46	51,355	38	21,791	16	Pennsylvania	2,205,565	1,078,899	49	918,808	42	207,858	9
Massachusetts	940,361	466,975	50	452,499	48	20,887	2	Middle Atlantic	5,926,064	2,992,797	50	2,595,696	44	337,571	6
Rhode Island	149,825	54,252	36	91,435	61	4,138	3								
Connecticut	568,257	248,749	44	306,431	54	13,077	2	Ohio	1,915,116	1,026,193	54	669,710	35	219,213	11
Northeast	2,328,609	1,061,356	46	1,122,705	48	144,548	6								

Footnotes at end of table.

State and region	Housing units						
		Public sewer		Septic tank or cesspool		Other or none	
	Total [1] number	Number	Percent	Number	Percent	Number	Percent
Indiana	1,032,004	407,201	40	477,909	46	146,894	14
Illinois	1,749,586	1,043,494	60	532,846	30	173,246	10
Michigan	1,668,537	757,000	45	769,982	46	141,547	9
Wisconsin	939,252	484,871	51	335,642	36	118,739	13
East North Central	7,304,495	3,718,767	51	2,786,089	38	799,639	11
Minnesota	807,113	355,923	44	313,318	39	137,872	17
Iowa	706,819	363,457	52	235,634	33	107,728	15
Missouri	980,918	459,342	47	254,019	26	267,557	27
North Dakota	194,597	102,023	52	46,672	24	45,902	24
South Dakota	196,470	97,443	50	52,839	27	46,188	23
Nebraska	332,338	172,234	52	110,854	33	49,250	15
Kansas	571,217	331,348	58	161,250	28	78,619	14
West North Central	3,789,472	1,881,770	50	1,174,586	31	733,116	19
Delaware	110,524	64,627	59	35,583	32	10,314	9
Maryland	644,255	377,063	59	199,584	31	67,608	10
Virginia	784,724	262,219	34	268,159	34	254,346	32
West Virginia	498,722	194,976	39	124,217	25	179,529	36
North Carolina	1,120,180	368,602	33	392,888	35	358,690	32
South Carolina	608,582	201,243	33	216,993	36	190,346	31
Georgia	888,699	329,224	37	294,688	33	264,787	30
Florida	1,266,297	399,221	32	771,836	61	95,240	7
South Atlantic	5,921,983	2,197,175	37	2,303,948	39	1,420,860	24
Kentucky	756,633	226,305	30	213,640	28	316,688	42
Tennessee	800,004	198,733	25	304,888	38	296,383	37
Alabama	737,943	233,598	32	227,182	31	277,163	37
Mississippi	586,165	189,741	32	142,111	24	254,313	44
East South Central	2,880,745	848,377	29	887,821	31	1,144,547	40
Arkansas	512,088	178,644	35	127,196	25	206,248	40
Louisiana	675,840	245,533	36	254,791	38	175,480	26
Oklahoma	607,356	339,466	56	145,653	24	122,237	20
Texas	1,805,099	947,347	52	497,368	28	360,384	20
West South Central	3,600,347	1,710,990	48	1,025,008	28	864,349	24
Montana	233,285	133,724	57	70,018	30	29,543	13
Idaho	223,533	106,354	48	95,801	43	21,378	9
Wyoming	113,080	77,245	68	24,843	22	10,992	10
Colorado	393,395	244,642	62	105,296	27	43,457	11
New Mexico	220,969	120,865	55	59,219	27	40,885	18
Arizona	203,577	94,464	46	80,400	40	28,713	14
Utah	176,540	112,786	64	55,782	32	7,972	4
Nevada	101,536	78,907	78	18,351	18	4,278	4
Mountain	1,665,915	968,987	58	509,710	31	187,218	11
Washington	670,533	270,490	40	356,463	53	43,580	7
Oregon	479,712	180,328	38	264,341	55	35,043	7
California	2,246,755	1,339,434	62	777,180	35	70,141	3
Alaska	67,157	32,306	48	17,934	27	16,917	25
Hawaii	84,730	30,280	36	47,106	55	7,344	9
Pacific	3,548,887	1,912,838	54	1,463,024	41	173,025	5
United States	36,966,517	17,293,057	47	13,868,587	37	5,804,873	16

[1] Excludes units in places of 50,000 inhabitants or more and in the District of Columbia.

Source: U.S. Bureau of the Census. U.S. Census of Housing: 1960. U.S. Government Printing Office 1963.

Mr. McGOVERN. Mr. President, prior to the enactment in 1965, of the Farmers Home Administration water and waste disposal loan and grant program, loans, or grants, or both were more or less available in rural areas from the Department of Housing and Urban Development and, in chronically distressed rural areas from the Economic Development Administration.

Beginning in 1965, these programs were operated in coordination with the new Farmers Home Administration program, with sometimes one agency making the loan component and another agency making the grant component or the other way around with Water Pollution Control Administration often providing the funds for construction of the waste treatment plant component of a sewer system.

During the period from 1962 through 1967, over 1,000 rural communities received loans and grants for establishment of water systems; and somewhat less than 1,000 received loans and grants for sewer systems.

During 1969 through 1972 about 3,500 communities received loans and grants from Farmers Home Administration for water systems, and about 1,600 for waste disposal systems. Other communities received loans and grants from the other agencies, but this was not a very large net addition to the total figure because such loans and grants were often made to the same community in combination with the Farmers Home Administration assistance.

Thus, in total, probably as many as 5,000 rural communities were enabled to plan and construct new water systems and possibly as many as 3,000 got new sewer systems between 1965 and 1972.

Although important nationally, and very important to the communities that qualified and got loans and grants during the period 1965 through 1972, a little simple subtraction makes it clear that while a substantial bite into the 1965 backlog of needs has now been taken care of, there is still a huge backlog of unmet need in rural America for modern, high-standard water, sewer, and solid waste disposal systems.

Tables 6 through 9 indicate the number and amount of loans and grants made in the several States during the years 1963 through 1972.

I ask unanimous consent that these tables be printed in the RECORD.

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

TABLE 6.—NUMBER OF APPROVALS, GRANTS, LOANS, AND COMBINED GRANTS AND LOANS FOR WATER PROJECTS TO COMMUNITIES AND DISTRICTS WITHOUT PUBLIC FACILITIES PRIOR TO 1963, GROUPED BY SIZE, STATE, AND REGION, MAR. 30, 1967 [1]

State and region	Total [3]	Size of community							Size of district [2]			
		Rural [4]	Under 100	100 to 249	250 to 499	500 to 999	1,000 to 2,499	2,500 to 5,500	Over 5,500	Total	Under 2,500	2,500 to 5,500	5,501 to 10,000	Over 10,000
Maine	1						1							
New Hampshire														
Vermont	6		1	5						1			1	
Massachusetts	1								1					
Rhode Island														
Connecticut										1			1	
Northeast	8		1	5			1		1	2			2	
New York	8			3	3		1	1						
New Jersey	1			1						1		1		
Pennsylvania	6	1		1	3		1		1	3		3		
Middle Atlantic	15	1		5	6		2	1	1	4		4		
Ohio	12	1	1	6	4		1			1		1		
Indiana	27	9	4	8	11	3	1			6	6			
Illinois	39		2	18	19					1	1			

Footnotes at end of table.

TABLE 6.—NUMBER OF APPROVALS, GRANTS, LOANS, AND COMBINED GRANTS AND LOANS FOR WATER PROJECTS TO COMMUNITIES AND DISTRICTS WITHOUT PUBLIC FACILITIES PRIOR TO 1963, GROUPED BY SIZE, STATE, AND REGION, MAR. 30, 1967 [1]—Continued

State and region	Total [3]	Size of community							Size of district [2]			
		Rural [4]	Under 100	100 to 249	250 to 499	500 to 999	1,000 to 2,499	2,500 to 5,500	Over 5,500	Total	Under 2,500	2,500 to 5,500	5,501 to 10,000	Over 10,000
Michigan	8				3	1	1	3		5	2	1	1	1
Wisconsin	14	1		2	6	6				3	2			1
East north-central	100	11	7	34	43	10	3	3		16	11	2	1	2
Minnesota	5			3	1	1								
Iowa	16		1	5	7	3								
Missouri	111	10	19	56	30	6				10	10			
North Dakota	14			7	6		1							
South Dakota	4			3	1									
Nebraska	1			1										
Kansas	23		13	9	1									
West north-central	174	10	33	84	46	10	1			10	10			
Delaware														
Maryland	13	1		2	6	4	1			2	2			
Virginia	2	1	1		1									
West Virginia	13	7	2	5	5	1				4	4			
North Carolina	11	8	1	4	1	3	2			1	1			
South Carolina														
Georgia	53	2	2	26	20	5				3	2			1
Florida	18	4	1	4	5	6	1	1						
South Atlantic	110	23	7	41	38	19	4	1		10	9			1
Kentucky	15	3	1	5	7	2				11	11			
Tennessee	33	17	7	19	5	2				9	9			
Alabama	60	20	9	27	16	7	1			1	1			
Mississippi	60	64	4	33	18	5				4	4			
East south-central	168	104	21	84	46	16	1			25	25			
Arkansas	34	3	1	17	15	1				1	1			
Louisiana	18	3	2	3	4	9				3	3			
Oklahoma	23	7	2	12	6	3				2	2			
Texas	93	44	31	33	16	11	2			26	26			
West south-central	168	57	36	65	41	24	2			32	32			
Montana	3	1		2		1								
Idaho	4	1	1	1	1	1				1	1			
Wyoming	1			1										
Colorado	3	3			1	1	1			1	1			
New Mexico	3	2	1	1	1					1	1			
Arizona	5		1	2		1	1			1	1			
Utah	1	3			1									
Nevada	2			2										
Mountain	22	10	3	9	4	4	2			4	4			
Washington	11		4	4	3					2	2			
Oregon	10	2	3	3	2	1	1			3	2	1		
California														
Alaska										1	1			
Hawaii														
Pacific	21	2	7	7	5	1	1			6	5	1		
United States	786	218	115	334	229	84	17	5	2	111	98	7	3	3

[1] Excludes approvals made under the public facility loan program administered by the U.S. Department of Housing and Urban Development.

[2] Districts include townships, towns, and groups of rural communities not listed or not showing population data in the Rand McNally Commercial Atlas, 1965, and other minor political divisions n which no specific communities are shown.

[3] Entries in this column exclude communities shown as "rural."

[4] "Rural includes places listed in the Rand McNally Commercial Atlas as "rural" and as having "no population." It also includes places not listed in the atlas which are shown in the unpublished listings of the Federal grant and loan programs as not belonging to any group of unlisted or rural communities.

TABLE 7.—NUMBER OF APPROVALS, GRANTS, LOANS, AND COMBINED GRANTS AND LOANS FOR SEWAGE PROJECTS TO COMMUNITIES AND DISTRICTS WITHOUT PUBLIC FACILITIES PRIOR TO 1962, GROUPED BY SIZE, STATE, AND REGION, MAR. 30, 1967 [1]

State and region	Total [3]	Size of community							Size of district [2]			
		Rural [4]	Under 100	100 to 249	250 to 499	500 to 999	1,000 to 2,499	2,500 to 5,500	Over 5,500	Total	Under 2,500	2,500 to 5,500	5,501 to 10,000	Over 10,000
Maine														
New Hampshire										2	2			
Vermont														
Massachusetts														
Rhode Island	2					1			1					
Connecticut														
Northeast	2					1			1	2	2			
New York	7					1	3		3					
New Jersey	13	1		1		1	6	1	4	2		2		
Pennsylvania	5	1				1	3		1	3		2	1	
Middle Atlantic	25	2		1		3	12	1	8	5		4	1	
Ohio	3	2	1		1		1			1		1		
Indiana	10					6	3		1					
Illinois	23				7	7	8	1						
Michigan	14		1			5	5	2	1	8	1	1	3	3
Wisconsin	19		1	5	8	5				2	2			
East north-central	69	2	3	5	16	23	17	3	2	11	3	2	3	3

Footnotes at end of table.

State and region	Total [3]	Size of community: Rural [4]	Under 100	100 to 249	250 to 499	500 to 999	1,000 to 2,499	2,500 to 5,500	Over 5,500	Total	Size of district [2]: Under 2,500	2,500 to 5,500	5,501 to 10,000	Over 10,000
Minnesota	11	1		3	2	5		1						
Iowa	40			10	14	13	2		1					
Missouri	5				2	3								
North Dakota	10		6	4										
South Dakota	13		1	8	3	1								
Nebraska	4	1		1	3									
Kansas	1			1										
West north-central	84	2	7	27	24	22	2	1	1					
Delaware														
Maryland	8	2			3	3	1		1	1	1			
Virginia	4				2		1		1					
West Virginia	2					1	1							
North Carolina	5				2	1	1	1						
South Carolina	10				1	6	3			1		1		
Georgia	9	2		1	1	3	4			1				1
Florida	7	1		1		2	1	1	1					
South Atlantic	45	5		2	9	16	13	2	3	3	1	1		1
Kentucky	7	2	1		1	4	1							
Tennessee	9	2		1	1	1	6							
Alabama	4				1		2	1						
Mississippi	10			2	5	2		1		1	1			
East south-central	30	4	1	3	8	7	9	2		1	1			
Arkansas	11			1	5	3	2							
Louisiana	6		1	2		2	1							
Oklahoma	7			2	2	3								
Texas	11	1		2	6	2	1							
West south-central	35	1	1	7	13	10	4							
Montana	6			1	2	1	2							
Idaho	7				3	4								
Wyoming														
Colorado	4		1	2	1									
New Mexico	1						1							
Arizona	1			1										
Utah	7	2		1		1	4	1						
Nevada										1			1	
Mountain	26	2	1	5	6	6	7	1		1			1	
Washington	10			2	3	4	1							
Oregon	12			2	1	7	2			1				1
California	11			1	2	4	3		1					
Alaska	2				2									
Hawaii	1							1						
Pacific	36			5	8	15	6	1	1	1				
United States	352	18	13	55	84	103	70	11	16	24	7	7	5	5

[1] Excludes approvals made under the public facility loan program administered by the U.S. Department of Housing and Urban Development.

[2] Districts include townships, towns, and groups of rural communities not listed or not showing population data in the Rand McNally Commercial Atlas, 1965, and other minor political divisions in which no specific communities are shown.

[3] Entries in this column exclude communities shown as "rural."

[4] "Rural" includes places listed in the Rand McNally Commercial Atlas as "rural" and as having "no population." It also includes places not listed in the atlas which are not a part of a group of unlisted or rural communities.

TABLE 8.—FARMERS HOME ADMINISTRATION—WATER AND WASTE SYSTEMS RECEIVING ASSISTANCE

[Number of systems unduplicated]

Type of assistance	Fiscal year— 1969	1970	1971	1972
WATER SYSTEMS				
Loans only:				
Number	469	400	549	534
Amount	78,445,480	71,866,770	112,139,800	142,552,000
Loans and grants:				
Number	167	263	314	254
Amount:				
Loans	20,589,950	33,340,550	43,634,000	37,240,900
Grants	9,869,898	15,065,109	17,848,300	15,911,100
Grants only:				
Number	20	91	77	71
Amount	542,806	6,835,042	2,462,610	5,214,000
Total water systems:				
Number	656	754	940	859
Amount:				
Loans	99,035,430	105,207,320	155,773,800	179,792,900
Grants	10,412,704	21,900,151	20,310,910	21,125,100
WASTE SYSTEMS				
Loans only:				
Number	100	70	176	144
Amount	21,807,420	9,607,900	37,002,530	49,750,300
Loans and grants:				
Number	105	97	158	123
Amount:				
Loans	19,823,790	17,083,499	32,539,500	27,417,800
Grants	10,724,163	8,086,071	15,522,900	11,960,500
Grants only:				
Number	11	69	27	53
Amount	705,355	7,651,853	1,111,600	3,524,950
Total waste systems:				
Number	216	236	361	320
Amount:				
Loans	41,631,210	26,691,399	69,542,030	77,168,100
Grants	11,429,518	15,737,924	16,634,500	15,485,450
COMBINATION WATER AND WASTE SYSTEMS				
Loans only:				
Number	63	28	76	76
Amount	14,605,700	4,711,000	22,818,000	29,300,900
Loans and grants:				
Number	45	45	52	51
Amount:				
Loans	7,751,620	8,069,370	13,570,100	13,737,100
Grants	2,954,302	3,959,510	6,697,150	5,873,128
Grants only:				
Number	0	18	9	13
Amount	0	2,893,000	444,700	1,955,660
Total combination systems:				
Number	108	91	137	140
Amount:				
Loans	22,357,320	12,780,370	36,388,100	43,038,000
Grants	2,954,302	6,852,510	7,141,850	7,828,788

TABLE 8.—FARMERS HOME ADMINISTRATION—WATER AND WASTE SYSTEMS RECEIVING ASSISTANCE—Continued

[Number of systems unduplicated]

Type of assistance	Fiscal year— 1969	1970	1971	1972
Total all systems receiving assistance:				
Number	980	1,081	1,438	1,319
Amount:				
Loans	163,023,960	144,679,089	261,703,930	299,999,000
Grants	24,796,524	44,490,585	44,087,260	44,439,338

Type of assistance	Fiscal year— 1969	1970	1971	1972
Families served or users:				
Water systems	498,092	623,927	688,465	818,253
Waste systems	70,031	105,326	147,718	217,103
Combination systems	(1)	(1)	98,278	129,001
Development grants only	2,610	3,373	13,566	70,044
Total	570,733	732,626	948,027	1,234,401
Comprehensive area water and sewer planning grants:				
Number	328	179	175	155
Amount	4,035,097	3,018,605	2,642,650	2,136,850

[1] Included in families served by water systems.

TABLE 9.—FHA DEVELOPMENT LOANS AND GRANTS OBLIGATED, BY TYPE OF ASSOCIATION, FISCAL YEAR 1972 THROUGH JUNE 30[1]

	Loans						Grants					
	Water systems		Waste disposal		Combination water and waste		Water systems—Initial		Waste disposal—Initial		Combination water and waste—Initial	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Alabama	18	$4,267,700	0	0	1	$180,000	21	$1,238,400	0	0	0	0
Arizona	1	49,600	1	$1,175,000	0	0	3	116,000	2	154,000	0	0
Arkansas	17	7,031,800	4	401,800	4	1,406,300	9	1,066,000	1	61,400	0	0
California	10	2,690,000	7	3,071,000	0	0	11	659,000	3	503,800	0	0
Hawaii	0	0	0	0	0	0	0	0	0	0	0	0
Nevada	1	1,000,000	0	0	1	122,000	0	0	0	0	0	0
Colorado	0	0	4	350,000	2	265,000	1	45,700	4	170,100	2	$164,500
Florida	7	2,277,000	1	4,000,000	3	1,389,000	3	104,700	0	0	3	887,400
Georgia	6	1,929,000	3	240,000	7	3,070,000	4	145,500	0	0	3	607,000
Idaho	2	101,000	2	1,048,000	3	1,604,400	1	69,500	1	26,500	1	209,600
Illinois	13	5,571,100	12	3,527,000	3	1,054,000	3	207,000	7	757,300	1	200,000
Indiana	5	3,635,000	9	3,311,900	0	0	2	600,000	2	345,000	0	0
Iowa	14	10,996,000	6	976,000	0	0	7	245,500	11	668,900	0	0
Kansas	14	5,949,800	0	0	0	0	5	648,900	0	0	0	0
Kentucky	6	934,800	0	0	2	815,000	7	850,000	0	0	1	180,000
Louisiana	25	3,915,500	5	251,000	3	1,867,000	10	486,000	1	32,000	0	0
Maine	3	408,500	5	2,022,000	0	0	0	0	3	724,300	0	0
Michigan	9	2,871,000	9	5,743,000	0	0	2	95,000	5	765,000	0	0
Minnesota	3	180,000	16	2,845,000	2	646,000	1	15,000	7	635,400	2	139,700
Mississippi	34	8,797,800	0	0	7	2,316,600	23	1,237,300	1	82,000	3	209,900
Missouri	15	4,361,800	4	453,100	2	287,400	7	860,100	4	219,000	1	103,500
Montana	4	358,100	1	20,800	1	133,700	1	100,000	2	81,300	1	71,600
Nebraska	4	2,530,000	5	192,000	0	0	3	233,700	7	186,300	0	0
New Jersey	0	0	0	0	0	0	0	0	0	0	0	0
Delaware	0	0	0	0	0	0	0	0	0	0	0	0
Maryland	0	0	0	0	0	0	0	0	2	363,400	1	334,000
New Mexico	6	311,000	0	0	3	330,000	7	128,600	0	0	3	115,000
New York	10	2,234,000	12	10,686,000	1	316,000	6	350,000	7	1,200,000	0	0
North Carolina	11	980,000	6	456,500	5	3,750,000	7	344,600	9	269,600	2	328,000
North Dakota	3	2,453,000	3	161,300	4	421,400	1	49,000	2	148,000	3	171,600
Ohio	13	13,700,000	3	2,215,000	0	0	1	105,000	3	427,000	0	0
Oklahoma	9	2,180,600	1	775,000	2	265,800	11	759,000	1	116,300	1	57,800
Oregon	3	93,000	4	51,500	4	295,000	2	83,000	0	0	1	140,000
Alaska	0	0	0	0	1	114,000	1	780,000	1	550,000	0	0
Pennsylvania	2	82,000	5	117,000	6	1,042,900	3	566,000	2	1,085,000	0	0
South Carolina	6	410,400	4	75,600	1	234,000	16	7,233,700	4	2,659,200	2	103,000
South Dakota	1	200,000	1	24,500	2	75,900	4	878,600	1	89,000	7	1,597,800
Tennessee	23	821,000	7	154,000	2	15,000	23	6,077,000	2	446,000	0	0
Texas	17	1,548,400	3	525,600	0	0	18	7,007,500	6	1,409,500	3	725,900
Utah	1	25,000	1	19,500	2	363,000	5	881,000	1	240,000	0	0
Vermont	1	100,000	1	220,000	2	239,700	3	1,475,000	0	0	0	0
Connecticut	0	0	0	0	0	0	1	7,000	0	0	0	0
Massachusetts	1	10,000	0	0	1	165,000	1	15,000	0	0	0	0
New Hampshire	2	10,000	0	0	0	0	3	541,000	1	70,000	0	0
Rhode Island	1	145,000	0	0	0	0	1	445,000	0	0	0	0
Virginia	4	647,000	1	8,400	3	329,600	3	957,600	2	1,535,000	0	0
Washington	1	30,000	0	0	4	499,900	6	486,000	1	482,000	0	0
West Virginia	5	754,000	7	494,000	2	192,000	10	2,373,400	2	599,000	0	0
Wisconsin	2	11,000	1	10,000	3	199,000	4	1,223,000	5	1,526,000	0	0
Wyoming	1	20,400	1	27,600	1	20,000	0	0	4	876,300	0	0
Puerto Rico	5	347,500	0	0	2	120,000	2	164,000	0	0	0	0
Virgin Islands	0	0	0	0	0	0	0	0	0	0	0	0
U.S. total	233	16,059,200	92	2,992,900	121	11,842,000	369	122,907,900	88	31,806,600	31	6,951,800

[1] In addition 47 development grants for $4,576,438 were obligated from other than FHA funds.

RURAL COMMUNITY SYSTEMS STILL REQUIRE GRANTS AS WELL AS LOANS

Mr. McGOVERN. Mr. President, if needs for well more than half of these rural communities and counties for water, sewer, and solid waste disposal system is to be met a grant as well as a loan will be required, the proportion requiring grants being higher for sewer and solid waste disposal than for water systems.

As the tables I have inserted in the RECORD indicate, fully half of all the loans made by Farmers Home Administration and other agencies alone and in combination required that the loan be accompanied by a grant in order to establish an economically sound loan and repayment schedule within the ability of the community to pay user fees or taxes for support of the system. Farmers Home Administration has developed a very detailed and careful procedure for determining which borrowers require grants as well as loans and the proper proportion of loan and grant tailored to the circumstances of each applicant. I will introduce excerpts of this Farmers Home Administration instruction into the RECORD at a later point.

Suffice it to say at this point, if the grant program is destroyed, fully half of the kinds of communities that need Farmers Home Administration assistance will be unable to qualify for loans.

And I should add—the communities that are unable to qualify for loans only will be those very rural communities that are in worst need of adequate water and waste disposal facilities. Without grants none of these communities can probably qualify for a loan.

NEEDED GRANTS NOT AVAILABLE ELSEWHERE

The grants that are so essential to successfully bringing of water, sewer, and

solid waste disposal systems to the most needful rural communities are not available from other sources.

The administration witness before the committee indicated that such funds would be available from general revenue sharing and from the Environmental Protection Administration.

I am convinced of the correctness of the report of the House committee concerning the possibility of finding rural water and waste disposal grant money in the general revenue-sharing proposal. In the first place, much of this money is already spoken for and States, counties and municipalities were already making plans for its use before the cancellation of this program was announced. The language of the House committee report is this, and I quote:

The Administration's testimony also referred to funds which would be made available under revenue sharing—a myth used as justification to destroy many existing programs and to oppose scores of pieces of legislation in the last Congress. Obviously, small rural towns simply do not have the political muscle or the tax base to enable them to scramble adequately to come up with a fair share of the funds.

Mr. President, I wholeheartedly agree with the House committee on this matter. When the Congress voted for general revenue sharing it was to provide additional noncategorical funds to assist States, counties, and municipalities with needs considered important by them and for programs chosen by them. None certainly expected that general revenue sharing was to be a substitute for the rural water and waste disposal grant program, the elimination of which we understood to be a part of the President's special rural community development revenue sharing proposal which was rejected by both Houses of Congress.

Mr. President, as I understand the situation that faces us, and I understand there is some hazy legal areas involved, it is this: As a result of the termination of the water and waste disposal planning and development grant programs:

First. The Farmers Home Administration rural water system planning grant program has been terminated and no similar funds are available elsewhere in the Federal Government:

Second. The Farmers Home Administration rural sewer planning grant program has been terminated and such funds may be available, if not reachable, from EPA;

Third. The Farmers Home Administration water system construction grant program has been terminated and Environmental Protection Agency nor any other agency has the authority to initiate such a program;

Fourth. The Farmers Home Administration sewer and solid waste disposal construction grant program has been terminated and there is serious doubt whether Environmental Protection has or intends to use any of its authorizations to inaugurate such a program on a nationwide basis for anything other than rural waste treatment plants.

I ask unanimous consent to insert at this point in my remarks a report prepared on this question by the Congressional Research Service.

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

The following comments are in response to your telephone request to Mr. Robert Wolf on February 23, 1973.

In 1965, Congress enacted the Poage-Aiken Act authorizing the Secretary of Agriculture to make grants not to exceed $50-million for both water and waste disposal systems (subsequently raised to $300-million), loans for waste disposal and grants for comprehensive area water and sewer planning. The Department of Agriculture terminated the planning and development grants in the Farmers Home Administration programs for water and waste disposal as of January 1, 1973. The Department contends that grant funds are available under other programs, presumably in EPA.

The Federal Water Pollution Control Act Amendments 1972, P.L. 92–500, have generally comparable grant provisions. Section 105(e) provides for research and demonstration projects for new and improved methods of preventing, reducing and eliminating pollution from agriculture. Grants are also available for demonstration projects for new and improved methods of preventing, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible or where soil conditions preclude the use of septic tanks or drainage field system. Seventy-five million dollars were authorized for Section 105, and at least 10 percent shall be available for subsection (e) which would include rural areas.

Section 208, P.L. 92–500, authorized $50-million for the development and implementation of areawide waste treatment management plans. These plans are to consider nonpoint and point sources of pollution, including agricultural, silvicultural, residual wastes that could affect water quality.

Section 206, P.L. 92–500, authorized $18-billion for reimbursement of sewage treatment construction works over a 3 year period, FY 1973—FY 1975. President Nixon announced that no more than $2-billion, of the $5-billion authorized for FY 1973, would be allocated to the States. The allocation for FY 1974 would also be reduced to $3-billion from the authorized $6-billion.

The Poage-Aiken Act was specifically directed toward rural America. Subsequent acts did not repeal or set aside its terms and authorizations. One must presume the Congress and the Executive were aware of the laws and authorizations on the books. Thus acts subsequent to the Poage-Aiken Act would be supplemental to and not in replacement, unless so specified.

The Farmers Home Administration is continuing its water and waste disposal loan program for communities unable to secure the necessary financing to repair or develop urgently needed facilities.

P.L. 91–512, Resource Recovery Act of 1970, amends the Solid Waste Disposal Act. Among other things, it provides for grants for recovery of useful energy and materials; grants for State, interstate and local planning; and grants for resource recover systems and improved solid waste disposal facilities. In the latter grant category, Sec. 208 of P.L. 91–512, not more than 70 percent of the designated or appropriated funds during FY 1972 and 1973 was to be awarded to assist community solid waste problems of Standard Metropolitan Statistical Areas. The remaining 30 percent was to be reserved for solving problems of rural areas. The attached material summarizes the grant activity under Sec. 208.

It is my further understanding that the President's 1974 fiscal year Budget does not project any program for rural waste disposal loans. Thus of the nine programs for water and waste disposal systems in rural areas, only the rural water system loan program will remain, with a faint possibility that some rural communities may be able to obtain sewer loans and grants from the Environmental Protection Administration.

A thorough search of both the current Catalog of Federal Domestic Assistance and the 1974 Budget documents failed to reveal where any provision is made for loans of grants for rural systems for sewer connector and collection lines, for county—or area-wide solid waste disposal loans or grants, or for grants for rural water distribution systems.

Not only, is there no apparent provision for picking up the water grant program in the Environmental Protection Agency, there is serious doubt whether that agency is authorized, or intends, to make rural sewer and solid waste grants on a nationwide basis, or the President, or the Secretary of Agriculture has the legal authority to pick up the statutory water grant program of the Department of Agriculture and transfer it bodily to a Department or Agency outside the Department of Agriculture that does not have basic authority to carry out the activity as the following statement prepared by Dr. Allen Schick of Congressional Research Service of the Library of Congress indicates.

The pertinent paragraph reads:

"As things now stand, the Secretary of Agriculture probably can take away the functions of or abolish many United States Department of Agriculture units such as the Rural Electrification Administration and the Soil Conservation Service. *Of course, the Secretary could not transfer their functions to units outside the United States Department of Agriculture; such transfer could be done, however, by means of the President's reorganization power.*"

To Senate Committee on Agriculture and Forestry

From Government and General Research Division, Charles W. Harris, Division Chief

Research by—Allen Schick, Senior Specialist

The reorganization power of the President extends to all agencies and functions established by law. The fact that any agency has a statutory basis—even one going back many decades—does not bar the President from using his reorganization power to abolish, transfer or consolidate the agency or its functions. In fact, the purpose of the Reorganization Act of 1949 as amended (5 USC 901–913) is to empower the President to reorganize such units irrespective of their statutory origins.

The President may use executive orders to reorganize agencies or functions not established by law. In the case of the Department of Agriculture, the Secretary possesses considerable reorganization authority. Reorganization Plan No. 2 of 1953 (67 Stat. 633) "transferred to the Secretary of Agriculture all functions not now vested in him of all other officers, and of all agencies and employees of the Department of Agriculture . . . It allows the Secretary to authorize any other officer, agency, or employee of the Department to perform any function vested in the Secretary . . . Also, it will enable the Secretary from time to time, to adjust the organization of the Department . . ."

Certain functions and units of the Agriculture Department were excepted from Reorganization Plan No. 2 of 1953. These were the Farm Credit Administration, corporations of the Department, the functions of hearing examiners, and the Advisory Board of the Commodity Credit Corporation.

As things now stand, the Secretary of Agriculture probably can take away the functions of or abolish many USDA units such as the Rural Electrification Administration and the Soil Conservation Service. Of course, the Secretary could not transfer their functions to units outside USDA; such transfer could be done, however, by means of the President's reorganization power.

The Secretary of Agriculture has used his reorganization power deriving from Reorganization Plan No. 2 of 1953 to establish the Food and Nutrition Service (1969), Agricultural Marketing Service (1972), and the Animal and Plant Health Inspection Service (1972), and the Agricultural Stabilization and Conservation Service (1961).

Agencies and functions established by law subsequent to 1953 and not vested in the Secretary of Agriculture probably could be reorganized only via the reorganization authority of the President.

RURAL DEVELOPMENT PRIORITY

Mr. McGOVERN. Lacking adequate water, sewer, and solid waste disposal systems, rural communities cannot: First, meet Federal and State goals and standards for pollution abatement and control; second, operate the measures required to preserve and enhance the natural environment; and cannot attract and hold the job-creating industry, business, tourism, outdoor recreation, and retirement homes required to increase local income and tax base sufficiently to meet national rural development goals.

The rural water and waste disposal grant program is only one of a wide variety of Federal programs to provide for the abatement and control of water pollution and for the preservation and enhancement of the natural environment. But it is the only such program that is specifically adapted to the needs of rural communities and the open countryside. And it is the only such program that is exclusively available in Countryside U.S.A. and in rural villages, towns, and cities up to 10,000 population.

In title IX of the Agricultural Act of 1970, the Congress passed and the President signed a strong, forthright national policy establishing the revitalization and development of rural areas as a national goal of highest priority.

Section 901(a) of that act stated:

The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

Without adequate water distribution and waste disposal systems, rural communities cannot contribute to the attainment of this highest priority national goal. Without these, rural communities lack both the means to provide essential elements of the modern standard of a high quality of life and the prerequisites required to attract needed industry to create new jobs and increased income and tax base. While the recently enacted Rural Development Act provides and the President's budget projects the making of loans for establishment and operation of a nationwide rural industrialization loan program, its purposes will be frustrated and blunted if adequate water and waste disposal systems in rural communities are not available.

THE QUESTION OF GOVERNMENT RELIABILITY

Mr. President, as I have pointed out, the legislation authorizing this program was first enacted as the Aiken-Poage Act in 1965 as an amendment to what is now the Consolidated Farm and Rural Development Act, section 306—7 U.S.C. 1926.

The program has since operated successfully year-in and year-out over the past 8 or so years.

According to the normal schedule outlined in the recent testimony of Comptroller General Staats, a former Associate Director of the Budget before the joint committee actions and discussions leading up to decisions on the nature and level of water and waste disposal loan and grant programs that would be operated in fiscal year 1973 must have been initiated as early as August 1970 in program evaluation and analysis studies and budget projections. There were no indications of which the Committee on Agriculture and Forestry was aware, that termination of this program was being even remotely considered at that time.

From August 1971 many conversations between the USDA and Office of Management and Budget must have taken place, their disagreements settled, and their final recommendations were incorporated in the President's budget message, which was delivered to Congress, January 24, 1972.

The President's budget on January 24, 1972, recommended continuation of the program for the full fiscal year of 1973 at a program level of $42 million.

Subsequently, officials of USDA appeared before both House and Senate Committees on Appropriations, and vigorously defended and justified the program. At no time during these hearings was there any indication by any administration witness that the water and waste disposal grant program would be terminated in mid-year or at any other time. In fact, Department witnesses couched their recommendations for funds for this purpose on a full fiscal year operation.

The Agriculture-Environmental and Consumer Protection Appropriation Act, 1972—Public Law 92-399—which the President signed on August 22, 1972, stated:

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306 (a) (2) and 306(a)(6) of the Consolidated Farmers Home Administration Act of 1961, as amended (7 USC, 1926), $150,000,000, to remain available until expended, pursuant to section 306 (6) of the above Act, of which $58,000,000 shall be derived from the unexpended balance of amounts appropriated under this head in the fiscal year 1972, largely to meet the expanding need for areas not now covered; Provided, That this appropriation shall be available only with the limits of amounts authorized by law for fiscal year 1973.

Then, on August 30, 1972, the President signed the Rural Development Act of 1972, which contained a provision tripling the annual authorization from $100 million to $300 million, for development grants and doubling the authorization from $15 million to $30 million for planning grants.

The Office of Management and Budget issued an allocation to the Department of Agriculture indicating an annual level of expenditure of $420 million, with $108 million of the $150 million appropriation being impounded. But there was, even at this date, no indication that the program would be terminated rather than merely reduced in total amount.

The current Catalog of Federal Domestic Assistance, published and distributed during the fall of 1972 by the Executive Office of the President, Office of Management and Budget, contains a full description of the comprehensive area-wide rural water and waste disposal planning and development grants and loan program. I ask unanimous consent that this material be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. McGOVERN. Mr. President, that description was predicated upon the publication, the Federal Register, volume 37, No. 118, Saturday, June 17, 1972, of the updated rules and regulations governing the rural water and waste disposal loan and grant program. There is nothing to be found in the rules and regulations published on June 17, 1972—and there has been no subsequent notice or announcement placed in the Federal Register—that the program was to be terminated about 6 months later. I ask unanimous consent that this Federal Register document be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. McGOVERN. Mr. President, these descriptions are generally unchanged from previous editions of the catalog; certainly there is no indication of impending termination.

Every official action of the administration and of the Department of Agriculture from August of 1970 up to the time of cancellation on January 10, 1973, would have led any observer to believe that the general nature and at least the broad outlines of funding for the program were set and secure for at least the full fiscal year of 1973.

Here is the chronology of actions upon which was based the confidence of citizens in relying on continuance of the programs.

Aiken-Poage Act of 1965: Initial authorization of water and waste disposal planning and development grant program.

January 24, 1972: Included in budget message.

June 17, 1972: Up-dated Rules and Regulations published in Federal Register.

August 22, 1972: Appropriation act approved.

August 30, 1972: Authorization tripled by Rural Development Act of 1972.

Initial allocation by Office of Management and Budget: $42 million.

Inclusion of program in official Catalog of Federal Domestic Assistance.

January 1, 1973: Program terminated.

At the date of the termination announcement, 1,685 communities across the United States had applications pending for $252,783,208.00 in grants under the program.

These applicants had proceeded, in full expectation of continuation of the program, in planning for work to be undertaken and preparing applications to be processed and approved.

The very great amount of detailed work that precedes the drafting and fil-

ing of an application for a water or waste disposal grant to accompany the loan for the same purpose is indicated by the description of the steps involved in planning and developing community water and waste disposal facilities that is exhibit J to the U.S. Department of Agriculture Farmers Home Administration Instruction 442.1 issued June 5, 1972. No subsequent instructions were issued.

I ask unanimous consent that this FHA instruction be printed in the RECORD following my remarks.

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

(See exhibit 3.)

Mr. McGOVERN. Mr. President, the termination of the rural water and waste disposal grant program came as a great shock to hundreds of local communities that have grant applications for a water or waste disposal system which have not been approved due to lack of available funds.

In addition, many local community groups were in other stages of organization or planning prior to formal submission of their application. These groups had every reason to expect a continuation of the grant program that was necessary to the implementation of their projects.

Some had even taken expensive preliminary steps such as: First, contracted or completed engineering studies and plans; second, sale of general obligation or revenue bonds for the required local share of costs; third, circulation of pledge certificates among perspective users of the service, fourth, ground preparation; fifth, contacting prospective industrial or business enterprises who would need the service.

Mr. President, we have heard a great deal about improving the enforcement of law and order, and I share the feeling that we need a great more attention to it. I further submit that if we are to maintain the confidence of the citizens and local communities in the reliability of the Federal Government itself to follow the laws and fulfill its implied commitments, then we must pass this legislation to restore this program so that those who have depended upon its continuance will not be disillusioned and injured. In a significant sense, the good faith of the Government is involved.

THE STATUS OF CONGRESS AND THE CONSTITUTIONAL QUESTION

Mr. President, at my request, the committee staff has developed a tightly reasoned and straightforward brief of the situation relative to the constitutional question raised by termination of the water and waste disposal grant programs. I have nothing to add to this language and will rest the legal case for the bill on that basis. I wish to thank the assistant counsel of the committee—Mr. Michael McLeod—for the long, detailed, painstaking legal research he has done on this subject and to commend him for the concise clarity with which he has expressed the argument.

Mr. President, I ask unanimous consent to have this brief printed in the RECORD as a part of my remarks.

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

THE CONSTITUTIONAL ISSUE

Although rural Americans have much at stake in this bill which would restore a program that is so desperately needed by small towns and the countryside throughout the nation, we are faced with a much broader issue here. We are confronted with a breach of our constitutional system of separation of powers and the refusal of the Executive Branch to execute the clearly stated and duly enacted intent of Congress.

The Committee has faced this issue on two previous occasions this year, in considering legislation to restore the REA direct loan program and in legislation to restore the terminated Rural Environmental Assistance Program. However, there is no case of clearer Congressional intent that a program be continued and expanded than in the case of the Water and Waste Disposal Grant Program of the Farmers Home Administration. There is no case in which the Executive Branch's termination or cancellation of a program flys more directly in the face of Congressional intent.

In a memorandum prepared by John A. Knebel, General Counsel of the Department of Agriculture in response to the request of the Chairman of the House Agriculture Committee for the legal authority for terminating the rural Water and Waste Disposal Grant Program and other programs the termination of the program is justified by pointing to language in the Consolidated Farm and Rural Development Act which "authorizes" rather than "directs" the Secretary of Agriculture to make grants for water and waste disposal purposes. The memorandum points out neither the substantive legislation or the appropriation act compels the obligation and expenditure of the full amount authorized for water and waste disposal grants. Moreover, the memorandum states that the Executive Branch has failed to obligate all funds appropriated by Congress for this program in the past.

This line of reasoning is extremely narrow. It is an attempt to construe the law in a vacuum and to ignore all pertinent legislative history. It ignores the fact that Congress has, through legislative action, clearly expressed its intent that the water and waste disposal grant program should not only be continued, but that it should be dramatically expanded.

The Congress passed and the President approved on August 30 the Rural Development Act of 1972 (P.L. 92-419). This Act increased the water and waste disposal grant program from $100 million for any fiscal year to $300 million for any fiscal year. In addition, it increased the authorization for grants for comprehensive planning of water and waste disposal systems in rural areas from $15 million for any fiscal year to $30 million for any fiscal year.

Concurrent with the passage of the Rural Development Act the Congress was considering the Department of Agriculture-Environmental and Consumer Protection Appropriation bill for fiscal year 1973. In its Committee report on this bill on June 26, 1972, the House Committee on Appropriations expressed great disappointment at the refusal of the Executive Branch to fully utilize all funds appropriated for the water and waste disposal grant program and again recommended a program level of $100 million. The statement of the House Appropriations Committee follows:

"The Farmers Home Administration is authorized to make grants for the preparation of comprehensive plans to coordinate the development of water and waste disposal systems in rural areas. In addition, grants are made to rural area associations such as nonprofit corporations and municipalities for up to 50% of the costs of developing projects for storage, treatment, purification and distribution of domestic water or the collection, treatment, or disposal of wastes.

For 1973, the Committee again recommends a program level of $100,000,000 for this program, including the reappropriation of $58,000,000 which was withheld by the Office of Management and Budget in 1972 although the need was there. As of December, 1971, FHA had 1,891 grant applications for an estimated cost of $151,000,000. A similar situation exists with regard to towns and cities above 5,500, where the Department of Housing and Urban Development has principal responsibility, where $500,000,000 of the $700,000,000 made available by Congress has been frozen.

"In view of the general interest in doing something for the environment and the commitment by the Federal Government to do all it can to minimize the impact of man on his environment and to safeguard health, the Committee is at a loss to understand the failure to use the funds as Congress directed. The only answer the Committee has received is that these funds have a lower priority at the Office of Management and Budget. For the coming year, the committee directs the use of these funds due to the need.

"What is overlooked is that, for rural areas, the Committee believes that these funds often mean the difference between partially meeting a limited need and a sound, area-wide program to serve immediate needs in sparsely populated areas while providing the facilities necessary to meet the demands for future development. In providing $100,000,000 the Committee believes the Department should set up not less than 20% of the funds to strengthen existing systems to assure that they are expanding to take in unserved customers and to improve service in their designated service area."

The Senate Appropriations Committee in considering this appropriation's bill took an even stronger position. It strongly urged the Administration to release all water and waste disposal grant funds which had been impounded and it increased the appropriations level to $200 million for fiscal year 1973. Although the Rural Development Act, which was to increase the authorization level from $100 million to $300 million, had not yet received final approval by the Congress, the Senate Appropriations Committee felt so strongly that additional funds were needed for the water and waste disposal grant program that it recommended an increased appropriation of $200 million in anticipation of the increased authorization level to be enacted in the Rural Development Act. The statement of the Senate Appropriations Committee on this issue follows:

"Section 306 of the Farmers Home Administration Act of 1961, as amended, provides appropriation authority for grants for the preparation of official comprehensive plans which coordinate the development of water and waste disposal systems in rural areas. Grants made under the authority may not aggregate more than $15 million in any fiscal year.

"Section 306 of the Act also provides appropriation authority for grants for the development costs of water and waste disposal projects in rural areas. Grants made under this authority may not aggregate more than $100 million in any fiscal year.

"No appropriation was requested in fiscal year 1973 for these grants. However, the Department has proposed that an unobligated balance of $58,000,000 be carried forward from fiscal year 1972. This amount would be used to provide for planning grants of $2,000,000 and development grants of $40,000,000. The proposed 1973 levels for both planning and development grants are unchanged from the program level in 1972.

"The Committee recommends a new budget

authority of $142,000,000 which, added to carry-over funds of $58,000,000, will result in total funds available for use in fiscal 1973 of $200,000,000. This is $142,000,000 more than the budget estimate, $100,000,000 more than provided in the House bill, and $98,000,000 more than the new (obligational) authority provided in the Appropriation Act for fiscal year 1972. The additional funds recommended herein shall become available only within the limits of amounts authorized by law for fiscal year 1973.

"The Committee strongly urges the Administration to release all of these funds for use during the fiscal year. The need for this program has been well documented. Water and waste problems are critical in rural America, and the Committee directs the Department and the Administration to attack these problems more aggressively and to utilize all of the funds for the purposes for which they have been appropriated."

In the conference on the Department of Agriculture—Environmental and Consumer Protection Appropriation bill the House and Senate conferees compromised on a figure of $150 million for grants for the water and waste disposal program of the Farmers Home Administration. This appropriation bill was signed by the President on August 22.

Thus both houses of Congress, in both the authorizing legislation and in the appropriations legislation, have indicated in the strongest possible terms the need to not only continue but to greatly expand the water and waste disposal grant program of the Farmers Home Administration.

While the Committee on Agriculture and Forestry has not found it necessary to decide the general issue of impoundment, I am at a loss to understand how the Executive Branch can justify its refusal to implement the clearly stated and duly enacted intent of Congress. Certainly, we are not dealing with a simple case of impoundment here. We are not dealing with a case of the Executive Branch withholding part of the funds appropriated for a program. We are dealing with a case in which the Administration has, by Executive fiat and decree, terminated a program which has the strongest possible support in the Congress.

The power of the Congress to legislate and its power of the purse is squarely based on the Constitution. The Constitution clearly states that only the Congress has the power of the purse—the power to tax and the power to appropriate funds. It states:

"The Congress shall have the power to lay and collect Taxes, Duties, Impost and Excises, to pay debts and provide for the common defense of the general welfare of the United States. . . ." U.S. Const., Article I, Sec. 8.

The Constitution is equally explicit in stating the President's duty to execute laws passed by the Congress:

"He shall take care that the laws be faithfully executed." U.S. Const., Article II, Sec. 3.

By terminating the water and waste disposal program, which is authorized in laws passed by the Congress and is strongly supported by the Congress, the President is failing in his constitutional duty to take care that these laws be faithfully executed.

He is in effect imposing an item veto over statutes that have already been signed into law. While the President does have the right to veto legislation to which he is opposed, he does not have the right to impose an item veto. He certainly does not have the right to impose an item veto over statutes that have already been signed into law. Article I, Section 7 of the Constitution spells out the veto powers of the President: "Every Bill which shall have passed the House of Representatives and the Senate, shall before it become a law, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated. . . ."

The Secretary of Agriculture has used the discretion provided under this law as a justification for terminating the program authorized by the law. Such abuse of discretion defeats the purpose of the law. Therefore, the enactment of the Committee bill will remove the Secretary's discretion. It will require the Secretary to make grants under the Rural Water and Waste Disposal Planning and Development *in the full amount appropriated*. Thus, the bill will reaffirm the intent of Congress which was so clearly expressed in 1972.

Mr. McGOVERN. Mr. President, we must right this wrong. We must restore this program to full operation. We must continue as best we can to meet the needs of rural America for special assistance to build community facilities of this kind which are essential to rural community improvement and development.

Particularly, we must be insistent that laws of this kind which the Congress has passed, and for which funds have been repeatedly appropriated, shall be faithfully carried out by the executive branch. We must do it if the Congress is to maintain its proper and legal place in the constitutional government of this country.

Mr. President, I urge the support of all Senators for passage of this bill.

EXHIBIT 1

FARMERS HOME ADMINISTRATION

10.400 COMPREHENSIVE AREAWIDE WATER AND SEWER PLANNING GRANTS

Federal Agency: Farmers Home Administration, Department of Agriculture

Authorization: Consolidated Farmers Home Administration Act of 1961, as amended, section 306; 7 U.S.C. 1926.

Objectives: To promote efficient and orderly development of rural communities; to provide the information necessary to avoid overlapping, duplication, underdesign or overdesign of the community water and sewer facilities that may be constructed in the area covered by the plan.

Types of assistance; Project Grants:

Uses and use restrictions: Comprehensive planning grants may be made to provide technical and professional services and to pay for necessary test wells and soil and water investigations. The plan must be limited to a rural area and may not include towns or villages with populations in excess of 5,500.

Eligibility requirements:

Applicant Eligibility: Organizations such as public bodies, counties, townships, state, regional and local planning commissions are eligible providing they: (1) lack the resources to immediately finance the planning; (2) are as broadly based and as representative of the interest of the rural area as they can be under state statutes; (3) propose a plan that is supported by local officials and private and public agencies interested in the development of water and sewer facilities in the area; and (4) have authority to prepare official comprehensive plans.

Beneficiary Eligibility: Residents of rural areas.

Credentials/Documentation: The applicant must submit evidence of authority to prepare official comprehensive plans, evidence that resources are not immediately available to finance the plan and evidence that plan is consistent with other plans.

Application and award process:

Preapplication Coordination: All proposals are reviewed by state, metropolitan and local units of local government before an application is filed. Up to 60 days is allowed for the review. Applications should be reviewed under procedures in Part I of OMB Circular No. A-95 (revised).

Application Procedure: SF 101, "Preliminary Application, Federal Assistance for Public Works and Facility Type Projects," is used. Send application to local FHA office.

Award Procedure: After application has been approved by the county supervisor and the county committee, it is given final approval (depending on the size of the application) by the county supervisor, the district supervisor, or the state director. Following approval, payment authorization is forwarded to the National Finance Office which issues the check. Notification of award must be given to the designated State Central Information Reception Agency and OMB on SF 240.

Deadlines: None.

Range of Approval/Disapproval Time: 30 to 90 days.

Appeals: If an application is rejected, the reasons for rejection are fully stated. The applicant may reapply at any time that the reasons for rejection are corrected.

Renewals: Not applicable.

Assistance considerations:

Formula and Matching Requirements: Grant assistance may be for the total cost of the plan.

Length and Time Phasing of Assistance: Not applicable.

Post assistance requirements:

Reports: Reports are required to the extent necessary to determine that the provisions of the grant agreement are met.

Audits: Not required.

Records: Records are required to the extent necessary to determine that the provisions of the grant agreement are met.

Financial information:

Account Identification: 05-75-2066-0-1-352.

Obligations: (Grants) FY 71 $2,642,650; FY 72 est $2,000,000; and FY 73 $2,000,000.

Range and Average of Financial Assistance: $500 to $317,000; $12,000.

Program accomplishments: In fiscal year 1971, 175 grants were made.

Regulations, guidelines, and literature: Fact sheet, "Grants for Preparation of Comprehensive Area Plans for Water and Sewer Systems," no charge. "Farmers Home Administration," PA 705, no charge.

Information contacts:

Regional or Local Office: Contacts should be made with the county Farmers Home Administration office serving the area in which the project is located. If unable to locate the county office contact the headquarters office listed below.

Headquarters Office: Administrator, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 388-7968.

Related programs: 10.411, Rural Housing Site Loans; 10.414, Resources Conservation and Development Loans; 10,418, Water and Waste Disposal Systems for Rural Communities; 11.302, Economic Development-Planning Assistance; 14,301, Basic Water and Sewer Facilities-Grants.

10.418 WATER AND WASTE DISPOSAL SYSTEMS FOR RURAL COMMUNITIES

Federal agency: Farmers Home Administration, Department of Agriculture.

Authorization: Consolidated Farmers Home Administration Act of 1961, as amended, Section 306; 7 U.S.C. 1926.

Objectives: To provide basic human amenities, alleviate health hazards and promote the orderly growth of the rural areas of the Nation by meeting the need for new and improved rural water and waste disposal systems.

Types of Assistance: Project Grants; Guarantee/Insured Loans.

Uses and use restrictions: Funds may be used for the installation, repair, improvement, or expansion of a rural water system including distribution lines, well, pumping facilities and costs related thereto. The installation, repair, improvement, or expan-

sion of a rural waste disposal system including the sewer lines, waste collection, and treatment of all wastes including solid wastes.

Restrictions include a total indebtedness including both loans and grant not to exceed $4,000,000. Development grants for construction cannot exceed 50 percent of the development cost.

Eligibility requirements:

Applicant Eligibility: Public or quasi-public bodies and corporations not operated for profit which will serve residents of open country and rural towns and villages up to 5,500 population may receive assistance when: (1) they are unable to obtain needed funds from other sources at reasonable rates and terms; (2) the proposed improvements will primarily serve farmers and other rural residents; and (3) they have legal capability to borrow, repay, and pledge security for the loan and to operate the facilities or services.

Beneficiary Eligibility: Eligibility for this assistance is limited to public or quasi-public bodies and corporations not operated for profit which serve residents of open country and rural towns and villages of not more than 5,500 population.

Credentials/Documentation: The applicant must furnish evidence of legal capacity to borrow and repay the loans, to pledge security for loans and to operate the facilities or services. Plans and specifications must be developed to comply with state and local health regulations and other requirements.

Application and award process:

Preapplication Coordination: All project proposals are reviewed by state, metropolitan, and local units of government before an application is filed. Up to 60 days is allowed for the review. Applications should be reviewed under Part I of OMB Circular No. A-95 (revised).

Application Procedure: SF 101–Preliminary Application, Federal Assistance for Public Works and Facility Type Projects, is sent to local FHA office.

Award Procedure: After application has been approved by the county supervisor and the county committee, it is given final approval (depending on the size of the application) by the county supervisor, district supervisor or the state director. Following approval, payment authorization is forwarded to the National Finance Office which issues the check. Notification must be made to the public and the designated State Central Information Reception Agency and OMB on SF 240.

Deadlines: None.

Range of Approval/Disapproval Time: 30 to 90 days

Appeals: If an application is rejected, the reasons for rejection are fully stated. The applicant may reapply at any time that the reasons for rejection are corrected.

Renewals: Not applicable.

Assistance considerations:

Formula and Matching Requirements: The loan and grant assistance may equal the project cost if the applicant is financially unable to contribute a part of the cost. Grant assistance is limited to one-half the project cost.

Length and Time Phasing of Assistance: Loans may be scheduled over a period of 40 years.

Post assistance requirements:

Reports: During the first year of operation, monthly progress reports are to be made to the FHA county supervisor. Sometime after the first four months and before the end of the 9th month of operation, the FHA District Supervisor will review and make a report on the operation of the facilities.

Audits: Annual audits are required after the system goes into operation.

Records: Records and accounts are required to reflect the operations of the project.

Financial information:

Account Identification: (Loans) 05–75–4140–0–3–351; (grants) 05–75–2066–0–1–352.

Obligations: (Loans) FY 71 $261,703,930; FY 72 est $300,000,000; and FY 73 est $300,000,000. (Grants) FY 71 $41,355,200; $40,000,000; and FY 73 est $40,000,000.

Range and Average of Financial Assistance: Loans: $50,000 to $2,000,000; $200,000. Grants: $30,000 to $100,000; $80,000.

Program Accomplishments: In fiscal year 1971, 1,327 loans and 637 grants were made.

Regulations, Guidelines, and Literature: Financial Assistance to Small Towns and Rural Groups—PA-707—no charge. Farmers Home Administration, PA-705—no charge.

Information Contacts:

Regional or local office: Contacts should be made with the County Farmers Home Administration Office serving the area in which the project is located. If unable to locate the county office contact the headquarters office shown below.

Headquarters Office: Administrator, Farmers Home Administration. U.S. Department of Agriculture, Washington, D.C. 20250 Telephone: (202) 388-7968

Related Programs: 10.400, Comprehensive Areawide Water and Sewer Planning Grants; 11.302, Economic Development-Planning Assistance; 13.299, Indian Sanitation Facilities; 14.301, Basic Water and Sewer Facilities—Grants; Public Facility Loans.

EXHIBIT 2

[Excerpts from the Federal Register, June 17, 1972]

[FHA Ins. 442.2; AL-870) 442)]

CHAPTER XVII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

Part 1823—Association Loans and Grants—Community Facilities, Development, Conservation, Utilization: Loans and Grants for Community Domestic Water and Waste Disposal Systems

On Wednesday, March 1, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 4267) to amend 7 CFR, Subpart A of Part 1823 to outline the policies and authorizations and set forth the provisions for making and processing loans and grants to rural communities and other associations for central domestic water and waste disposal systems. Interested persons were afforded the opportunity to participate in the rule making through the submission of comments. A number of comments were received and due consideration has been given to all material presented. In light of the comments and subsequent review the regulations are being published and a number of revisions and editorial changes have been made principally with respect to developing community water and waste disposal facilities.

The comments resulted in changes with respect to:

1. Clarification of who shall be deemed eligible to perform FHA required audits.

2. A change which would make it clear that a portion of bonds proportionate to FHA investment may be sold to FHA even though secured by revenue of the entire system where FHA is financing serve both urban and rural areas.

3. Adding the provision that revenue bonds given as security for solid waste projects when backed by the full faith and credit of the underlying Governments will be acceptable.

4. Applicants engaging a qualified construction inspector, provided the inspector will work under the general supervision of the Consulting Engineers.

5. Editorial changes. In accordance with the above, the regulations as amended will appear as Subpart A of Part 1823, Subchapter B, Loans and Grants Primarily for Real Estate Purposes, and are hereby adopted effective on the date of their publication in the FEDERAL REGISTER (6-17-72).

AUTHORITY: The provisions of this Subpart A issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Order of Act. Sec. of Agr., 36 F.R. 21529; Order of Asst. Sec. of Agr. for Rural Development and Conservation, 36 F.R. 21529.

SUBPART A—LOANS AND GRANTS FOR COMMUNITY DOMESTIC WATER AND WASTE DISPOSAL SYSTEMS

§ 1823.1 General.

This subpart is supplemented by Parts 1890, 1890g, 1890h, 1890p, and 1890r of this chapter. This subpart outlines the policies and authorizations and set forth * * *

(g) *Development grant.* The terms "development grant" means a grant made by FHA to assist in financing the development cost of domestic water and waste disposal systems. These grants are * * *

§ 1823.3 Eligibility.

To be eligible for financial assistance, an association must:

(a) Propose central domestic water or waste disposal facilities which will be:

(1) Primarily used by, or which will generate substantial, tangible benefits primarily for farmers and other rural residents. In the case of a private corporation the use or benefit test is applied to members of the corporation. In the case of a public body, the use of benefit test is applied to the permanent residents within its boundaries or within the boundaries of the rural area to be served by the proposed facility. (An example of substantial, tangible benefits other than direct use of facilities: A rural community may need assistance to extend a water system to serve existing or committed industrial or commercial users whose operation will result in a substantial amount of employment for the local rural residents.) Membership of associations providing community facilities should be broadly based and representative of the community benefiting from the facility.

(2) Located in a rural area and serve farmers and rural residents living in the area. The facility will be controlled by farmers and rural residents, except that if the applicant is a public body and the State Director finds that control by the farmers and rural residents is not feasible, the control may be exercised by the public body when the State Director determines that it can adequately represent the interests of the rural people to be served. In those cases where a project will serve both urban or urbanizing and rural areas, FHA may finance that portion of the facility serving the rural area provided that FHA will have a valid security interest in the revenues from or tax obligations of the borrower attributable or in an amount proportionate to that portion financed by FHA. The dockets for all projects serving both urban and rural areas will be submitted to the National Office for review prior to loan or grant approval. * * *

(b) Propose a facility which will not duplicate or compete with existing or planned private or public facilities. In any case where there is a question as to whether the facility will duplicate or compete with existing or planned public or private facilities, complete information on the degree of duplication or competition will be forwarded to the National Office for consideration before the project summary is prepared. Submissions will include written statements from local leaders and from owners of existing or planned private facilities and such statements should explain their attitude toward the proposed facility. In any instance where two or more applications for projects that would serve substantially the same group of residents within a single rural area are received and one of the applications is submitted by a village, town, county, or other

unit of local government, assistance will be provided through the unit of local government unless prior approval of the National Office is obtained.

(c) Be without sufficient funds to carry out the purposes for which the loan or grant is requested and be unable to obtain adequate credit from other sources on reasonable rates and terms. In considering the availability of credit through general obligation bonds, it is not intended that a community be required to exhaust all of its taxing authority to meet this requirement when such remaining authority is limited and is likely to be needed to finance facilities which cannot be financed through revenue bonds or other means. In order to establish that sufficient funds at reasonable rates and terms, as evidenced by a predetermined reasonable annual debt service cost, are not otherwise available to tax-exempt public bodies, all such applicants for either direct or insured loans in excess of $50,000 will be required to advertise on the open market for a lender (on a non-FHA-insured basis) before FHA makes either a loan or grant or insures a loan. If the applicant does not receive an offer from other sources to purchase all of its bonds at reasonable rates and terms, FHA will proceed to make the loan provided it is otherwise sound and proper.

(d) Have the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan.

(e) Propose a system which will be designed and installed to serve the entire service area with service to be provided to anyone within the service area who desires to be served insofar as is economically feasible. No user or area will be denied service because of race, color, creed, or national origin.

(1) Systems serving incorporated municipalities and similar entities will be installed so as to afford service to all users living within the corporate limits plus adjacent built-up areas which logically should be served by the central system unless State or local law precludes service outside the corporate limits or prior exception is granted by the National Office.

(2) Systems serving open country will be installed so as to serve all users requesting service insofar as economically feasible.

(3) In no case will boundaries for the proposed service area be chosen in such a way that any user or area will be excluded because of race, color, creed, or national origin.

(4) The requirements of subparagraphs (1), (2), and (3) of this paragraph do not preclude the financing of:

(i) Projects by phases when it is not practical to finance the entire project at one time, and

(ii) Projects for municipalities where it is not economically feasible to serve the entire area provided economic feasibility is determined on the basis of the entire system, not by considering the costs of separate extensions to or parts thereof; the applicant must have and publicly announce a plan for extending service to areas not initially receiving service from the system; and those families living in the areas not to be initially served must receive written notice from the applicant that service will not be provided until such time as it is economically feasible to do so.

(iii) Extensions to serve industrial areas when service is made available to users located in the service area of the extension.

(5) The applicant will be required to notify each potential user of the availability of the service.

(i) If a mandatory hookup ordinance will be adopted, the required note or bond advertisement will be considered adequate notification, except in those cases being processed under subdivision (ii) of subparagraph (4) of this paragraph.

(ii) When any portion of the income will be derived from user fees and a mandatory hookup ordinance will not be adopted, each potential user will be afforded an opportunity to request service by signing a Users Agreement. Forms are available in all FHA offices to expedite this service as well as forms for those declining such service. The applicant will prepare a map showing each potential user surveyed, and the results of the survey. Also, a list should be maintained of those who decline service.

§ 1823.4 Determining need for development grant.

(a) In order that beneficial use of development grant funds may be made, a development grant will not be considered in docket preparation until the State Director has made a preliminary determination regarding the grant request. Such detemination will be based on a review of the preliminary engineering report, a draft of the proposed budget, facts concerning income levels in the applicant community, emergency, health, economic, and other factors, and a comparison of proposed user charges with user charges of established systems of similar size and cost and ratio of residential users serving communities of similar economic circumstances.

(b) Development grants may be made to eligible associations to assist in financing specific projects for development, storage, treatment, purification, and distribution of domestic water, and the collection, treatment, or disposal of waste in rural areas where such grants are necessary to reduce average annual user charges to a reasonable level. Grants may be made to supplement funds provided by private sources or in connection with FHA loans for development.

(c) Grants may be made only when the cost of the proposed development would result in the user charges being excessive to the average residential user, and by the use of grant funds to reduce the amount of the applicant's share of the total project cost, the user charges would be lowered to a reasonable level. The following will be determined and considered in establishing a reasonable level and the amount of the development grant:

(1) The amount of the average annual residential user cost, including revenues from periodic charges, taxes, and assessments, without taking into consideration any FHA grant.

(2) The amount of average annual residential user cost, including periodic charges, taxes and assessments, levied in connection with established systems of similar size and costs and pecentage of residential users in communities of similar economic conditions.

(3) The difference between the cost found in subparagraphs (1) and (2) of this paragraph. If the average annual residential user cost as determined in subparagraph (1) of this paragraph significantly exceeds that as determined in subparagraph (2) of this paragraph, consideration may be given to a development grant.

(4) Income levels in the community and emergency, health, economic, and other factors.

§ 1823.5 Use of loan and grant funds.

Funds may be used in accordance with the following:

(a) *Loan and development grant funds.* Loans funds may be used for all of the following purposes. Development grant funds may be used only for the following purposes which represent a part of the development cost, except interest.

(1) *Domestic water and waste disposal facilities.* Install and improve central community domestic water and waste disposal facilities including:

(i) Facilities for the development, storage, treatment, purification, and distribution of water.

(ii) Sanitary sewer facilities including collection lines, treatment plants, outfall lines, disposal fields, and stabilization ponds.

(iii) Storm sewers for the collection and disposal of surface drainage.

(iv) Solid waste disposal projects including facilities for the collection, treatment, or disposal of human, animal, agricultural, and other wastes. Items such as garbage trucks and equipment, sanitary landfills, and incinerators are included. State Directors are authorized to use up to ten (10) percent of their annual allocation of loan and grant funds for solid waste projects without such projects being included in processing schedules, but funds to be used for such projects must be considered in preparation of the processing schedule. Grants for solid waste projects may be used without regard to the reasonable user cost test required by § 1823.4(c). Such grants may not exceed 20 percent of the eligible portions of the total development cost unless otherwise authorized by National Office memorandum. State Directors may recommend higher percentage ceilings than those set out above for their States by memorandum. All loans and grants for solid waste projects will be made to public bodies unless specific prior National Office approval is obtained. • • •

§ 1823.6 Loan and grant limitations.

(a) *Loans and grants.* Neither loan nor grant funds may be used to:

(1) Pay for the construction of any new combined storm and sanitary sewer facilities.

(2) Pay any annually recurring costs that are generally considered to be operation and maintenance expenses. This does not preclude the use of loan funds for the purposes named in § 1823.5(b)(4).

(3) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale.

(4) Purchase firetrucks, hoses, and other firefighting equipment or construct housing for such equipment.

(5) Pay rental for the use of equipment or machinery owned by the association.

(6) Pay for sales rooms and other purposes not directly related to operation and maintenance of the facility being installed or improved.

(b) *Grants.* Development grant funds will not be used to:

(1) Finance any part of the development cost of any project unless the approval office determines that the project will serve a rural area which is not likely to decline in population below that for which the facility is designed.

(2) Purchase existing systems.

(3) Refinance existing indebtedness.

(4) Pay any portion of the cost of a facility in cases where the annual reserve based on a typical year exceeds one-tenth of the average annual debt service requirement unless State regulatory agencies require a larger reserve or where operation and maintenance costs are unrealistic.

(5) Pay interest. • • •

(c) *Amount*—• • •

(2) *Grants.* (i) An FHA development grant may not be made in excess of 50 percent of the eligible development cost. However, for sewage treatment facilities but not sewage collection, the following requirements will apply:

(a) Eligible costs are limited to those for which EPA grants may be made including the treatment plant, necessary interceptor lines, outfall lines, and related facility costs such as engineering and legal fees. Costs of land or rights in land are not eligible.

(b) The total of the FHA grant plus the grant of any other Federal agency will not exceed 30 percent of the eligible development cost except:

(1) If a State has agreed with EPA to pay 30 percent of the costs of all projects for which EPA grants may be made, then the

total Federal grants may not be more than 40 percent; or

(2) If a State has agreed with EPA to pay 25 percent of the costs of all projects for which EPA grants may be made and has established enforceable water quality standards for the waters into which the project discharges in accordance with section 10(c) of the Federal Water Pollution Control Act, then the total Federal grant may not be more than 50 percent; or

(3) If the area is designated as "qualified areas" under the Public Works and Economic Development Act of 1965 (EDA area), then the total Federal grant may not be more than 50 percent.

(ii) If any other Federal grants are made in connection with the proposed project, the amount of any FHA grant plus the amount of other Federal grants may not exceed 50 percent, or the applicable percentage for sewage treatment facilities, of the development cost of the project unless such other Federal grants are being made by the Department of Defense, EDA, or a Regional Economic Development Commission. * * *

§ 1823.7. Obligations incurred before closing.

When an applicant files an application for assistance, the County Supervisor will advise the applicant that construction work must not be started and obligations for such work or materials and obligations for other purposes must not be incurred before the loan or grant is closed. If the applicant nevertheless wishes to proceed before closing because of emergency conditions, it may request permission from the State Director to pay such obligations if a loan or grant is made.

(a) Upon receipt of such a request the State Director will determine whether;

(1) A necessity exists for incurring obligations before loan or grant closing.

(2) The obligations will be incurred for authorized loan or grant purposes.

(3) Contract documents have been approved by FHA.

(4) The association has the legal authority to incur the obligations at the time proposed.

(5) Payment of the debts will remove any basis for any mechanic's, materialmen's, or other liens that may attach to the security property.

(b) If the State Director finds that all the conditions under this subpart are met, he may give the applicant written permission for the payments of such obligations from loan or grant funds if a loan or grant is closed. His letter will specifically state that the permission granted is on the condition that the FHA is not committed to make a loan or grant and assumes no responsibility for any obligation incurred by the applicant because of the permission granted, and that the applicant must subsequently meet all FHA requirements for the loan or grant. * * *

§ 1823.25 Preparation for loan and grant closing.

(a) *Preparation for closing.* Upon receipt of closing instructions, the County Supervisor will:

(1) Discuss with the association's governing body and its architect or engineer, attorney, and other appropriate association representatives, the requirements contained therein and any actions necessary to proceed with closing.

(2) Hand the association officers three copies of the closing instructions.

(3) Plan carefully with association officers the timing of all steps to be taken before closing.

(b) *User (member) and cash contribution audit and verification.* The State Director will require a member of his immediate staff or the District Supervisor to authenticate the number of users obtained. Such individual will review each signed user agreement and check evidence of cash contributions. If during his review, he receives any indication that all signed users may not connect to the system, he will make such additional investigation as he deems necessary to determine the number of users who will connect to the system. He will record his determination in a memorandum to the State Director in which he will state at least the following:

(1) He has reviewed all signed users agreements and evidence of cash contributions and has determined that the number of signed users and the cash contributions equal or exceed the requirements set forth in the letter of conditions.

(2) The results of any additional investigations he may have made.

(3) All other requirements for closing have been met.

(4) If for any reason the signed user agreements or the cash contributions are less than those required by the letter of conditions, he will forward a memorandum to the State Director setting forth his recommendations. The State Director will review the findings and arrange for such further investigation as he deems necessary. He may find that the applicant needs additional time to sign more users or that the project may be feasible with fewer users and increased rates. If the State Director determines that a rate adjustment is necessary, he will notify the County Supervisor to have the applicant present a new budget. There may be cases where the State Director will determine that there is insufficient interest on the part of the potential users and that the applicant is not ready for a system. In such cases, the applicant will be notified by letter.

(c) *Preloan closing compliance review.* The staff member or District Supervisor conducting the audit and verification required by paragraph (b) of this section, will also complete Form FHA 400-8, "Annual Compliance Review." A copy of the form will be forwarded to the State Director and a copy filed in the County Office docket.

(d) *Determining whether the project can be constructed within estimate.* If it appears that the applicant will be able and is ready to meet the closing requirements, the State Director must determine whether the facility likely can be constructed for an amount within the estimate. In order to make this determination, he may require that construction contract bids be invited and opened prior to further processing. Construction contract bids will be invited and opened in all cases prior to loan and grant closing, unless an exception is made by the State Director. This will be accomplished in accordance with the requirements of this subpart.

(e) *Determining availability of loan funds from other sources at reasonable rates and terms.* Each tax-exempt public body applicant for a loan in excess of $50,000 will be required to offer its bonds for sale as soon as it has been determined that the facility can be completed within the estimate.

(1) FHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably, FHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FHA is required to bid, the bid will be made at the applicable FHA interest rate. If there is more than one acceptable bid offering the same net interest cost, the applicant may negotiate with these bidders in selecting a lender. However, if FHA is not making the loan or a grant, it need not be concerned with such negotiations.

(2) Appendix 3, § 1823.53 contains instructions pertaining to notices of sale, advertising, and other information relative to the sale of bonds. * * *

(h) *Ordering development grant checks.* The policy of FHA is not to disburse grant funds from the Treasury until they are actually needed by the applicant. If grant funds are available from other agencies and they are transferred to the Finance Office for disbursement by FHA, these grant funds should be used before FHA grant funds.

(1) In order to comply with this policy, the County Supervisor will send the Finance Office a request for a grant check so that the check will be received in the County Office not more than 10 days before the estimated date the applicant will expend the grant funds. If the County Supervisor, upon receiving a grant check after the grant is closed, determines that more than 20 days will elapse before the first grant funds are needed by the applicant, he will return the check to the Regional Disbursing Center, U.S. Treasury Department, Post Office Box 2509, Kansas City, MO 64142, and specify a remailing date.

(2) All grant funds which the applicant will expend within a 30-day period will be included in one advance. When the amount of the grant does not exceed $20,000, the entire grant will be disbursed in one advance. When neither of the foregoing situations prevails, multiple advances will be made to effect the procedure outlined in subparagraph (1) of this paragraph, except that when the balance is $20,000 or less, the remaining grant funds may be drawn in one advance. * * *

§ 1823.26 Loan and grant closing.

Loans and grants will be closed in accordance with the closing instructions issued by the OGC as soon as possible after receiving the check. A grant may be closed in accordance with instructions of the OGC as soon as the required instruments, including the grant agreement and any other necessary instruments have been executed. * * *

EXHIBIT 3

I. *General:* This Exhibit outlines the policies for planning and developing community water and waste disposal facilities.

A. *Design Policies.* Facilities financed by the Farmers Home Administration (FHA) will (1) be designed and constructed in accordance with sound engineering practices, (2) meet the requirements of State and local agencies having jurisdiction in such matters, (3) have sufficient capacity to provide for reasonable growth, and fire protection, and (4) be economically feasible.

* * * * * *

B. *Compliance with State Health Department Standards.* Each FHA financed facility will comply with the requirements of the State Health Department or other appropriate regulatory agency. The applicant is responsible for obtaining and presenting to FHA evidence of such compliance including approval of facility plans and specifications.

C. *Compliance with Environmental Protection (Pollution Control) Standards.*

1. No FHA loan or grant for construction or improvement of a water system will be approved unless a certificate is provided by the appropriate State Environmental Protection Agency showing that the system will not result in the pollution of waters of the State in excess of standards established by that agency.

2. No FHA loan or grant for construction or improvement of a central sewer and waste disposal system will be approved unless a certificate is provided by the appropriate State Environmental Protection Agency showing that the effluent from the system will conform with appropriate State and Federal water pollution control standards.

3. Applicants will provide FHA with evidence of compliance consisting of letters or certificates from the appropriate State agency.

D. *Consistency with Comprehensive Area Plans for the Development of Water and Sewer Systems.* Water and Waste Disposal

facilities for which FHA grant funds are to be used must be necessary for orderly community development and consist with a comprehensive area sewer or water development plan for the rural area in which the project is located. Applicants will provide FHA with evidence of consistency with such plans. Such a plan must exist before an FHA grant may be made.

E. *Consistency with Other Development Plans.* No FHA grant for a water or waste disposal facility will be approved unless it is determined that the proposed project is not inconsistent with any planned development under State, county, or municipal plans approved as official plans (completed or under preparation) by competent authority for the area in which the rural community is located. Applicants will provide FHA with letters or certificates evidencing such lack of inconsistency.

F. *Location of Facilities in Flood Plain Area.* Insofar as practical, facilities will not be located in flood plains. In the event it is necessary to consider locating facilities in a flood plain area, applicants will evaluate the proposal from the standpoint of special design and additional initial and maintenance costs. Normally, the Corps of Engineers or the Soil Conservation Service of the United States Department of Agriculture will be in a position to provide information concerning the likelihood of flooding and the possibility of damage to the proposed facility. It will be the responsibility of the applicant to obtain information from the Corps of Engineers, the Soil Conservation Service, or other appropriate agencies concerning the possibility of flood damages to the proposed facility and provide FHA with a complete cost evaluation of such action. * * *

G. *Water Systems.*
Pressures. * * *
Storage. * * *
Plastic Pipe. * * *
System testing. * * *

H. *Sanitary Sewerage Systems.*
1. Sewage Treatment. * * *
Combined Sanitary and Storm Sewerage Systems * * *
Line Capacities * * *

I. *Solid Waste Systems.* * * *

II. *Technical Services:* * * *
Selection of Engineer.
Engineering Contracts.
Preplanning Conference:

Preliminary Engineering Reports: Use the following as a guide for preparation of preliminary engineering reports:

A *Area to be Served.* (For all projects) Describe—give natural boundaries, major obstacles, elevations, need for facility, and other pertinent information. Use maps, photographs, and sketches.

B *Existing Facilities.* (For all projects) Describe—include condition, adequacy, suitability for continued use of facilities now owned by the applicant.

C *Proposed Facilities and Services.* (For all projects)

1 General description of proposed facility, including design criteria adopted.

2 Land, and other rights.
a. Land.
(1) Amount required.
(2) Location—alternate locations.
b. Rights.
(1) Easements, permits, and other evidence of rights-of-way required—availability of alternates.
(2) State Health Department and other agency requirements.

D. *Supply—Collection Systems.*
1. Water Supply.
a. Requirements—quantities.
b. Requirements—quality.
c. Sources—include study on all feasible sources and provide comparison of such sources.
d. Treatment—requirements, if any, and proposals.
e. Storage—requirements and proposals.
f. Pressure—requirements and proposals.
g. Distribution systems—requirements and proposals—give lengths and sizes—key features.
h. Hydraulic calculations in tabular form.
2. For Sanitary Sewerage Systems.
a. Collection Systems.
(1) Requirements—quantities.
(2) Proposals.
(3) Describe—materials, problems.
(4) Hydraulic calculations in tabular form.
(5) Include cost comparisons where applicable.
b. Treatment Facilities Including Interceptor and Outfall Sewers.
(1) Requirements—quantities.
(2) Proposals.
(3) Give key features.
(4) Problems foreseen.
(5) Calculations showing plant capacity and BOD and solids removal capabilities.
c. Show initial construction and annual operation and maintenance costs for the following types of treatment as a minimum:
(1) Waste stabilization lagoon.
(2) Aerated lagoon.
(3) Oxidation ditch.
(4) Mechanical plant.
3. For Solid Waste Disposal Systems.
a. Requirements—quantities.
b. Equipment required and plans of equipment rotation, transportation, and maintenance.
4. For Storm Waste Water Disposal.
a. Requirements—quantities.
b. Proposals.
c. Describe—materials, problems.
d. Hydraulic calculations in tabular form.
e. Include cost comparisons where applicable.

E. *Cost Estimate—For all projects.*
Development
Land and Rights
Legal
Engineering
Interest
Equipment
Contingencies
Refinancing

1. For sanitary sewerage systems a separate cost estimate for each of the above items must be shown for both the collection system and treatment facility. The cost estimate for the treatment facility should consider only those items eligible for Environmental Protection Agency (EPA) (PL–660) grant assistance.

2. For projects containing both water and waste disposal systems, provide a separate cost estimate for each system.

F. *Annual Operating Budget.* (For all project.)

1. Income—Include rate schedule. Project income realistically. In the absence of other reliable information base water use on 35 gallons per capita per day, or 140 gallons per family per day, or 4,200 gallons per meter per month. When large livestock uses are projected, the report must include facts to substantiate such projections.

2. Operation and Maintenance Costs. Project costs realistically. In the absence of other reliable data, base on actual costs of other existing systems of similar size and complexity. Include facts in the report to substantiate operation and maintenance cost estimates. Include the following:
Salaries-Wages
Taxes
Accounting, Auditing, Legal
Interest
Utilities
Gas-Oil-Fuel
Insurance
Repairs and Maintenance
Supplies
Office Expenses
Other
3. Capital Improvements.
4. Debt Repayment.
5. Reserve. Unless otherwise required by State statute establish at one-tenth (1/10) of annual debt repayment requirement.

G. Maps, Drawings, Sketches, and Photographs. (For All Projects.)

1. Maps. Show locations, boundaries, elevations, population distribution, existing and proposed systems, right-of-way, and land ownership.

2. Drawings, Sketches. Show preliminary design and layout, elevations.

3. Photographs. As indicated.

H. *Construction Problems.* (For All Projects.) Discuss in detail—include information on items such as subsurface rock, high water table, or others which may affect cost of construction.

I. *Conclusions and Recommendations.* (For All Projects.)

V. *Construction Bids and Contract Awards:* * * *
Details of Plans. * * *
Section and Details. * * *
Existing Conditions. * * *
Unit-Price Specifications. * * *
Performance-Type Specifications. * * *

Changes in Development Plans: Changes in the development plan may be made at the request of the borrower provided funds are available to cover the costs. The proposed changes must be recorded on Form FHA 424–7, "Contract Change Order." The change order must be signed by the borrower, the project engineer, the contractor, and FHA before becoming effective.

Additional Information: The FHA County Supervisor will provide additional information needed by the applicant or its representatives and will supply the forms mentioned in the Exhibit.

Mr. McGOVERN. Mr. President, then I would just like to make a few concluding remarks before other Members of the Senate are given the opportunity to speak on the bill.

I would like to underscore that the same conditions that led to the need for special rural water and waste disposal programs in 1965 exist today. Numerous publications of the Committee on Agriculture and the Committee on Government Operations will attest to that fact.

Agencies with nationwide responsibility simply do not extend the programs to rural America on a fair, prorated basis in ways adaptable to rural conditions. This is every bit as true of the Environmental Protection Agency as it was of other agencies of the Government in 1965.

In 1965, an uncounted number of rural communities and more than 2,500 rural counties lacked any kind of modern waste disposal system at all. More than 44,000, or 78 percent, of all the rural communities in this country lacked a modern waste sewer system in 1965, and approximately 35,000, or 62 percent, of the rural communities lacked an adequate water distribution system that would measure up to modern standards. That data is readily available and is contained in the supporting documents I have submitted for the RECORD.

Although important nationally and very important to the communities that qualified and got loans and grants during the period between 1965 through the end of last year, it is clear that, while substantial progress has been made, there is still an enormous backlog of unmet needs in rural America for modern, high-standard water and waste disposal sys-

tems. If needs for more than half of these rural communities and counties for water and waste disposal systems are to be met, the grant portion of this program as well as the loan program will be required, the proportion requiring grants being higher for sewer and waste disposal systems than for the water distribution systems.

Mr. President, looked at from every standpoint, I think this program is as urgently needed today as it was 8 years ago, when the Senator from Vermont (Mr. AIKEN) first guided the bill through the Senate—a measure that not only approved unanimously at this time but also has repeatedly been given unanimous endorsement by the Senate and by Congress in the years since then.

So I am very hopeful that the Senate will follow the example set by the House earlier and given its overwhelming support to this desperately needed measure.

Mr. President, I yield the floor.

Mr. HUMPHREY. Mr. President, the President in his avowed effort to hold down Federal expenditures and avoid tax increases seeks in many ways his wonders to perform. One of the last justifiable methods he has chosen is to terminate the rural community water and sewer grant program and the rural community sewer loan program of the Farmers Home Administration.

The 1974 budget contains this language justifying the termination of the Farmers Home water and sewer system grants:

> This program was among those selected for termination, reduction or reform after a review of Federal programs to identify those that were of relatively low priority. As a result of this review, and as a result of new authorities provided in the clean water bill, this program is being terminated effective January 1, 1973.

Allow me to take up first, the first sentence of the President's justification for terminating the rural community water and sewer grants. What magical system does the President use in making his decisions? How could he possibly arrive at the conclusion that rural water and sewer systems have a low priority? One of the distinguishing and marvelous aspects of this program is that it has universal acecptance. The rural water and sewer system program does not exist because of a well-developed, organized lobby. There is no association for the support of rural community water and sewer systems.

This program exists because it is so essential to the survival of rural communities that every responsible Member of Congress recognizes its worth, takes it at face value with no questions asked. When Senator AIKEN sponsored the legislation in the mid-sixties he had almost the entire Senate cosponsor the bill. I believe he would have had the entire Senate if it had not been that one or two Members could not be reached in time. The bill had similar support in the House. President Johnson when he signed the legislation went out of his way to identify Senator AIKEN as its sponsor. It was completely bipartisan and completely acceptable.

The administration has repeatedly testified as to the merits of, and the need for, this program.

In the Spring of 1971 the Administrator of the Farmers Home Administration, testifying before the Senate Subcommittee for Appropriations in a statement that must have been approved by the White House had this to say in support of these programs:

> The water and sewer programs are of special importance at this time. Our water program delivers pure water to homes, helping to maintain good health and make life enjoyable. The waste disposal efforts protect and enhance the environment, a consideration vital to our citizens. Such facilities are basic to other national goals as well, such as the upgrading of housing and improving the distribution of population.
>
> As shown by a survey completed this year, there are nearly 32,000 rural communities that need new or improved water systems, and over 30,000 that require new or improved sewer system, with a total dollar cost exceeding $12 billion. Against this background our accomplishments to date seem small, indeed.

Indeed they did seem small. And the administration after uttering those fine words held back in the beginning of fiscal 1973 some $100 million appropriated by the Congress. But no one had the audacity to say the program had a low priority until last January.

The second part of the justification for abolishing this program runs to the concept that the Environmental Protection Agency can fill the need.

This concept is hard to follow. If the program in truth has a low-priority, why continue it under some other agency. If the object is to save money, why does it help to transfer the grant authority from one agency to another?

But most of all the basic question is: Why transfer a program that is much needed, extremely successful, well-liked, from the Farmers Home Administration to some other agency. The Farmers Home Administration has years of experience in financing these systems. The Farmers Home Administration has 1,700 county offices serving every rural area. The Farmers Home Administration offices serve many functions, they will still be there, and, the cost of supporting them will still be there, even if the water and sewer grants and the sewer loans are taken away from them.

We have had a hard time putting together an effective rural development program. But we have made progress. One of the keystones on which we build is the Farmers Home Administration network that gives rural people and rural communities a local office where they can go to obtain credit and technical assistance for a wide-range of rural development projects, including rural community water and sewer systems. To strip these offices of the power to provide this particular service is as backward a step as can be imagined.

There is absolutely no reason to assume that the Environmental Protection Agency that is far removed physically, if not mentally, from rural small towns can substitute for the Farmers Home Administration as a distribution system for the funding of water and sewer systems. Mention has been made of the possibility of financing such systems through revenue sharing.

First of all there is a big question about how the water and sewer needs of rural communities will fare in a competition with 1,001 demands for the funds. Second, it seems awkward and archaic for a community to have to go to a State agency for a grant and a Federal agency for a loan in order to develop a water system. Two sets of forms to fill out, two sets of bureaucrats to cope with. It simply does not make sense.

Now it is true that the Farmers Home Administration has been allowed to retain its authority to make loans for the development of rural water systems. But loans are of little use without grants. The cost of developing a community water system is so great that community residents cannot afford to borrow funds for the entire cost of the system. If they attempted to do so their monthly water bills would be more than they could pay.

What would be the results of the President's action if it is allowed to prevail?

The Rural Housing Alliance has estimated that 1,850 rural communities, desperately in need of rural water and sewer systems, will be bypassed for the remainder of this fiscal year and the entire fiscal 1974. More than 84,000 man-years of employment that would have been used in the construction of these systems will be lost.

Equally important, the elimination of this program will have a deadening effect on the initiative of rural community leaders, the men and women we are counting on to bring rural America into a new era. It takes weeks and months of work to develop a rural water or waste disposal system, endless meetings, conferences, forms to fill out, surveys to complete.

Hundreds of rural communities in the past year had gone through this process in preparing an application for Farmers Home financing. If they have to stop now—as they have been told to stop—and seek in desperation for some other sort of financing the drive so essential to their success will disappear.

The President speaks, at times, of how people should shoulder more responsibility and seek to solve their own problems. Rural communities that undertake the development of community water and sewer systems are doing just what the President suggests. They are exerting initiative, working toward a better future, making it possible for their neighbors to build new modern homes, encouraging the growth of rural industries. How can the President pull the rug out from under these civic-minded people who are only doing what he says should be done?

We must restore the tried and true system for helping rural communities develop the facilities they need to move into the 20th century.

Mr. President, in fiscal 1972, the various rural Farmers Home Administration programs added $57.9 million to agriculture and community development in Minnesota. This compares to the $70.1 million advanced for similar programs in fiscal 1971. Credit outstanding in the State from Farmers Home Administration programs now totals some $224.4 million, as of June 30, 1972.

Other comparative figures show loans for farming purposes totaled $31.1 million in fiscal 1972 compared to $46.9 million in the previous fiscal year; housing

loans to low-to-moderate-income borrowers totaled $20.4 million in fiscal 1972 compared to $16.3 in 1971, and loans for community facilities totaled $4.8 million in fiscal 1972 compared to $5.8 in fiscal 1971.

The PRESIDING OFFICER (Mr. McCLURE). The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, the measure before the Senate would mandate the President to continue to make grants for water systems and sewer systems. In this situation, the administration has offered an alternative—or perhaps it is more accurate to say they have announced an alternative, in the first instance.

There will be Federal grants available for sewer systems in rural areas. This will be handled through the Environmental Protection Agency and will be channeled through the States, and the States will have some authority in determining the priorities within the State.

Also provided in the administration plan is a means of financing for that part which must be a loan. This is part of the arrangement in reference to the EPA.

With respect to the water systems, the practical effect of the action of the executive has been to terminate the grant program for rural water systems and the bill before the Senate would mandate the spending of the money for these grants.

Mr. President, it may be noted in the committee report on H.R. 3298 that I joined with a number of colleagues on the Committee on Agriculture and Forestry in filing minority views in opposition to this measure. The basis of my opposition to H.R. 3298 is the belief that the President has outlined a program with regard to water and waste disposal loan and grant authorities that, if successful, will be of greater benefit to the recipients as well as to the taxpayers who furnish these funds. I invite attention to those minority views, which are printed in the report on page 13.

As a result of additional information which has come to my attention since this bill was reported, I will, at the appropriate time, offer an amendment to require the Secretary of Agriculture to process certain water and sewer loan and grant applications which were pending prior to the termination of the Farmers Home Administration water and sewer grant programs on January 10.

In other words, H.R. 398 mandates the full spending which was discontinued by the administration on January 10. The amendment I will offer is in the nature of a substitute, and it would limit that mandating to those projects that had a commitment. The adoption of my amendment would meet the objection to the action of the Executive, in that no one who had an application approved or had an indication that it would be approved would find that the rules had been changed on him.

Farmers Home Administration has been one of a number of sources of funds for water and waste disposal facilities in rural communities. This has included water systems, sewer systems, and sanitary landfills in open country and towns of up to 5,500 population. I might add, this was increased to 10,000 in the Rural Development Act of 1972. Grant funds have been available to finance up to 50 percent of a project if it did not serve enough customers to allow repayment of a loan in the amount of total capital needs. FHA personnel worked with local officials to provide grant money from their sources, but also helped them make presentations to other agencies. I have been assured this will continue.

Now, Mr. President, we come to the options the administration has offered. With regard to any grant funds needed to complement loan funds on water projects, local communities now have Federal revenue sharing funds which are clearly available for this purpose.

All sewer financing will be consolidated under the Environmental Protection Agency. The purpose of the realinement was to simplify and coordinate the flow of funds to communities where they were needed. Responsibility for a particular type of facility will now be centralized in one Federal agency, affording better control of grant funds. The Clean Water Act empowers EPA to coordinate all waste treatment system programs.

The Agency may offer a 75-percent grant, and can deliver grant funds to States in block fashion. This will enable States and local communities to appraise their own problems and determine the priority use of Federal grant funds.

I would point out also, Mr. President, that in the press release announcing these program changes it is noted that Farmers Home Administration will continue the water and waste disposal loan program for those communities unable to obtain the necessary financing to repair or develop urgently needed facilities.

In conclusion, I could not let this opportunity pass without acknowledging the leadership of my good friend from Vermont (Mr. AIKEN) in sponsoring the original legislation authorizing Farmers Home Administration to provide loans and grants for rural water and waste disposal systems. I am pleased that the administration has indicated that $345 million will be made available under the authority of the Aiken-Poage Act for water system loans in fiscal 1974.

Mr. President, how much time have I consumed?

The PRESIDING OFFICER. There is no time limitation.

Mr. CURTIS. I yield the floor.

Mr. AIKEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. AIKEN. Mr. President, we had better pass this bill just as it is in order to continue one of the most worthwhile programs which I feel has been initiated in the last 10 years. I know there are those who think we should let EPA take it over. But as a matter of fact the EPA authorization, as far as I know, does not extend to farms, but only to the main lines for sewage.

Mr. President, I quote from the minority views:

It is important to note that sewer lines financed under this authority are to be limited to the main lines constructed by the public agency and does not include the connection to such lines by households and others.

Mr. President, in this case, "households" means farms. If we go to work and amend this measure now, we will destroy the principal purpose of the entire program. I am glad EPA has been given authority and the funds to pay 75 percent of the cost for sewage treatment. I suppose that would help many villages or industries in certain parts of the country, but what this program was intended to do was to bring water and waste disposal facilities to the farms and the small rural communities.

I certainly hope that the Senate will approve this legislation without amending it in any way and without monkeying with it.

The suggestion has been made that we should include rural housing. I am in favor of assistance for rural housing, but that is dealt with in other legislation which I think we should take up and extend later and that we should not jeopardize the future of this program by tacking on amendments at this time.

Mr. TAFT. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

At the end of the bill add the following new Section:

"LIMITATION OF EXPENDITURES AND NET LENDING FOR FISCAL 1974

"SEC. 3. (a) Expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government shall not exceed $268,700,000,000.

"(b) If the President makes reservations from expenditure and net lending, from appropriations or other obligational authority heretofore or hereafter made available in order to effectuate the provisions of subsection (a), he shall transmit to the Congress a separate notification of each such reservation made with respect to any single budget account, together with a detailed justification therefor, within ten days from the date on which such reservation was made. If, during a period of thirty calendar days of session of the Congress following the date on which the notification is transmitted, there is passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or the House of Representatives, as the case may be, does not approve such reservation with respect to such account, the President shall within ten days make available for obligation the amount of funds reserved pursuant to this section with respect to such account. For the purposes of this paragraph, in the computation of the thirty-day period there shall be excluded the days on which either the Senate or the House of Representatives is not in session because of adjournment of the Congress sine die.

"(c) For the purposes of this section the term 'budget account' means any appropriation account or other account granting obligational authority including, but not limited to, contract authority, authority to spend public debt receipts, and authority to spend agency debt receipts.

"(d) The provisions of sections 910–913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under subsection (b) in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reorganization plans; except that references in such

provisions to a 'resolution with respect to a reorganization plan' shall be deemed for the purposes of this section to refer to a resolution of disapproval under subsection (b).

"(e) The President shall not establish separate ceilings on expenditures or net lending for any budget account which will prevent the obligation of all funds made available for obligation pursuant to this section."

Mr. TAFT. Mr. President, I ask unanimous consent that my legislative aide, Rod Solomon, have the privilege of the floor during the discussion and vote on the amendment.

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

Mr. TAFT. Mr. President, this amendment has the effect of placing a ceiling of $268.7 billion, the President proposed level of spending. My amendment also includes provisions which give Congress a chance to override any impoundments the President might make to keep Government spending within the limits set by the ceiling.

The bill which we have before us would mandate the release of funds for the Farmers Home Administration's rural water and sewer program.

The release of funds totaling approximately $120 million is involved. While I find that my own State has enjoyed some benefits from this program, and presumably would continue to enjoy benefits from it, I feel that to mandate expenditures at this particular time would be extremely unfortunate. It is contrary to the serious efforts I think we ought to be making toward setting a reasonable limit upon expenditures.

There are undoubtedly some of these programs that are very worthy in Ohio and elsewhere that ought to be considered and given favorable consideration. I also realize that blanket impoundment, at this point, of all the water grants in rural areas will work some hardship which should be relieved. But I think that Congress ought to measure up to its responsibility, so far as our constitutents are concerned. If this bill is passed, Congress should do one of two things. It should pass legislation along the lines of the bill proposed by the Senator from Oklahoma (Mr. BARTLETT) today, so that some fiscal responsibility will be injected into the legislative process here in Congress and we can keep Federal outlays at a fiscally responsible level. If this is not to be done soon, at least Congress should pass legislation such as I have proposed which will go to the extent of providing a temporary expedient for better congressional control of spending.

As of January 29, 1973, a total of $8.7 billion in all funds was being held in reservation. This amount, while it sounds like a large amount when we consider the total budget of more than $250 billion, is not, percentagewise, large. Moreover, it is a considerable smaller amount than, on the average, has been impounded by Presidents in power over the last 10 years. So anyone who is attempting to give the impression that the President, by his impoundment program, is setting a new policy, is flying in the facts of what actually is happening.

Many of these impoundments have been justified, at least partially, by OMB on the same grounds as this one—that is, that they are a necessary component of the anti-inflation effort now being made in this country. Regardless of the merits of this particular legislation, it seems ridiculous to me that we are considering it in isolation from the other $8.6 billion which has been impounded in many instances, also supposedly for budgetary reasons. Why should we mandate the release of funds for this particular program rather than any of the other programs? Or are we going to pass separate legislation of this type for every program which has a few Senators and Representatives interested enough in it to push an anti-impoundment bill through Congress?

Has this legislation been reviewed in the context of the over-all budget, so that the justification by OMB for impounding the funds can be realistically evaluated? Is Congress insisting on its constitutional prerogatives at great expense to the domestic economy?

I think that these questions point out the irrationality of trying to consider impoundments which have been made on general economic grounds, and the budget itself, in a piecemeal and disjointed manner. The questions also underline the difficulties of contesting the Executive's impoundment decisions.

The answer is, as I have said, a self-imposed procedure to help us limit the budget, such as that proposed earlier today. But that, to me, seems unlikely for some time. Therefore, this amendment would help to prevent the unfortunate scenario of fighting impoundments on a random and not overly rational basis from occurring again during 1974. It would provide a means for helping an intelligent Congress to control Government spending during that fiscal year in a responsible manner, while insuring that the authority and responsibility to set the Nation's budgetary priorities stays where the Constitution says it belongs—with Congress.

The experience of the late 1960's indicates what happens when Government expenditures exceed even full employment budget receipts. Most economists agree that this type of overstimulation of the economy was probably the most important reason why wholesale prices shot upward by more than 3 percent from 1967 to 1969.

We cannot let this happen again, particularly at a time when domestic price stability is vitally needed to help reverse the deteriorating competitive position of the United States in the international economy. We also cannot permit the phase III effort in the private economy to be nullified by an irresponsibly high level of Government spending.

Yet there is considerable danger that this may happen. The President's proposed budget is a full employment budget, but it is still more than $19 billion below what the budget totals would have been if the programs currently in effect were allowed to grow at an unconstrained rate during fiscal 1973 and fiscal 1974. There are certain to be great pressures to spend at a rate exceeding that which the President proposed. This simply cannot be done without fanning the fires of inflation, unless we increase taxes to pay for greater expenditures. In view of the tremendous public opposition to this move, I doubt seriously that such tax increase is likely to be passed very quickly.

I note specifically the statement made by the chairman of the House Ways and Means Committee, the Honorable WILBUR MILLS, indicating that the present tax proposals being considered by the committee, which will have to be passed by the House and then sent to the Senate, will not raise one dollar in additional total revenues.

Therefore, I have come to the conclusion that a concentrated congressional effort to hold down the budget to the level proposed by the President is the only alternative to "Government-pull" inflation. We may not agree with the President's priorities, but we should stick to the overall spending level which he proposes. The spending ceiling which I am proposing today would serve as a basis for focusing congressional efforts on that goal.

I know that Congress rejected a proposed spending ceiling last fall, however, because it would have given the President unlimited authority to make whatever fund reservations he believed were necessary to keep the budget within the limits required by the ceiling. A spending ceiling such as the one proposed last fall, or the one proposed by Senator PROXMIRE in committee, is a license to impound funds. The Office of Management and Budget can say that it must make impoundments to execute the spending ceiling law. In fact, an OMB official indicated to my staff that in view of the uncertainty of appropriations totals until appropriations bills are actually passed, OMB might try to help effectuate a spending ceiling by reserving funds from the very beginning of the fiscal year. The lower the spending ceiling figure is set, the more massive these funds reservations are likely to be.

I do not believe that any spending ceiling should be enacted which would be used as a mechanism for a further erosion of congressional authority and responsibility. One of Congress' primary duties is to set the Nation's budgetary priorities. A congressional compromise of this function, in the name of controlling inflation or any other cause, would create a serious imbalance between the powers of the legislative and the executive branches.

My amendment would give Congress a proper participatory role in determining which fund holdbacks will be made to effectuate the spending ceiling, if such action proved necessary. The President would notify Congress within 10 days after he has had funds in reservation for this purpose. At that time he would supply Congress with a detailed justification for taking this action. Either House of Congress would then be able to override the fund reservation by passing a "Resolution of Disapproval" within 30 calendar days of a session of Congress, not including days on which either House is in adjournment sine die. If such a resolution were passed within this time, the President would have to release the funds in question.

A "Resolution of Disapproval" would be afforded expedited congressional treatment, so that a final vote on any such resolution could occur before the allowable time period expires. A motion to discharge a committee of its responsibility to consider the resolution, if made by a proponent of the resolution, would be in order 10 days after the resolution has been referred to committee. Debate on such a motion would be limited to 1 hour, and no amendments or motions to reconsider would be in order. Once the resolution was reported out of committee, a motion to consider it would be highly privileged and not subject to debate. Debate on the resolution would be limited to 10 hours, and a motion to recommit it would not be in order. Motions to postpone consideration of the resolution, and appeals relating to Senate or House procedural rules, would be decided without debate.

These are the same provisions as those in the Reorganization Act.

These provisions insure that the enactment of my spending ceiling amendment will not result in a surrender of congressional power to the executive branch. We would not have to again go through an "ad hoc" battle against impoundments. Yet the amendment will not lock OMB into an inflexible "meat axe" approach to budget control. OMB could still propose to reserve funds in any manner it deems appropriate for complying with the ceiling, but Congress would have a chance to prevent the implementation of such a proposal. Congress would be able to prevent OMB from using the budget ceiling as a pretense for making unjustifiably extensive fund reservation or major alterations in congressionally established priorities. At the same time, Congress's spending actions would clearly become more visible. As a result, it would have to take more responsibility for these actions in the public's eyes.

It is true that much of the budget for the coming fiscal year can no longer be controlled by congressional decisions. If expenditures for uncontrollables are higher than predicted, it may be inevitable to avoid the need for adjustments in order to stick within the proposed budget ceiling, particularly since 75 percent of the budget is now considered uncontrollable. Congress should work with OMB to keep fully abreast of the actual rate of expenditures for uncontrollable and disaster relief, so that as much time and flexibility as possible will be available for making such adjustments.

Of course, our major effect on this years budget totals will come through our actions on appropriations bills. I urge the Congress to act promptly on these bills in a manner which would leave no doubts that any fund reservations on the basis that the 93d Congress is spend-crazy are unjustifiable.

As I have said earlier, I do not believe that the budget ceiling approach should be the total and permanent answer to Congress problems with budget control. It is essential that Congress move immediately to enact reform proposals which would end our fragmented method of considering the budget. If Congress would consider the budget as one unified document, it would be in a much better position to make responsible spending decisions than it is at the present time.

Nevertheless, the need to avoid inflationary Government spending is too great now to wait for comprehensive congressional reform. I believe that my amendment will prove to be a major step toward insuring that this need will be met, without further tipping the balance between Congress and the Executive, during the interim period in which Congress considers more fundamental budget reforms. At the same time, the need for fragmented efforts to fight impoundments, such as the effort being made today, will be eliminated.

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

Mr. TAFT. I am glad to yield for a question.

Mr. McGOVERN. As I understand the thrust of the Senator's amendment, it would accomplish two things. No. 1, Congress would set a spending ceiling at the level of the President's proposed budget. Is that correct?

Mr. TAFT. That is correct.

Mr. McGOVERN. I think that is a very modest and prudent proposal. As the Senator may know, I joined with the Senator from Wisconsin (Mr. PROXMIRE) in suggesting that Congress set a spending ceiling at $265 billion, which would be almost $4 billion below the President's request.

Do I correctly understand that the second part of the Senator's amendment would deal with impoundments in this way: If the President were to impound a certain percentage of a particular authorization or appropriation by the Congress, he must, within 10 days, under the terms of this amendment, report to the Congress, together with his reasons for doing so, and the Congress would then have 30 days to make a judgment as to whether or not it wished to sustain or overrule the President's action. Is that correct?

Mr. TAFT. The Senator understands the provision correctly.

Mr. McGOVERN. I think it is a very sound amendment. The problem I have is dealing with it in this bill. The water and sewer bill is a measure that has very strong bipartisan support. It has already passed the House overwhelmingly. It has passed the Senate on previous occasions unanimously. I think the problem with adding this measure, the substance of which I happen to approve, is that it does complicate our chances of dealing expeditiously with the pending measure; but if the Senator were to offer that measure as separate legislation, I would not only be glad to join in cosponsoring it, but I would actively support it.

I do agree with the Senator that Congress does have some obligation to set a ceiling on spending, and that it has an obligation of finding an effective way of dealing with executive impoundments. I want to commend the Senator on the proposal he is making.

I would have to oppose it today, not on substantive grounds but simply on procedural grounds. I do not believe it should be made part of the pending bill, which deals with a very urgent problem in rural sections of the country. I do want the Senator to know that I think it is a good proposal and one which at a proper time I would be happy to support.

Mr. TAFT. Mr. President, I thank the Senator for his comment. I would like to comment further before I yield the floor. And I welcome any comments from any other Senator who might want to raise questions before I yield the floor or take the action which I propose to take in a moment—to withdraw the amendment.

This amendment was attempted to be offered this very week on the Economic Stabilization Act. I felt very strongly that it would properly belong on that legislation. Unfortunately, however, due to a number of factors relating to parliamentary procedure and the rule of germaneness, it was not possible because the amendment was felt not to be allowable under the unanimous-consent agreement.

Mr. McGOVERN. Mr. President, as the Senator knows, I tried to find a way to offer a similar amendment, although perhaps not as tightly drawn or as prudent as the amendment of the Senator from Ohio. However, I did try to get an anti-impoundment phrase written into the Economic Stabilization Act, because I think those two programs go together.

When the President uses the impoundment procedure, presumably he is doing it to hold down inflation. And by the same token, when he uses wage-price controls, it is presumably done to combat inflation.

I thought it would be a logical place, between the impoundment problem and the question of wage-price controls. And that is the reason that I took this particular vehicle on which to offer an anti-impoundment measure. However, as the Senator knows, we got only nine votes for that proposal. That left me wondering how serious Members of the Senate are in getting at this question of impoundment. The best explanation I can make for it is that perhaps a great many Members of the Senate thought we ought to deal with the problem in a different context. That is what I have suggested to the Senator from Ohio. I hope that he does have plans to withdraw the amendment. I hope that he will offer it again as a separate bill. I think it is entitled to very careful and sympathetic consideration on the part of the Senate.

Mr. TAFT. Mr. President, I thank the Senator from South Dakota for his comments. As a relatively junior Member of the Senate, I see little possibility of getting this measure heard and out of the proper committee if it is offered as a separate bill. I believe that this is the only way in which it can be brought to the attention of the Senate—to offer it as an amendment to an appropriate vehicle.

With regard to the Senator's comment that we had a proper vehicle the other day, I am offering this amendment today and discussing it because the suggestion was made during the debate on the Economic Stabilization Act that, having passed out of the Committee on Banking, Housing and Urban Affairs and being about to come to the floor in the next

week, the devaluation bill might be appropriate legislation upon which to offer an amendment of this type.

Mr. President, I had difficulty with that. I thought the proper time to offer it was during the consideration of the Economic Stabilization Act. Others seemed to have felt differently about it.

I understand that the Senator from Wisconsin (Mr. PROXMIRE) has an amendment somewhat of this type that he expects to offer. He had one pending under the Economic Stabilization Act. However, I understand that he expects to offer it to the devaluation bill.

I am taking the floor today to give notice that this question will be raised on other measures. I expect to raise the question in the consideration of the devaluation bill. It will be in a different form, and I think a preferable form, which has been worked out with the Senator from Oklahoma (Mr. BELLMON), who is very interested in this matter. We have combined our two proposed amendments to the Economic Stabilization Act.

This measure will be a slight revision of the proposal brought up in this amendment. I am speaking today to give notice that we have, by letter, given notice to every Member of the Senate that we intend to bring up and press this matter on the devaluation bill when that bill comes to the floor.

Mr. President, if there are no other Members of the Senate who wish to comment on this particular amendment or problem—and I see none—I withdraw my amendment.

The PRESIDING OFFICER. The amendment is accordingly withdrawn.

Mr. CURTIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That notwithstanding any other provision of law or administrative rule or regulation, the Secretary of Agriculture is directed to make, prior to July 31, 1974, loans and grants under the provisions of section 306(a) (1) and (2) of the Consolidated Farm and Rural Development Act—

(1) in accordance with the terms of the applicable Letter of Conditions to each applicant therefor who received a Letter of Conditions from an authorized official of the Department of Agriculture prior to January 10, 1973, and who shall have met such conditions, and

(2) to each applicant therefor who has, prior to January 10, 1973, with the concurrence of the Department of Agriculture, consummated agreements with engineers or other professionals to proceed with project development and who, prior to December 31, 1973, shall have obtained all required legal commitment concurrence,

if such loans and grants otherwise meet the requirements of law.

Mr. CURTIS. Mr. President, after making a few remarks on this amendment, it will be my purpose to ask for the yeas and nays.

Mr. President, as indicated in my opening statement, I believe the President's efforts to consolidate Federal water and waste disposal loan and grant programs are very meritorious. For that reason I cannot support H.R. 3298.

However, the amendment I now propose in the form of a substitute is designed to remedy what almost amounts to a breach of contract on the part of the Federal Government.

My amendment does two things.

First. It directs the Secretary of Agriculture to process all water and sewer loan and grant applications in those cases where the applicants had been notified in writing that if they complied with certain conditions their project would probably be funded.

I understand there are 180 applications totaling approximately $20 million in grant funds which fall in this category.

Second. This amendment requires the Secretary to fund, prior to July 31, 1974, those projects where the applicant had been notified in writing that he could expect to be funded at some time in the future. This involves 462 projects, requiring grants of approximately $70 million.

This would allow funding of these projects over a period of 3 fiscal years and would meet the Federal Government's moral obligations to these applicants who have already incurred considerable expense in the belief their project had a good chance of being funded.

In summary, Mr. President, I believe this is a constructive amendment. It provides for funding those water and waste disposal applicants who have a moral, if not legal commitment from the Government. It provides for an orderly transition into the program outlined by the President. This program is aimed at simplifying the Federal aid process.

As I indicated on the two previous occasions when bills were before us to undo actions taken by the President, I believe we should seek compromise and not conflict. In my view this amendment is a compromise and I strongly urge all my colleagues to support it.

Mr. AIKEN. Mr. President, I feel that I cannot support the amendment offered by the Senator from Nebraska, the effect of which would be to terminate the rural water and sewage program which has operated so successfully the last few years, and for which there is a strong demand for its continuance.

I realize that he provides a year's grace for those projects which are approved or for which applications were received before January 10, 1973. I think that is the date. I am sorry that the amendment was not printed, so that we had copies of it available, but under the circumstances, the effect of this amendment is to terminate the rural water and waste disposal programs, and I do not think we are ready for that yet.

I realize that we should have a limit on expenditures of the Government, but one thing that people forget, which ought to be called to their attention, is the probable tremendous increase in Federal revenues coming up this year, and also the increase in the States' revenues, which is going to be very substantial, I understand.

So I think if we are going to discontinue this program, we had better not start today to do it. I simply cannot support the amendment.

Mr. CURTIS. Mr. President, I share the disappointment of the distinguished Senator from Vermont that the amendment was not printed. It developed that yesterday we were not in session, so I did not have an opportunity to do that.

If my amendment prevails, there will still be loans available for rural water projects. There will still be loans available for rural sewer projects. There will still be grants available for rural sewer projects. It will be handled, of course, by the Environmental Protection Agency, and the limit on grants in that case is 75 percent.

What it will do is permit the administration to carry out their announced plans to discontinue grants for rural water projects. However, all the counties and townships have already been receiving revenue-sharing funds, and if they wish to use some of that money in lieu of a grant to help finance their water projects, they may do so. The loan provisions are still there.

The situation is this: The Executive announced their intentions of doing this, of having EPA handle the sewer projects, discontinuing the grants for water systems, and letting them use some of their revenue-sharing funds. An abrupt change which the administration proposes would be unfair to those applicants who, on January 10, when this change was announced, already had a commitment for a loan and a grant. That is one category. There is another category where they were advised to go ahead and make their plans, to get their engineers and do other things to build their projects.

What my amendment would do is take care of those pending applications where, if not a legal obligation, there is a moral obligation for the Government to carry through.

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

Mr. CURTIS. In a moment I shall be delighted to yield. The statement that this brings an end to the water and sewer program is not a correct one.

I yield to the Senator from South Dakota.

Mr. McGOVERN. Could the Senator from Nebraska advise us approximately how many applications might be covered under the amendment that he is proposing?

Mr. CURTIS. Yes. A total of 642,180 that have letters of condition, and then 462 where the applicant had been notified in writing that he could expect to be funded, and he went ahead and made plans, hired engineers, and conducted surveys in order to complete his application and build his project.

Mr. AIKEN. And, if the Senator will yield, his amendment provides that those who have made their agreements with their engineers and professionals prior to January 10, 1973, will be permitted to continue with their work for another year.

However, January 10, 1973, was 10 weeks ago, and there were, I am sure, several hundred communities that had planned to come under this program that

had not made agreements with their engineers up to that time, but for which preliminary plans were all made. I know there were some in my State. There are hundreds of them, I am sure, in the 50 States of the Union.

So I have to say again that the effect of this amendment would be to terminate the rural water and sewage program which has worked so effectively, and the manner in which it has worked, and I reiterate, the EPA program does not extend the lines to the farmers. As the minority views section of the committee report expressly states:

It is important to note that sewer lines financed under this authority are to be limited to the main lines constructed by the public agency and does not include the connection to such lines by households and others.

"Others" means the farmers. This means that if you are on the main road, you can get the money from the EPA, but if you live back on the farm a half mile, a mile, or 2 miles, you do not get any benefits from it. I want to keep that program going.

Mr. CURTIS. Mr. President, if I still have the floor, I would like to respond to the statement of the distinguished Senator from Vermont.

My amendment, if adopted, would take care of nine projects in Vermont for a total of $1,679,000.

Mr. AIKEN. Will the Senator yield further?

Mr. CURTIS. I yield.

Mr. AIKEN. Let me add that Vermont thinks enough of this program that the State makes a substantial contribution, I think 25 percent of the cost. That relieves the Federal Government of that much in either loans or grants.

Mr. CURTIS. Yes. I think that is very commendable, and I believe everyone thinks well of this program, and that it is a good program.

It is a question of terminating the grant portion of the water program. That is what is at stake here, if my amendment should be adopted. But it does take care of pending applications.

Mr. McGOVERN. Mr. President, if the Senator will yield further, I know it is his statement that his amendment would still cover 642 communities, but the problem with the Senator's amendment, as I see it, is that that still leaves a great body of rural communities without access to the benefits of this program.

At the date of the announcement, when the Department of Agriculture put out its press release, there were 1,685 communities that actually had applications pending. These were communities moving to the stage where they had filed their applications and were waiting for action—1,685. So if the Senator's arithmetic is right on what his amendment would do, that still leaves more than 1,000 communities with applications already pending.

Beyond that, as the Senator from Vermont has said, several thousand other communities across the country have not yet moved to the stage of making applications but, in many cases, the communities had proceeded on the assumption that the programs would be in effect. They had not completed the engineering studies or had not signed any of the agreements yet with the Farmers Home Administration, but they had taken steps and put plans into their budgets. In some cases, they were in the process of issuing revenue bonds for the local sharing of the program. In other cases, ground preparation was proceeding. In some cases, they had contacted industrial or business enterprises with the assurance that water facilities would be made available.

So I think that what the Senator is really doing is offering relief for a handful of communities that happen to be lucky enough to meet the terms he has laid down here. A great part of some 35,000 estimated communities that still need the program will be left out in the cold. The entire cost, as I understand it, in the appropriation we are talking about here, for this year, is $150 million for the entire program.

An article was published in the Washington Star-News for last Sunday, on its front page, written by Orr Kelley, the opening paragraph of that story reads as follows:

A secret Defense Department study shows that the cost of the new F–15 fighter plane could run nearly $1.7 billion above estimates given to the Congress less than a year ago. This study has been kept from Congress.

Mr. President, I do not know whether the story has been verified, but we do know that the cost overrun problem is one that has come up time after time. Here is an overrun of $1.7 billion on one program, not the total cost of a program but just the misestimate of a $1.7-billion cost overrun on that one airplane, in less than a year's time.

In other words, 10 times what the cost to fund this program is here, for a year, which has already been estimated in the form of a cost overrun on this one airplane.

I do not understand why we are so cautious, so stingy, about money spent to help people out in their own States and communities that deal with the life-giving resource of water, so that life can be made more acceptable and more attractive in the small towns, and say that we cannot afford $150 million in an appropriation to continue this program, which has been passed unanimously by the Senate, because someone downtown said, "We have got to save some money."

Mr. President, I urge the Senator to reconsider the amendment. I will certainly have to oppose it. I think that all it does is to prolong the agony a little while for a few communities that will come under the wire as he has defined it, and then we leave another 34,000-plus communities without the benefit of the kind of aid that this program can give.

Mr. CURTIS. Mr. President, I want to say in reply that this is not going to be the end of rural water programs nor is it going to be the end of rural sewer programs. They will continue. The sewer programs will have the benefit of a grant. Now the Executive has called for a new procedure which would eliminate the water grants. A grant is giving something away free. It does not have to be paid back. The national debt is about $100 billion more than it was 4 years ago.

Are we going, here in the Senate, to oppose every move of the Executive to curtail expenditures? Are we going to go on with these gigantic spending schemes and then try to fool the people by saying that we are for price controls when we know that price controls will not work?

My amendment is a reasonable one. It says in substance that we will go along with the President in some respects, yes, but that those communities that had a moral commitment that their project would be taken care of under existing rules and laws, as of January 10, shall be taken care of and will come under my amendment. It is liberally drawn to do that.

Mr. President, I ask for the yeas and nays.

There was not a sufficient second.

Mr. CURTIS. Mr. President, I have here a table showing the grant applications to the Farmers Home Administration which were covered by my amendment. I ask unanimous consent that this table be printed in the RECORD.

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

FARMERS HOME ADMINISTRATION—GRANT APPLICATIONS

	Projects for which letters of conditions were issued		Applications which with FHA concurrence had started project development	
	Number	Amount	Number	Amount
01 Alabama	2	$79,300	25	$2,290,830
02 Arizona	4	149,000	3	373,000
03 Arkansas	3	170,300	20	2,578,100
04 California	1	38,000	8	539,500
33 Nevada	0		2	62,500
61 Hawaii	0		0	
05 Colorado	0		7	483,100
09 Florida	2	265,900	8	1,363,680
10 Georgia	9	1,886,000	4	420,100
12 Idaho	1	133,200	1	178,700
13 Illinois	6	913,000	12	1,620,650
15 Indiana	2	291,000	5	620,000
16 Iowa	9	587,000	11	636,300
18 Kansas	2	165,000	22	2,773,555
20 Kentucky	10	1,312,800	10	6,524,500
22 Louisiana	6	325,400	7	961,300
23 Maine	3	1,159,300	16	4,879,800
06 Connecticut	0		2	256,000
25 Massachusetts	0		1	320,000
34 New Hampshire	0		6	1,551,900
45 Rhode Island	0		1	200,000
53 Vermont	0		9	1,679,000
26 Michigan	0		13	2,224,000
27 Minnesota	0		8	715,000
28 Mississippi	48	3,337,100	32	2,787,600
29 Missouri	4	172,300	21	2,327,100
31 Montana	0		3	96,000
32 Nebraska	1	27,000	6	473,000
35 New Jersey	3	619,000	2	1,777,000
07 Delaware	0		0	
24 Maryland	1	295,000	7	2,029,000
36 New Mexico	0		15	583,500
37 New York	10	1,281,000	7	888,000
38 North Carolina	3	104,000	33	1,520,000
40 North Dakota	1	55,000	7	301,000
41 Ohio	2	402,000	19	3,358,000
42 Oklahoma	3	297,100	50	3,357,600
43 Oregon	7	1,204,700	3	206,700
60 Alaska	1	227,500	0	
44 Pennsylvania	3	555,000	8	1,340,000
46 South Carolina	0		5	1,023,800
47 South Dakota	1	29,500	6	237,500
48 Tennessee	7	294,000	0	
49 Texas	6	516,500	9	1,385,300
52 Utah	0		1	35,000
54 Virginia	2	275,000	8	795,000
56 Washington	5	314,800	3	260,600
57 West Virginia	6	1,409,400	6	958,340
58 Wisconsin	5	157,000	8	794,000
59 Wyoming	0		1	75,000
63 Puerto Rico	0		0	
64 Virgin Islands	0		0	

Mr. CURTIS. Mr. President, I make the point of order of no quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CURTIS. Mr. President, I ask for yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. CURTIS. Mr. President, I make the point of order that there is not a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CURTIS. Mr. President, I am ready to vote on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska. 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 California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. MONDALE) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. JAVITS), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The Senator from Texas (Mr. TOWER) is necessarily absent.

The Senator from Tennessee (Mr. BROCK) is detained on official business.

The result was announced—yeas 23, nays 66, as follows:

[No. 57 Leg.]

YEAS—23

Bartlett	Curtis	Helms
Beall	Dole	Hruska
Bellmon	Domenici	McClure
Bennett	Dominick	Percy
Buckley	Fannin	Roth
Byrd, Harry F., Jr.	Goldwater	Scott, Va.
Cotton	Griffin	Taft
	Hansen	Thurmond

NAYS—66

Abourezk	Church	Hatfield
Aiken	Clark	Hathaway
Allen	Cook	Hollings
Bayh	Eagleton	Huddleston
Bentsen	Eastland	Hughes
Bible	Ervin	Humphrey
Biden	Fong	Jackson
Brooke	Fulbright	Johnston
Burdick	Gravel	Kennedy
Byrd, Robert C.	Gurney	Magnuson
Cannon	Hart	Mansfield
Case	Hartke	Mathias
Chiles	Haskell	McClellan
McGee	Packwood	Sparkman
McGovern	Pearson	Stevens
McIntyre	Pell	Stevenson
Metcalf	Proxmire	Symington
Montoya	Randolph	Talmadge
Moss	Ribicoff	Tunney
Muskie	Saxbe	Weicker
Nelson	Schweiker	Williams
Nunn	Scott, Pa.	Young

NOT VOTING—11

Baker	Javits	Stafford
Brock	Long	Stennis
Cranston	Mondale	Tower
Inouye	Pastore	

So Mr. CURTIS' amendment was rejected.

Mr. TALMADGE. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 22, 1973, he presented to the President of the United States the enrolled bill (S. 7) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation service, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes.

RURAL WATER AND SEWER GRANT PROGRAM

The Senate continued with the consideration of the bill (H.R. 3298) to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act.

Mr. ABOUREZK. Mr. President, I ask that the amendment which I have at the desk be stated.

The legislative clerk read as follows:

At the end of Section 2, page 2 add Section 3 as follows:

Section 517(c) of title V of the Housing Act of 1949 (42 U.S.C. 1487(c)) is amended by (1) striking out the word "may" and inserting in lieu thereof the word "shall"; and (2) inserting before the period at the end of the sentence a comma, and the words "in the amounts specified in the appropriations Acts for that purpose: *Provided*, That not less than 60 per centum of such loans in the aggregate be made at the reduced rates provided for under section 521 of this title".

SEC. 4. Section 516(a) of title V of the Housing Act of 1949 (42 U.S.C. 1486(a)) is amended by striking out the words "is authorized to" and inserting in lieu thereof the words "shall, in the amounts specified in the appropriations Acts for that purpose,".

Mr. ABOUREZK. Mr. President, I offer this amendment to end the moratorium on Farmers Home Administration rural housing projects. We have all seen and heard statistics detailing the magnitude of the housing crisis in rural America. Roughly 31 percent of our citizens live in nonmetropolitan areas, but these 31 percent of our people endure 58 percent of all substandard housing in the Nation. In metropolitan America one house out of every 25 is substandard. In rural America that figure skyrockets to one out of every eight.

In South Dakota these facts are more than cold-blooded statistics. They are people. My State has 670,000 people and needs upwards of 40,000 housing units, depending on one's definition of "need." We were beginning to make inroads on this problem when the freeze hit.

Nearly every day, now, my office receives several letters from small towns like Winner, Miller, Mitchell, and Valley Springs—letters from people who feel that the promise of livable housing has been betrayed.

It is not only a question of housing but also a matter of impact on the entire economy of the State. For example, one of those letters came from a small builder in Valley Springs who said that his business would normally support one or two families, but due to the Farmers Home Administration program had been able to support 10 families. Now he writes:

> If the freeze continues into the next building season, we will have to lay off at least six persons, which will hurt this little community considerably.

That will hurt. And it will hurt in countless communities across my State to the tune of nearly 8,400 people who will face the loss of jobs because of the housing freeze. Construction workers, real estate people, architects, builders, lawyers, carpenters, furniture salesmen, and others are all going to feel the pinch.

Couple this loss with the widespread harm which the administration cutback in other vital farm programs has worked on the rural economy, and South Dakota loses another round in its long-term struggle with a depressed economy and a population decline. The rural-urban flow steps up another notch. South Dakota loses more of its youngest, brightest, and most aggressive citizens. The quality of rural life slips back another step.

Perhaps it could be argued that revenue-sharing funds can take up the slack or that the people in South Dakota should be doing more to help themselves. The fact is that if every single penny of revenue-sharing moneys for South Dakota were used for rural housing and no other purpose, it would not make up the loss my State faces from the termination of FmHA programs. It is also a fact that 68 percent of South Dakota's families earn less than $10,000 a year and cannot afford, at today's conventional mortgage terms—10 to 20 percent downpayment, 20-year mortgage, and 8 percent interest—to buy even a modest home. Further, 15 percent of South Dakota's families earn less than $3,000 per year.

Further, it strikes me that the housing moratorium has been blatantly discriminatory against rural areas. There have been assurances that assisted housing starts through the HUD programs will continue during the next 18 months at the same level as during the fiscal year 1972. At the same time, Farmers Home Administration was instructed to shut off all subsidized loan processing as of January 8. HUD, for the cities, was allowed to continue processing low-income housing loan applications. Farmers Home was prohibited from even doing that.

If Farmers Home had been allowed to continue at the fiscal 1972 level, it would have meant nearly 70,000 desperately needed units for rural America. That is

no small loss in light of the fact that rural areas have the majority of substandard housing.

Finally, setting the economics and equity of the situation aside, I must question the morality and wisdom of freezing rural housing needs. People pay for bad housing with their health. The older they are, the more they pay.

Rural America is being depopulated and the people who are left are the elderly. It is the young who pack and move to the city, adding to the problems of congestion found there. One call I received from Pierre, our capital city, particularly moved me. The woman who called said of the housing freeze:

It hurts these old people. They have to spend all their money for rent. They don't have enough to eat.

In short, Mr. President, the poor, the elderly, the wage earner, the struggling farmer, and all others in South Dakota who are ill-housed cannot afford a policy of benign neglect.

It may be true that problems cannot be solved by throwing money at them, but neither can they be solved by ignoring them. The fact is that the Farmers Home Administration housing programs have been successful and America cannot afford to see them ended. It is the job of Congress to make sure that these vitally needed programs are continued.

I urge the adoption of the amendment.

Mr. McGOVERN. Mr. President, I commend my colleague from South Dakota for offering his amendment which would restore the rural housing portion of the housing program that has been frozen, at least temporarily. I wholeheartedly endorse the substance of the amendment and what the Senator is trying to do. I think it is fact that most of the substandard housing in the country is in rural areas.

On yesterday I had spoken with the chairman of the Committee on Banking, Housing and Urban Affairs, the Senator from Alabama (Mr. SPARKMAN), about this matter. It was his judgment that, while he strongly favors the amendment, this is not the proper vehicle on which to attach the amendment. I think that judgment is shared by the distinguished Senator from Vermont, the author of the Water and Sewage Disposal Act which is now pending before the Senate.

It is not that any one of us is opposed at all to the housing program or to the urgency of restoring it. However, it is felt that any kind of sweeping amendment, such as this amendment, might endanger the passage of this very important water program now pending before the Senate.

The Senator from Alabama (Mr. SPARKMAN) gave me his assurances that if this amendment is not acted upon today, concerning the rural housing of America, he and his committee will do all in their power to report out a housing bill with this provision in it at the earliest possible date.

The Senator from Alabama indicated that this could be probably in June, some time in the next 2 or 2½ months.

On that basis, I wonder if my colleague from South Dakota would be willing to postpone action on this amendment so that we might take it up in connection with the housing bill.

The administration's freeze on subsidized Farmers Home Administration housing funds for rural areas not only hurts low- and moderate-income families in desperate need of decent housing, but it hurts the construction industry and the economy of rural areas as well.

Nationally, it is estimated that rural America's direct loss in loan dollars over the 19-month moratorium period is nearly $1.6 billion. Direct and indirect employment losses will be an estimated 133,120 man-years.

In South Dakota, the loss will be over $13 million in loan dollars, and over 1,140 jobs. In a small State, this is a substantial amount of money, and a significant number of jobs.

In the cities, continuation of some HUD programs and funds already in the pipeline will allow housing construction to continue, even if at a reduced level. But in rural areas, the freeze on Farmers Home Administration programs is complete and immediate. Farmers Home has no pipeline; virtually all subsidized rural housing programs are suspended.

This is particularly cruel because rural areas have twice the poverty and three and a half times the bad housing. This inequitable freeze will exacerbate the disparity.

Mr. ABOUREZK. Mr. President, at this time I yield temporarily to the Senator from Minnesota, the cosponsor of the amendment.

Mr. HUMPHREY. Mr. President, I am very proud and pleased to join with the junior Senator from South Dakota as a cosponsor of his amendment relating to the restoration of the rural housing program.

As the Senator from South Dakota has indicated, these programs are of vital importance in rural America. Might I add that they have been a phenomenal success to date.

As to the restoration of the subsidized rural housing program, I might point out that some of these housing units sponsored under this program eventually move to conventional type of loans. In other words, the subsidized programs permits many low- and moderate-income families to get a start at homeownership. Then as soon as they are more financially able to do so, they convert to a conventional loan, which means they go on and pay for their home just like most other average citizens. I found this to be the case in a number of States where I have had an opportunity to examine this program.

Mr. President, the rural housing program must be restored. The action the administration took last January in shutting off the subsidized Farmers Home Administration housing programs was an action taken without any justification whatsoever. The Farmers Home Administration programs are held in the highest esteem throughout the country. They have never been touched by scandal. They are the economic lifeblood of thousands of small communities.

This capricious and arbitrary action discriminated against the group that needs housing assistance the most—the low-income families that live in rural America.

The programs that were discontinued were:

Housing loans for the purchase, construction and remodeling of an individual house if interest credits were involved. The full impact of this action becomes clear when we realize that 60 percent of funds loaned for this purpose during the first half of the current fiscal year went to families that needed interest credits and these are families who make less than $7,000 a year.

Loans for the construction of rural rental housing were also discontinued if interest credits were involved. The full impact of this action becomes clear when we realize that more than half of the funds loaned for rental housing during the first half of the current fiscal year involved the use of interest credits. Interest credits on rental housing lower the rents. According to the Farmers Home Administration's own figures the curtailment of the subsidized rental housing program will raise the rent on a typical one-bedroom apartment from $53 a month to $94 a month.

Loans and grants for the construction of farm labor housing were also frozen. This was a small program but it had begun to gain momentum. As of last June 30, Farmers Home had applications on hand totaling $28 million for farm labor housing grants. To abandon this program is a bitter blow to the quarter of a million migrant workers and their families who for the most part live in miserable shacks and barrack-like structures.

The special tragedy of the rural housing freeze is that it is far more drastic than the moratorium that went into effect at the same time in the urban housing programs. Because the urban housing programs whether they are for single family homes or for rental projects are handled in big blocks-commitments made for hundreds of units at a time—there was enough subsidized urban housing approved last January to keep the builders building—although at a considerably lower level than previously—during the remainder of fiscal 1973 and all of fiscal 1974 at the same rate they were erecting housing units in the first half of fiscal 1973. Unfortunately for rural people the Farmers Home housing programs operate more on a one-to-one basis. As a result FmHA did not have hundreds of thousands of units approved for construction when the deadline came on January 8. As a result new housing starts under the Farmers Home Administration assisted housing programs will decline sharply during the coming months and, if the administration is allowed to have its way, there will be no assisted housing starts under Farmers Home financing in fiscal 1974. For all intents and purposes the program will be dead.

The President has told us that he will have proposals for new housing programs in 6 months. We can assume he includes rural as well as urban housing in his plans. But we cannot assume that his proposals will be acceptable. The ad-

ministration appears to be looking for a way to build housing for low-income families at no cost to the Government.

Well, I can tell them right here and now that there is no way to build housing for low-income families at no cost to the Government.

But be that as it may. We will consider the President's proposals when he makes them. But suppose he does have proposals ready in 6 months. That will be next fall. If the proposals can be accepted they will require extensive review and consideration. That means it will be next spring before legislation can be enacted. That means it will be the summer of 1974 before the new housing programs could be placed in effect.

I submit that we cannot wait a year and a quarter. Our rural people need housing now.

What does this rural housing freeze, this blocking off of the assisted housing programs of the Farmers Home Administration, mean in terms of people? It means that approximately 140,000 families who would have received loans to build or buy decent houses between January 1973 and July 1974 will be forced to live in miserable housing conditions. Remember, gentlemen, a person who is eligible for a Farmers Home Administration loan must currently be living in poor housing. You do not get a Farmers Home loan to move from one good house to another. You get a Farmers Home loan to move out of inadequate housing into decent housing.

What does this housing freeze mean in terms of the impact on the economy of rural towns? The rural housing alliance estimates that the cutback, even considering the administration's plans to push nonsubsidized housing, will represent the loss of nearly 164,000 man-years of employment. If you add the further loss due to the administration's refusal to use the funds authorized and appropriated for water and sewer facilities financed by FmHA, the loss in employment is more than 248,000 man-years. In dollar terms the curtailment of the housing and community facilities program will deprive rural communities of economic stimulant that would have had a $9 billion impact.

We cannot stand idly by and watch the administration in a stumbling and irresponsible manner take services from our rural people that have long since proved their value, that are essential to the rebuilding of our rural communities, that are part of a commitment we made long, long ago to see that every American has a decent home in a decent environment.

Mr. President, I strongly associate myself with the effort of the junior Senator from South Dakota. I thank his senior colleague, Mr. McGOVERN, for his declared support and interest in this matter and for the assurance that has been given to us by the distinguished chairman of the Senate Committee on Banking, Housing and Urban Affairs, the Senator from Alabama (Mr. SPARKMAN).

I know that the Senator from Alabama has long been a strong spokesman in this body for housing for all of our people. And I know that in his State of Alabama this rural housing program has been a very big success.

I am confident that the Senator from Alabama and his committee will do everything within their power to restore this program because their record on housing matters and other matters has been exemplary.

Mr. President, I want to say to the chief sponsor of this amendment that insofar as I am personally concerned, that I would be willing to abide by the assurances that have been given to us by the senior Senator from South Dakota and the senior Senator from Alabama. However, I want to make sure that we get the measure out soon, so that there can be no delay and so that we can proceed forthwith with a housing program that will do for rural America what we have long promised—a decent home at a reasonable price and a rate of interest that these good people can afford to pay.

Mr. President, I support the amendment to restore the assisted rural housing programs of the Farmers Home Administration.

Mr. ABOUREZK. Mr. President, I thank the Senator from Minnesota.

Mr. AIKEN. Mr. President, will the Senator from South Dakota yield?

Mr. ABOUREZK. Mr. President, I yield to the senior Senator from Vermont.

Mr. AIKEN. Mr. President, I want to make it plain that I dislike opposing this amendment to the pending bill. However, that does not indicate my opposition to the rural housing program. I am very much in favor of the rural housing program.

I, too, discussed the situation this morning with the chairman of the Committee on Banking, Housing and Urban Affairs, the Senator from Alabama (Mr. SPARKMAN), who assured me that the measure will be brought out and that he will take pains to see that the rural housing program is included insofar as he is able to do so, of course.

I have full confidence that the Senator from Alabama (Mr. SPARKMAN) does intend to bring this housing bill out with the rural housing provisions included. That is why I have been advocating that we do not put any amendments on this particular bill before us, so that we can find out promptly just where we stand on the whole situation of the rural water and sewage disposal program, which I definitely do not want to see ended or abrogated at this time, or any time in the foreseeable future, for that matter.

Mr. ABOUREZK. I thank the Senator from Vermont.

Mr. President, in view of the assurances given by my senior colleague from South Dakota (Mr. McGOVERN), I withdraw the amendment at this time, and emphasize that I hope the bill will come out of the committee of the distinguished Senator from Alabama very soon.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. McGOVERN. Mr. President, I thank my colleague from South Dakota and the Senator from Minnesota (Mr. HUMPHREY) for their understanding, because I think the amendment they have brought to the attention of the Senate here today is one that should have been brought to our attention. It is one that we ought to act on just as quickly as possible. But I do agree with the point made by the Senator from Vermont (Mr. AIKEN) that he wants the strongest possible vote now, without any encumbrances, on this water and sewage disposal bill, and it is on that basis that we have asked that this amendment be temporarily withheld.

I have no doubt that the amendment would have been overwhelmingly approved had it been offered, but I think it is in the best interests of quick and strong action on the water and waste disposal bill that we not encumber it with amendments of any kind today, and we do have the full assurance of Senator SPARKMAN that at the earliest possible date his committee will report out a housing bill to take care of the situation.

So I thank the Senator from South Dakota and the Senator from Minnesota for their understanding.

Mr. HUMPHREY. Just quickly, Mr. President, I want the RECORD to be very clear that I know of the dedication of the Senator from Vermont to all these programs, and no remark of mine should be interpreted as any criticism at all of the Senator from Vermont. I respect his judgment on this matter, but we wanted a chance to discuss this housing amendment, because we thought it was important for the Senate to be aware of the significance of what has happened.

Mr. McGOVERN. I think the Senator is absolutely right.

Mr. ABOUREZK. Mr. President, if the Senator will yield, I wish to announce at this time that Senator HUMPHREY and I intend to introduce this proposal as a bill today, so that anyone who wishes may be a cosponsor.

Mr. McGOVERN. I wish that the Senator would add my name as a cosponsor.

Mr. FULBRIGHT. Mr. President, I, of course, would like to join those who support the rural housing program, as I do. I am very glad to go along with those who have already spoken on it.

Mr. President, I am gratified that the distinguished junior Senator from South Dakota has brought up today his amendment to restore the rural housing programs which the administration so abruptly terminated in January. It is my understanding that the effect of this amendment would be to mandate that the Executive spend the moneys which Congress has appropriated for assistance to the rural housing programs of the Farmers Home Administration. These activities, which include loans for the subsidized rental and homeownership programs as well as loans and grants for construction of farm labor housing, contribute much to the economic well-being of the small communities of our country and are vitally needed at this time.

Mr. President, I comment on occasion about this administration's misdirected spending priorities, and I do so largely because this is what I hear from other Arkansans when I go home. My constituents are not asking for more weaponry, more moon shots, or more military bases abroad or more foreign aid; they are asking for decent housing, for basic

water and sewer grants—the essential things which contribute so much to a decent standard of living and the sorts of things which this Government ought to be able to afford.

So that my colleagues might better understand how my State is being affected by the administration's attempt to curtail these rural housing programs which have been so popular with the citizens of Arkansas, I have some facts which I believe will be useful for the RECORD.

When the administration cut off the subsidized Farmers Home Administration programs in January, my State had received the benefit of $23 million in interest supplement loans this fiscal year and was projected to have received approximately $60 million through the end of this fiscal year. When this loss to Arkansas is added to next year's loss of $60 million—since there is no provision for this program in the fiscal year 1974 budget—it means, Mr. President, that the administration's action will cost Arkansas over $90 million in needed and deserved housing benefits. Moreover, the economic stimulus or multiplier effect of such an investment would probably be about 3 times this amount, or $270 million. To put this another way, since the current average loan is about $12,000, about 7,500 low-income Arkansans will be deprived of housing assistance. The Farmers Home Administration estimates that 1.7 man-years is required to build each house which means that the restoration of these programs would account for about 12,750 man-years of labor to Arkansas.

The reasons are compelling for restoring these badly needed programs, and I hope that the Senate will act on this matter in the near future.

I also want to express my strong support for H.R. 3298, now pending before the Senate, to restore the water and sewer grant program under the Consolidated Farm and Rural Development Act. In fiscal 1972, the various rural Farmers Home Administration programs added $104.3 million to agriculture and community development in Arkansas with credit outstanding in the State for these programs now totaling $333.3 million. These programs have been vital to the livelihood of rural America, and are needed more than ever. I, like other Senators, was shocked and disappointed when the administration terminated these programs without notice on January 10 of this year, with the so-called justification that it would contribute to the reduction in Federal spending. If this administration is seriously looking for ways to reduce spending, it should concentrate on cutting back the extravagant defense-related ventures which have long outlived their usefulness, rather than making these very worthwhile water and sewer programs its victim. I commend the Senate Committee on Agriculture and Forestry for its diligent and expeditious efforts in reporting this measure to the Senate.

I can think of no more important bill to my State, nor to the other rural areas of this country.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, after line 3, insert a new section as follows:

"SEC. 3. In keeping with the philosophy of government reflected in this legislation, each Member of Congress shall be required hereafter to expend each and every dollar authorized and made available to his office for employment of personnel, and for stationery, travel, telephone calls, telegrams and other purposes."

Mr. HUMPHREY. Oh, Mr. President, will the Senator yield?

Mr. GRIFFIN. Mr. President, I shall not vote for this amendment myself, but I would like to give those whose approach to Government is represented by this particular bill, an opportunity to make sure its principle applies across the board.

Needless to say, my purpose in offering the amendment is to focus some attention, if possible, on what this bill does. As now written, the basic act provides that the Secretary of Agriculture "may" make grants up to the amount appropriated. The pending bill would substitute "shall" for "may" to make the act read "The Secretary shall make grants in the amount of $300 million."

I can appreciate that some Senators are frustrated, because the administration has impounded some of the money Congress has appropriated for this program. I shall not review the figures, but I remind the Senate again that this administration has actually impounded less percentagewise, than some other administrations. As the table below indicates, the funds impounded—or held in reserve—amounted to 3.5 percent of the budget as of January 29, 1973.

The comparable percentage at the end of fiscal years 1959 through 1961 ranged from 7.5 to 8.7 percent. At the end of fiscal year 1967, it stood at 6.7 percent. At the end of 1972, it was 4.6 percent. But a range in the neighborhood of 6 percent has been normal over most of the last decade.

A specific breakdown by fiscal year is as follows:

[Dollar amounts in billions]

Fiscal year	Total unified budget outlays	Funds held in reserve	Percent
1973 (Jan. 29, 1973)	$249.8	$8.7	3.5
1972	231.9	10.6	4.6
1971	211.4	12.1	5.7
1970	196.6	11.5	5.8
1969	184.5	9.6	5.2
1968	178.8	9.9	5.5
1967	158.3	10.6	6.7
1966	134.7	8.7	6.5
1965	118.4	5.6	4.7
1964	118.6	4.2	3.5
1963	111.3	4.5	4.0
1962	106.8	6.5	6.1
1961	97.8	7.6	7.8
1960	92.2	8.0	8.7

Note.—The amount of funds held in reserve vary during the year and the above numbers are computed as of June 30 each year.

The bill before us now, substituting "shall" for "may" would mandate that every dollar appropriated must be spent. Do we really want to do that? And how far would we want to carry that philosophy of Government? Is that the way we want to operate with respect to every agency and subdivision of Government—to require that they must spend every cent that is appropriated and made available?

Surely, the American people who pay the taxes do not want us to do take that approach. Accordingly, I shall vote against the pending bill, because that kind of philosophy is built into it.

Several Senators addressed the chair.

The PRESIDING OFFICER. Does the Senator from Michigan yield?

Mr. GRIFFIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, so that Senators may be on notice, I ask for the yeas and nays on passage of the bill.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I think the Senator from Michigan knows full well what his amendment is designed to do; namely, to try to make it appear as if there were no difference between a Member of Congress who did not find a need to spend some of the funds allocated for the efficient service of his office, and a President of the United States who summarily impounds all the money, denying any service under the statutory law.

The amendment, I am sure, is offered—I never impugn the motives of any of my colleagues—in the best of good faith. Many a Member of this body could use greater resources and indeed, many Senators have been asking for that. Some 39 Senators, both Republicans and Democrats, only recently met for that very purpose.

But, Mr. President, what has happened here, and the language in this bill as well as others, is the result of the action of the administration not to economize, but to kill.

When they stop all applications for water and sewer grants as of the date of January 10, and take no more applications, and impound all the remaining funds, they are denying service. There is a great deal of difference between, at the end of a fiscal year, finding out that you did not receive enough applications to use the funds, or found reason not to approve applications, because they did not meet the criteria, or found reasons you could fulfill the purposes of the program with greater efficiency and economy, thereby withholding some funds. Let us not kid ourselves as to what has happened here. What has happened is like an item veto that the Bureau of the Budget at the direction, obviously, or apparently, of the President, has impounded funds, or the agency has refused to receive any more applications and, therefore, has terminated a program which this Congress authorized for a full year. That is a lot more difference than compelling every Member of this

body—no problem for me voting for it, I guarantee you, Mr. President, because I have to supplement and have been consistently doing so out of my own personal funds, in order to take care of the duties of my office, and many other Senators here do that also. It is no problem. That is not unusual. That has been done for years. But this is, to say the least, a rather frivolous way to deal with a most serious problem; namely, the curtailment of a program which could have been operated with no trouble at all.

Many a time a department head has found that there were funds he did not need and were turned back to the Treasury at the end of the year. There is no complaint about that here in this body. But when we summarily and capriciously, without any prenotice, or any notification, to anyone, to no Senator, nor to any Representative, cut off a program, we are not fulfilling the duties of a public law.

Mr. GRIFFIN. Mr. President, if I may be recognized, of course, this amendment would not be adopted by the Senate. I would vote against it myself. But I hope by offering it, I have at least alerted the Senate to what the bill before us would do.

This bill is not the first bill that has come onto the floor with mandatory language of this kind in it. This is but one of a series of bills which proposes to mandate and require the administration to spend every last cent appropriated—regardless of whether it makes sense or not.

I submit that is bad in principle, that it is bad philosophy, and is not the way to solve the problem which concerns those who propose it. I, for one, do not subscribe to it, anyway.

Mr. AIKEN. Mr. President, I should like to say that when the REA bill was before this body about 3 weeks ago, and I do not believe the Senator from Michigan (Mr. GRIFFIN) was here at the time, I asked the sponsor of the bill, the Senator from Minnesota (Mr. HUMPHREY), for an interpretation of the meaning of the word "shall," because I, too, questioned whether we could require the President to spend, or the head of an agency to spend, every dollar. The interpretation given me by the Senator from Minnesota, and it will be found in the RECORD of February 21 on page 4911 and the essence of it is this:

When application for funds has been made and it has been found worthy and approved and an allocation of funds promised, then the full amount shall be made available to the applicant for the purpose for which it is intended.

The Senator from Minnesota is here now——

Mr. HUMPHREY. Yes.

Mr. AIKEN. And I questioned him on the floor about that, because I did not like that word "shall," either, but his interpretation was that it does not mean that the last dollar shall be spent. Perhaps some Members of this body will gladly comply with the amendment of the Senator from Michigan. Personally, I think I turn back about $150,000 a year to the Treasury. But I interpret that word "shall" to mean that if there is an appropriation of $145 million made, that $145 million shall be spent, if there are not enough qualified applications therefor.

Mr. HUMPHREY. Mr. President, will the Senator from Vermont yield?

Mr. AIKEN. I yield.

Mr. HUMPHREY. I say to the Senator from Vermont that his interpretation of our colloquy is accurate as, of course, I would expect it to be. The Senator has given a commonsense and a reasonable interpretation. Words like "shall" and "directed" are most unfortunate sometimes, I agree. It is like bringing up a family. Once in a while we sit down with our children and have a discussion as to what the ground rules shall be. We think it is most likely they will abide by them but, finally, they do not do so. If we are any kind of a parent, we say, "All right. That is it. Here is the rule, son, and from here on out I expect some obedience."

Mr. President, I want to say that members of the governmental family have been messing around. They have not been playing according to the ground rules. The ground rules in this body and in Congress have been familiar for years and we have never had this trouble in the kinds of programs terminated. This problem has come up before with previous Presidents who have impounded some money for purposes of economy, or based on principle, perhaps. But as the Senator from Vermont has said, there is no directive which says that we have got to spend every dime. But what it does say is that if the applications meet the criteria, if there are enough applications, if the need is there, and if the administrator of the program with the criteria of applications sees that there is a need, then the money shall be made available and shall be spent. It is just that simple.

Mr. GRIFFIN. Mr. President, I am glad to have those nice words in the RECORD just spoken by the distinguished Senator from Minnesota (Mr. HUMPHREY). But now let me read from page 10 of the committee report, showing the changes in the existing law that would be accomplished by the pending bill, if it were to be adopted:

(2) The Secretary [is authorized to] *shall* make grants *in the amounts specified in appropriations Acts* aggregating not to exceed $300,000,000 in any fiscal year to such associations to finance specific projects for works for the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

Then, on page 11, it states:

(6) The Secretary [may] *shall* make grants *in the amounts specified in appropriations Acts* aggregating not to exceed $30,000,000 in any fiscal year.

Mr. President, at this point I ask unanimous consent that the minority views set forth beginning on page 13 of the committee report be printed in the RECORD.

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

MINORITY VIEWS

This is the third bill approved by the Committee on Agriculture and Forestry aimed at reinstating programs which have been terminated or changed by the Administration. The thrust of this legislation is to mandate executive expenditure of water and waste disposal grant funds appropriated to Farmers Home Administration.

The Administration's 1974 budget indicates insured loans totaling $345 million will be available for constructing and upgrading water systems in communities of 10,000 inhabitants or less or in areas outside these communities. This amount is greater than has been available in any one year for combined water and sewer loan purposes under the Aiken-Poage Act which was adopted in 1965. The fiscal 1974 Executive budget proposes no water system grants. The budget explanation indicates this would be an appropriate use of Federal revenue sharing funds. We agree with this conclusion.

With regard to FHA waste disposal loan and grant authority, the President has indicated all sanitary sewage financing will be consolidated under the Environmental Protection Agency.

Public Law 92–500, known as the Federal Water Pollution Control Act Amendments of 1972, substantially increased EPA's authority to finance sanitary sewerage systems. Under this Act, the amount of any grant for treatment works shall be 75 percent of the cost of construction. Treatment works normally includes the waste treatment plant, the outfall line and the interceptor line. EPA's grant authority has also been expanded to include the sewage collection system.

Public Law 92–500 also created a body known as the Environmental Financing Authority. The purpose of this authority is to assure that inability to borrow necessary funds on reasonable terms does not prevent any state or local public body from carrying out any project for construction of waste treatment works determined eligible. Implementation of this authority will mean that under certain conditions EPA could find an entire sewerage project with both grant and loan funds. It is important to note that sewer lines financed under this authority are to be limited to the main lines constructed by the public agency and does not include the connection to such lines by households and others.

Since the EPA financing authority does not extend to solid waste disposal, we would urge the Administration to allow Farmers Home Administration to insure loans for this purpose.

In conclusion, we believe our rural areas would be better served if similar government programs can be successfully consolidated within a single agency and believe there should be a reasonable trial period to determine if the proposed consolidation will benefit rural America.

CARL T. CURTIS.
BOB DOLE.
HENRY BELLMON.
JESSE HELMS.

Mr. GRIFFIN. Mr. President, I have placed the minority views in the RECORD to make clear that if the bill before us were defeated, there would still be adequate provision made for the sewer and water projects which this legislation is supposed to cover.

Mr. President, I think that I have made the point I seek to make.

Mr. TAFT. Mr. President, will the Senator from Michigan yield?

Mr. GRIFFIN. I yield.

Mr. TAFT. Before the Senator takes any further action on this, I should like to commend him for bringing this matter to the attention of the Senate. I think he has done so in a very pointed and effective way. We should recognize

that under the language the Senator cited from the committe report, if the Senator did not have applications in the total amount of the authorization, he would have a duty to seek out employees from his department to find applications in the field that could be approved and that would measure up to the total amount.

I would ask the Senator if he thinks that is a correct interpretation.

Mr. GRIFFIN. Absolutely. We see too much of that now in the administration of government. I have read and heard about situations where the bureaucrats actually go out and beat the bushes trying to find people and communities to apply for Federal money that is available—bureaucrats who are trying to give it away so that they will not have to turn any money back to the Treasury.

Mr. TAFT. Does not the Senator's amendment do exactly the same thing? If this same amendment passes, they would have the obligation to go out and find people to put on our staffs to spend the amount involved.

Mr. GRIFFIN. Yes, and wouldn't that be ridiculous? I doubt that there is a single Senator among us who uses all of the allowances that are available. From time to time, we do not need all of the payroll allowance that is available, or perhaps we cannot find the qualified people to hire at a particular time. In such a situation, the unused money goes back, of course, to the Treasury, as it should. Most Senators do not use all of the travel allowance that now is available and, of course, whatever is left at the end of the year goes back to the Treasury, as it should.

Would it not be ridiculous if we were to impose upon ourselves the requirement embodied in this bill that we are imposing on the executive branch of Government—to say to each Senator and Member of Congress, "You shall spend all the money that is available for the operation of your office, whether you need it or not? It would be a ridiculous provision to enact into law.

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

Mr. GRIFFIN. I yield.

Mr. McGOVERN. I think that for the Senator's point to have any analogy at all—that is, any analogy between the bill before the Senate and the operation of a Senate office—one would have to find a Senator who refused to open his office, who refused to hire any staff, who refused ever to mail a letter to one of his constituents, who refused ever to buy any stationery; because what we are faced with here now is a program that has been terminated by Exeut.ve order. As of January 10, the executive branch said that this program, which passed the Senate unanimously, is ended—no more money—under the Farmers Home Administration, for the grant phase of this water and waste disposal program. That is a vastly different situation from that of a Senator coming to the end of the year and having a few dollars left which he returns to the Treasury because the money is not needed.

I hope that the Senator, having made his point, will see fit to withdraw the amendment.

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

Mr. GRIFFIN. I yield.

Mr. CURTIS. I believe it cannot be said that the action of the President terminated the program, if by "the program" one means the program of assisting rural communities with water projects and sewer projects.

What the President has done, in effect, is that he has said, "Congress has provided two vehicles to carry out this objective. We are going to use one and not the other in reference to sewers, and in rural sewer projects we will go on with both grant and loan."

It is true that the President's action in respect to grants for water programs is discontinued, but the loan program goes on. As a matter of fact, it is increased.

So it is not a situation in which a President has arbitrarily stopped a program. He has availed himself of the use of one program that Congress has enacted. He has kept both programs going. He has taken action that would put an end to the grants for water projects. The administration of grants has always been difficult.

Mr. GRIFFIN. I appreciate the contribution to this dialog made by the distinguished ranking minority member of the Committee on Agriculture and Forestry (Mr. CURTIS). He makes the point that there has not been an absolute termination by the administration of this particular program. But even if that were not the case, this bill is not the right solution.

I am not about to tell the Agriculture Committee how it should have proceeded, but I am sure of one thing: This bill which mandates the administration to spend every last cent appropriated is not the solution. Surely, there must be some way that Congress can assert its authority that would be more responsible than this.

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

Mr. GRIFFIN. I yield.

Mr. AIKEN. I want to add a little further interpretation.

If the full amount of the appropriation is less than the amount that has been approved and promised for certain projects, then the full amount would be expected to be distributed.

Mr. GRIFFIN. Mr. President, I believe I have made the point intended by offering such an amendment. Some Senators must catch planes. If my amendment went to a vote, I'm sure it would not—and should not—receive even one vote. Accordingly, I ask unanimous consent that the order for the yeas and nays on the amendment be rescinded, and I withdraw the amendment.

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

The amendment is withdrawn.

Mr. BUCKLEY. Mr. President, H.R. 3298 is another in a series of bills designed to restore intact and mandate the expenditure of every penny which the President has vetoed or withheld in order to hold expenditures to the $250 billion level which the Congress last year agreed was the prudent limit of Federal spending during fiscal year 1973. Again, no effort has been made to trim expenditures in this bill or elsewhere in the budget. Had the Curtis amendment been adopted, I would have voted "aye" on final passage. Under the circumstances, I must vote "no."

Mr. HELMS. Mr. President, I cannot support the water and sewer grant program bill in its present form. I thought that the Curtis amendment was a fair and equitable solution to the dilemma brought on by the President's effort to cut down on the deficit. Had it passed, I would have supported the bill on final passage with no hesitation whatsoever. I believe that we must give top priority to the Federal deficit problem and make it one of our highest concerns. Such cuts are necessary, and desirable if they are made all across the board. All sections of the budget should receive justified cutbacks.

On the other hand, the cutoff of these grants obviously created practical problems. Much planning already had gone into such programs in many communities. The Curtis amendment would have allowed viable plans to be implemented and the program to be phased out in an orderly manner. Instead we are now faced with another massive program which will have a significant adverse effect on the budget. Obviously, water and sewer programs are desirable and worthwhile in themselves. The question is whether we can afford them all in our present circumstances. Congress has got to begin accepting responsibility even when it hurts. The McGovern bill as it now stands is totally irresponsible, and I feel compelled to vote against it.

Mr. CANNON. Mr. President, I fully support the restoration of FHA water and sewer grant programs as proposed in H.R. 3298 and congratulate the Agriculture Committee and the bill's distinguished floor manager, Senator McGOVERN, for quick action on this vital matter.

When the Agriculture Department announced January 10 it was terminating water and waste disposal systems, it left nine communities in my State with inadequate solutions to urgent water and sewerage problems. These communities were informed that revenue sharing and the Water Pollution Control Act Amendments of 1972 were available to meet their needs.

Specifically, they were told the Environmental Protection Agency had funds ready to pay 75 percent of the costs of sewer projects and that revenue sharing could neatly fill the gap left by the terminated water system grants. As has been the case with so much of the President's recently unveiled economic program, however, the promise did not quite match reality.

By the time the Agriculture Department announced its termination plans, revenue sharing had been in effect for several months. Before it was approved, it had been pending for more than a year. With this backlog of expectation and several months of reality, revenue sharing funds for rural Nevada communities were nonexistent by January 10. In addition, the communities in Nevada that were affected by the cutoff are very small and, for the most part, lo-

cated in equally small counties. The amount of revenue sharing funds available to these cities and counties is so miniscule as to make unrealistic dependence upon them for funding of expensive water or sewer systems.

The suggestion of using EPA grants has also proved useless in face of reality. Nevada finds itself in a position regarding these funds similar to its position in other areas—the Federal stream has slowed to a trickle by the time it reaches us. To paraphrase Mr. Nixon, the Federal bureaucrats who spend all their time "throwing dollars at problems" seemingly cannot throw hard enough to reach Nevada. For the current fiscal year, Nevada has received only $14 million in EPA grants out of $25 million requested. With major pollution-abatement programs pending in the Las Vegas area, the rural areas of the State can see no realistic hope of meeting their problems through the EPA grants.

I would also like to comment upon the propriety of the Agriculture Department's action in ending these programs. The announcement came in January, 7 months into fiscal year 1973, after only $30 million of an appropriated $150 million had been obligated. To say the action constituted a violation of hope and, in many cases, firm commitments, is putting it mildly. Let me quote from one letter I received concerning this aspect of the termination:

> On the representations from local FHA officials that loan and grant monies were available, the Bunkerville Water Users Association has expended a substantial sum in preparing themselves to receive the much needed grant and loan. Feasibility studies have been made and the legal status and structure of their organization conform to FHA's specifications. It is imperative that this project be initiated as soon as possible.

In the instance referred to above, the Bunkerville group originally submitted a request for an $80,000 loan and an $80,000 grant to improve their culinary water system. During the summer, some residents of this area are without drinking water unless it is carried in.

The Bunkerville residents were then told the project would cost $178,000 instead of $160,000 and that they would have to borrow $94,000 and get $84,000 in grant moneys. They were then told that only $50,000 was available in grant money and they would have to borrow $126,000. On December 14, they were told there were no grant moneys available and they would have to go as far as they could on the $126,000 loan.

This is a classic example of inept Federal policy and is a perfect reflection of the uncoordinated and spastic nature of this administration. Commitments are made and broken, fiscal policy is tightened and relaxed, bureaucracies are extended then abolished, and all the while the country lurches and stumbles along in the wake. This is not "New Federalism," it is just old bungling.

Not only can the efficiency of our national leaders be questioned, but also, as I noticed in today's Washington Post, can the legality. The Post carried the story of a U.S. district court judge ordering the Agriculture Secretary to reinstate the FHA's disaster loan program, which the Secretary had terminated shortly before he wiped out the water and sewer grants. The judge ruled, correctly in my opinion, that Secretary Butz had violated the law and his own Department's regulations in cutting off the program.

The heavyhandedness exemplified in both these actions is the nub of the problem before us today. There is no one in this body, I would suspect, who would object to a serious, well-planned effort to reduce the Federal budget. But there are many of us, to judge from the Senate's actions so far this year on several Nixon-opposed bills, who object to the blitzkreig methods used in the last several months.

Let us not forget that the program we are voting on today was a victim of the magic $250-billion budget ceiling Mr. Nixon pulled out of the sky in the heat of the Presidential campaign when his "no additional taxes" slogan was being hooted at. This is not sound fiscal planning, it is grandstand politics designed to embarrass a democratic Congress.

I urge my colleagues not to be cowed by these tactics. Examine the effect of the water and sewer grant program on your State as I have on mine. If you find it valuable, do not sacrifice it to the impromptu fiscal tactics of this administration. Worthwhile Federal projects like this need not fall victim to midstream budget reversals. Congress can decide for itself which programs should be continued and which should not, and I urge support of this bill as affirmation of that principle.

Mr. HRUSKA. Mr. President, the time has come for the Senate to assume its responsibility in the area of fiscal responsibility. It must do so by reevaluating and cutting out programs which are already provided for and funded elsewhere. The measure we discuss today would restore such a program.

Thus, I rise in opposition to H.R. 3298, which would reinstate planning and development grants in the water and waste disposal program of the Farmers Home Administration.

I am certainly not an opponent of reasonable Federal aid to water and sewer projects. On the contrary, the need for water and sewer funding in our rural areas is great and one which the Federal Government should continue to recognize and share.

It is evident that the need for such programs and funding has been recognized. Water and sewer programs, however, have been included in both the current budget proposal and in the Clean Water Act of 1972.

Construction funding of sewers for rural communities and their surrounding areas is available on a grant basis from the Environmental Protection Agency after application and certification by State according to priority.

Additionally, the new budget would authorize some $345 million for insured loans to be used in construction and upgrading rural water systems.

EPA is also able to provide up to 75 percent of each facility's cost. If a State finds such funding insufficient, it need only resort to its already allocated revenue-sharing money.

It is doubtful to some, including this Senator, that the funds currently proposed can be responsibly expended on water and sewer system construction. After all, only so many systems can be realistically planned and built in 1 year's time. At any rate, it appears that funding for such programs is certainly adequate.

I wish to reemphasize again, that my vote is not cast against rural America and its recognized need for water and sewer systems. Rather it is cast against duplication of manpower and effort. It is cast against the continuation and perpetuation of administrative redtape.

The consolidation under one administrator of the environmentally oriented program that we discuss here today is logical and in keeping with the desired goal of reduced expenditures and economy in Government. It is estimated that over $2 million alone will be saved in administrative costs resulting from the transfer of the water and sewer program responsibility to the EPA.

In casting aside the duplicative measure being offered today, the Senate has an outstanding opportunity to exercise both good sense and restraint without sacrificing any substantive program.

Mr. McCLELLAN. Mr. President, I support and shall vote for H.R. 3298.

Federal grants for water and sewer systems—which the legislation would restore—are essentially for the revitalization of rural America. They are prerequisites for balanced national growth and economic stability. I know of few programs—enacted by the Congress—which have done more to enhance community development, produce jobs, generate tax revenues, reduce the overcrowded conditions and squalor found in many urban areas and generally make life better for all of our people.

I speak of the compelling need for this kind of assistance, not from any vicarious or academic interest. But rather, I speak to the unusual value and effectiveness of this Federal funding program from observation and firsthand experience in my own State of Arkansas. In Arkansas, the results are evident; the progress is real; and the benefits are lasting.

A recent article in the Washington Post commented most favorably on the changing conditions and remarkable improvements occurring in Arkansas. It related how the development and conservation of our water resources has spurred economic growth, and helped to reserve the exodus of our people in search of employment and professional opportunities elsewhere. It told how essential public works—such as water and sewer systems—are bringing hundreds of new employers and thousands of new jobs to our State. And it suggested that the story of success now being written in Arkansas can be written all across our land in rural communities which have been left behind and in country outposts which have become depressed and deserted.

Federal assistance, together with private initiative, has worked in Arkansas. Under the rural water and sewer plant program, some 308 systems have been completed and another 59 are in various stages of construction. These 367 units

ultimately will serve more than 66,000 of our families, business, and schools. They are providing the fundamental facilities without which no city or town can long endure let alone prosper. They are providing the impetus which has attracted clean industrial development and created livelihoods for so many of our citizens. The $9.9 million in Federal grants which have helped to underwrite the cost of these systems is being repaid countless times over in the personaly, corporate and community revenues they are generating.

But the dividends from this kind of Federal aid go well beyond the handsome economic returns they are providing—well beyond the new amenities our people now enjoy. The total enhancement of life it has brought to our State is incalculable and the equally bright hope it augurs for Arkansas' future is unlimited. In my judgment, H.R. 3298 will enable this progress to continue, not only in Arkansas, but throughout our Nation in the myriad towns and hamlets which are trying to exist in the late 20th century without the essentials—such as water and sewage—to sustain them. There are still more than 30,000 rural areas without water systems in America today—still more than 45,000 areas which lack adequate sewer facilities.

I believe that H.R. 3298 holds one of the keys to alleviate this deprivation—to obliterate poverty—to revitalize our countryside and cities—to eliminate urban slums and rural desolation. Rhetoric and good intentions will not solve these problems. That takes programs of action—such as water and sewer projects—to help achieve this crucial goal.

Mr. EAGLETON. Mr. President, I want to commend the Committee on Agriculture and Forestry for its prompt and favorable consideration of this vital legislation.

The administration's abrupt termination of the rural water and waste disposal grant program was one of a series of hammer blows directed at rural programs in the months following the election. All came without warning or consultation of any kind and apparently with little regard for the impact on the well-being and future of rural communities.

The action was part of a disturbing pattern which this administration seems to have fallen into—of policies privately decided upon, sprung without warning on an unprepared public and defended by preemptory assertions of Executive power and wisdom.

Not only is this contrary to the spirit and, at times, the letter of our constitutional arrangements, but it flys in the face of every principle of orderly administration.

There is no way communities can undertake the complex planning and organization required to carry out development programs if the whole program is subject to termination or redirection on a day's notice. There is no way an administration can gather all the information it needs to pursue wise and constructive policies unless it opens itself to the counsel and opinions of others, even those with whom it may disagree.

If the administration feels that a program has outlived its usefulness or is being operated inefficiently, there is an established procedure for seeking change. It should make its recommendations to the Congress and submit its ideas to the scrutiny of public hearings and debate. If they are sound, the recommendations will survive. Only those with a week case to make should have any fear of such discourse.

As it was, many local communities were caught by the surprise termination announcement in mid-stage of their preliminary work on water or waste disposal projects. Some had already taken the costly steps of commissioning engineering studies, preparing sites and arranging for necessary local financing, as the committee report notes.

In the State of Missouri, approximately 120 applications from small rural communities are on file with the Farmers Home Administration State office for a total of about $15 million in grants. In most cases, the loan program which the administration has offered as an alternative, simply will not do the job. These communities need both grants and loans if the work is going to be done.

Mr. President, in establishing this program, the Congress recognized the critical importance of adequate water and waste disposal systems in attracting new industry and other forms of development to our rural communities. They are the foundation on which so much else depends.

I want to urge my colleagues to give this bill restoring the program an overriding vote of approval.

Mr. HATFIELD. Mr. President, rural water and sewer programs are essential to the maintenance of a stable and economically viable rural life. Without them, small towns and farms will continue to decrease; rural young will migrate to our larger cities. But, our large cities are already afflicted by overcrowding, and they suffer from unemployment, crime and many other factors that erode the quality of life. That is why a majority of Americans have indicated their preference is to live in smaller towns and communities. But they cannot, and do not, as long as opportunities in rural areas continue to shrink.

President Nixon said:

It is essential that we make rural life more attractive, thus insuring orderly growth in rural areas.

We must keep a viable rural population and safeguard its way of life. In order to do so, we need to encourage businesses to stay in these areas or to consider locating there. But without adequate water and sewer projects, economic vitality is stifled and opportunities for individuals are lost. Further, in this time of ecological awareness, an added impetus is the environmental protection afforded by such projects.

We can talk about large questions such as "rural life" and "ecological quality," but this means more when we put this in the perspective of one State. In Oregon, for example, 85 projects have been carried out in 10 years—17 in fiscal year 1971. At the time of the decision to cutoff this program, Oregon had pending 21 applications for loans totaling $9,505,000; 39 applications for grants totaling $6,661,000; and three applications for planning grants totaling $34,000.

Last year, the Congress appropriated $150 million for fiscal year 1973 to meet the need nationwide. As a member of the Agriculture Subcommittee of the Appropriations Committee, I worked for this item more strongly than any other. But of the amount our committee appropriated only $30 million had been obligated prior to the time the Department announced the termination of this program. In the last two Congresses, I have introduced legislation to insure the funding authority for rural water and sewer grants. Last session, this legislation had 34 cosponsors.

Of all the programs that have been abolished summarily without consultation with Congress, none is more important nationwide and has greater impact on rural life than this. I believe strongly that Congress should have authority over the budget and be actively involved in revision and abolishing programs it has established. In the case of REA and REAP, I would be glad to participate in efforts to change their archaic features. In those cases, the constitutional issue seems almost more important than the programs themselves. I do not feel that way about the rural water and sewer program. This program stands on its own merits and is absolutely essential for rural development. I believe we must proceed to do what H.R. 3298 states and restore the rural water and sewer grant and loan.

Mr. TUNNEY. Mr. President, I would like to take this opportunity to speak briefly in support of H.R. 3298. As you know, on January 10, 1973, the administration revealed that it was canceling planning and development grants in the water and waste disposal programs of rural communities.

In light of the dire need for these funds, this action is incredibly shortsighted. A 1968 study by the Department of Agriculture determined that a minimum of 40,000 communities have inadequate water or waste disposal systems. At the time of the administration announcement, no fewer than 1,685 rural towns throughout the country had filed applications for $252,783,208. In California alone, the following 39 California communities have had their applications for these grants withdrawn as a result of the January 10, 1973, action:

1. Hopland Public Utility District.
2. Konocti County Water District.
3. Westport County Water District.
4. Adin Community Services District.
5. Amador City.
6. Clear Creek Community Services District. (Happy Valley-Olinda Area).
7. Darwin Community Services District.
8 East Independence Sanitary District.
9. Groveland Community Services District.
10. Happy Camp Sanitary District.
11. Mariposa County Water Agency.
12. Meadow Vista County Water District.
13. City of Portola.
14. Shasta County Solid Waste Corporation.
15. Tuolumne County Water District No. 2.
16. Valley Springs Public Utility District.
17. San Andreas Sanitary District (Sunset)
18 Cacheville Service District.
19. Sacramento County, Hood Townsite.

20. Yuba County Water District (New York House Road).
21. Bolinas Community Public Utility District.
22. Kettleman City Community Services District.
23. San Luis Obispo County Waterworks No. 1, San Lawrence Terrace.
24. San Luis Obispo County Service Area No. 16.
25. Templeton Sanitary District.
26. Los Alamos Community Services District.
27. Santa Ynez Community Services District.
28. Hughson Community Services District.
29. Coulterville County Service Area No. 1.
30. Vista Grande.
31. West Parlier Community Services District.
32. Delhi County Water District.
33. Laton County Water District.
34. Hilmar County Water District—Irwin.
35. Goshen Community Services District.
36. City of Woodlake.
37. Boron Community Services District.
38. Winterhaven County Water District.
39. Riverside County Service Area No. 62.

The administration has argued that grant funds can still be given to these communities under the increased authority of the Environmental Protection Agency provided under the Federal Water Pollution Control Act Amendments of 1972. This is a fallacious argument. In the first place, the statutory language of this law specifically exempts EPA authority to issue grants for distribution systems—which is the crucial issue in rural communities. Second, this view conveniently dismisses the administration's own impoundment of much of those pollution funds.

If our rural communities are to be afforded the opportunity to obtain adequate water and waste disposal systems, grants as well as loans will be required. H.R. 3298 will restore these grants to the full amount appropriated under the Consolidated Farm and Rural Development Act. I strongly urge the Senate to take favorable action on this legislation.

Mr. CLARK. Mr. President, I would like to urge support for restoration of the rural water and sewer grant progam since I consider these grants essential to the success of the Nation's rural development efforts.

Simply put, there just are not—at this point in time, at least—any other sources for the funds small communities need to provide basic improvements so that they can restore their economic health and general well-being.

The President's assertions that funds are available through revenue sharing and the Environmental Protection Agency are patently absurd. Many communities which have been participating in the grant program receive less than $2,000 per year in revenue sharing, and the EPA says flatly that it has no money for such projects. Certainly we cannot expect small communities with declining populations and correspondingly shrunken resources to muster funds for costly major projects on their own.

In addition to these long-range considerations, I believe the grant program should be restored to right the wrongs created by the abrupt nature of its termination—an action which has been costly as well as deeply disturbing to many communities which had been preparing to apply for grant funds.

The responses I have received to a mail survey I made in my own State on the question of this and other terminations and cutbacks form a dramatic illustration of this fact.

They give a blow-by-blow account of the investments of considerable amounts of time, energy, and funds in exploratory efforts, engineering studies, consumer sign-up campaigns, land purchases, and other preliminary work before the termination was announced in January. Some communities had even taken up voluntary contributions, sold shares or floated bonds to raise the money for the local share of the project cost.

Generally, this preliminary work was undertaken with the full knowledge of the Farmers Home Administration, and in response to strong pressure from Federal and State water quality standards agencies.

Seen in the context of their letters, the cutting off of funds to these communities—and to others like them—is grossly unfair and a clear breach of faith, even though no formal contractual agreements had been entered into.

Mr. President, so that others may read them, I request unanimous consent to place these letters in the body of the RECORD at this point in my remarks.

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

MENLO, IOWA,
February 23, 1973.

Senator DICK CLARK,
Washington, D.C.

DEAR SENATOR CLARK: To say the least, the impoundment of federal funds has really the Mayor Council and the City of Menlo out in a limb.

A loan and a grant had been approved for a new water supply for our town. A contract was let to dig a test well, which already has been done. We have borrowed $5,000.00 from our local bank, which was to be temporarily until job was completed and loan and grant was turned over to us.

To bond on our own would make water bills prohibitive, our present source of water is a 1700 foot well which is almost thirty years old and can not be recased.

Any support you can help us with will be greatly appreciated.

Yours truly,

NOEL B. ROBERTS,
Town Clerk.

TOWN OF FOSTORIA, IOWA,
February 22, 1973.

HON. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: The impact of the freeze of F.H.A. funds on Fostoria at the present time is not pleasant. Between March 1, 1972, when we were told we would be funded in 1973, and January 11, 1973, when we were informed of the fund freeze the Council and I, in good faith, employed an engineering firm, contracted with an attorney, and obtained option on land. At the meeting we learned of the freeze, our engineer informed us he was 70% through with his work and we were at the stage of bid letting. To date we have the following contracted debts:

	(*Approximate*)
Engineering	$12,000
Attorney	2,000
Land	13,700
Total	27,000

The estimate of our 1973 budget was $9,000. Just one third of the debt we incurred on the say so of the F.H.A. Without a grant, it would mean that the Council would have to raise taxes four times to pay our obligations in a reasonable length of time.

Fostoria is one of the few towns of its size in the State of Iowa that has constantly grown during the last 30 years. We have a town owned water system, and natural gas service. To keep improving we need a sewer system. Today we have septic tanks, some work, some are pumped out by the local cleaning service, and some that seem to be pumped into the alleys when no one is watching. I personally would say the situation is deplorable. We are six miles North of Spencer. The Eton Company is to build a new plant there that will employ 500. This will mean many new families. McQuay Co. is tripling the size of their plant at Spirit Lake, 12 miles north of here. Without a sewer system, we don't have much chance of attracting new citizens to our town.

If I may help further, I will be glad to supply any further information I can.

Sincerely,

VERNON K. SMITH,
Mayor.

LEON, IOWA,
February 23, 1973.

Senator DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: This is in reply to your letter to the City of Davis City, Iowa, regarding the effect on the City of recent impoundments of FHA funds. The City of Davis City has an application in with FHA and EPA for construction of new sanitary sewage systems and sewage lagoon. Under the original plan funds were to be paid as follows:

EPA, $52,800 grant.
FHA, $55,360 grant.
FHA, $83,040 loan.
Davis City, $25,300.

The City was recently advised that the EPA grant of $52,800 would be approved and were also advised that the FHA grant of $55,360 would not be approved in view of the President's impoundment of funds, but that there is still a possibility that they could get a loan in the amount of $138,400. The City is still in a process of deciding whether or not to proceed with the sewage project. The population of the City is only 301 and City Officials say that close to 50% of those people are elderly and living on some sort of pension. The increase costs to these people may cause abandonment of the whole project. If the City does decide to go ahead with the plan City Officials estimate that it will result in 20% increase in the proposed sewage rates to make up for the loss of the FHA grant.

Very truly yours,

ROBERT L. FULTON.

THE INCORPORATED TOWN OF NORTHWOOD,
Northwood, Iowa, February 23, 1973.

Senator DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: In response to your letter of February 15th asking for information pertaining to the effect that the impoundment of federal funds may have on our community.

We have a current situation to illustrate our concern over the freezing of certain appropriations and I believe it will help to make my point by enclosing a copy of a recent letter from EPA.

As the letter states, we have been determined eligible for a federal grant on a portion of the proposed sewer project which we intended to start construction on in 1973. The estimated cost of this project is $550,000. Based on a 75% level of federal participation the grant would approximate $177,000.

Also we expect to start construction this spring on a water expansion and improvement program costing just under $400,000 which will be financed entirely by revenue bonds.

Northwood has a population of 1950 and an annual budget of about $200,000, so I believe you can readily see that without federal participation on the sewer project we are going to put quite a burden on our people. Yet, it is almost imperative that we go ahead with these improvements because we are near the end on residential building lots. (result of the sewer situation). And we need the water improvement for fire protection and to, hopefully, attract more light industry to our community.

Northwood had a 10.1% growth in the past decade. Because of our close proximity to Interstate 35 and the fact that we have a mainline railroad thru our town, to mention a couple of assets, I can see even a greater increase in this decade; providing of course, that we have adequate facilities to serve the increase.

With the government talking pollution control and ecology, and in some instances enforcing the same, isn't it asinine to stop or delay programs designed to promote such, on the presumption that it will be inflationary? No one benefits from inflation but surely there are more appropriate areas in which to reduce federal spending.

Thank you for asking my opinion. I wish you much success during your tenure in the Senate, especially on the Committee of Rural Development.

Respectfully,

GUY OLSON, *Mayor.*

NORTHWOOD, IOWA,
February 8,1973.

Predetermination of Eligibility
Attention: Mr. Joseph E. Obr, Director, water quality management.
Mr. KENNETH M. KARCH,
Executive Director, Iowa Department of Environmental Quality, Lucas State Office Building, Des Moines, Iowa.

DEAR MR. KARCH: The following determination of eligibility is based on previously established criteria. This determination is subject to change, by increasing or decreasing the limits, by virtue of the Federal Water Pollution Control Act Amendments of 1972 and the Title II Construction Grant Regulations to be promulgated. Subject to the preceding the following proposed work would be eligible for Federal participation (refer to Bolton and Menk letter of January 16, 1973).

1. Lift station and force main.
2. West Interceptor from the lift station to the first manhole north of the cemetery.
3. East Interceptor from the connection with the West Interceptor to the first connection with the collection system for the eastern most residential area as shown in red on Figure V.

Very truly yours,

LEWIS A. YOUNG,
Chief, Program Support Branch (Water).

WESLEY, IOWA,
February 23, 1973.

Senator DICK CLARK,
Washington, D.C.

DEAR SENATOR CLARK: The recent impounding of funds for Federal Housing Assistance will not affect our community. We have just completed two six-plexes for 12 families.

We are talking sewer in our town of 550 people, and we seem to be having trouble with the cost on that. Could you send me the bill known as the Federal Water Pollution Control Act Amendments of 1972. It became law on Oct. 18, 1972. Please send as soon as you possibly can. Thank you.

Sincerely,

WM. L. KOPPEN,
Mayor.

MILTON, IOWA,
February 21, 1973.

Senator DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: In answer to your letter of the 15th, we are very concerned about the Funds that have been withheld from some projects. As you know, Van Buren Co. is one of the depressed areas of Iowa. The median income of Milton is 2700.00. We have been working since 1965 to get a sewer in town. We had an engineer do a preliminary estimate in 1966 and finally in 1972 our application was approved. The grant though, that F.H.A. made to us, was based on this 1966 estimate. When we pointed out last year that this would be insufficient now, the F.H.A. advised us to go ahead and advertise for bids and they would provide sufficient grants so that the minimum would not be over 6.50 or 6.75 a month to our older people. Now we are told that the original grant is all we will receive and the minimum will be 9.00 or more. With the number of senior citizens in town, I am afraid this will work a hardship on most of them.

Also we have no decent housing in Milton. There are several 35.00 per month shacks for rent but none in the 65.00 to 100.00 range. We formed an organization and was in the process of getting a F.H.A. loan to build one four apartment building and now that has been killed.

It seems like extreme Southeast Iowa has been forgotten by the rest of the state for years and now the Federal Government is disowning us too, along with all the other depressed areas.

As a personal opinion, I would be very unhappy if one of my tax dollars was spent for the reconstruction of North Vietnam.

Very truly yours:

PHILLIP FULLER,
Mayor.

TOWN OF RANDOLPH,
Randolph, Iowa, February 26, 1973.

Hon. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: In reply to your letter of February 15, regarding the effect of the impoundment of federal funds on our own community. We are happy to respond.

The facts are this: Approximately two years ago, our Town Council contacted the FHA in regard to applying for a loan and grant aid to construct a sewer system in Randolph. Representatives of this agency met with us, outlined the steps necessary to apply for such help and encouraged us (in view of the ecological kick the Government seemed to be on at the moment) to continue the plan and make the application.

We employed an engineering firm who surveyed the area, and submitted drawings and plans. We then contacted the citizens, obtained the necessary percentage of signers (and deposits) to conform with the regulations of the agency.

After all the requirements had been met, we made the formal application. Again representatives of the agency met with us—admitted the application was in order and informed us that they had no money. All application forms, correspondence etc. have been returned to us. We still have the citizens deposit money in an escrow account, but unless some grant aid is available, we will have to drop the idea and return the deposit money.

Our population is 214. Our property tax value is too low to permit general obligation bonds for a project this size. With all the work we have done, we don't like to drop the project.

Our thanks for your interest. We would appreciate some help.

Very truly yours,

D. T. MCCRACKEN,
Clerk.

LETTS, IOWA,
February 22, 1973.

Senator DICK CLARK,
Old Senate Office Building,
Washington, D.C.

SENATOR CLARK: I appreciate very much your interest in our rural problems. To answer your February 15, 1973 letter specifically, Letts, is fortunate to have funds obligated by Fm.H.A. for a sanitary sewer system.

After completion of this project we will be applying for future funds for a water system and might be able to participate in some low-rent or housing for elderly project, assuming availability of funds.

If I can be of further service, please feel free to advise.

Sincerely,

ROBERT A. BARNES,
Mayor.

LADORA, IOWA,
February 25, 1973.

Hon. DICK CLARK,
U.S. Senator.

DEAR SENATOR CLARK: In answering your letter of Feb. 15 concerning the effect of impounding of Federal Funds on the town of Ladora.

We have been in the process of trying to get a sewer in Ladora for almost 2 years. This was being done by asking for grants and loans from E.P.A. and F.H.A. both, as you know, last Dec. the F.H.A. grants were cut off.

Since that time, in the last month, we were granted $61,650 from the E.P.A. This left us in an unusual situation.

With a total project of $239,000, this still left us with quite a load, if we want a sewer. If we don't use the E.P.A. grant soon it will be taken back and the F.H.A. grants are, no more—now anyway.

Friday the 23rd of Feb. the town held a public meeting and the Council decided to go ahead with the sewer at a higher cost per month revenue fee.

Here's my concern—or problem.

If the F.H.A grants are put back in or some other financial help in this area, we, as a council, or town, would like any legislation if made in this regard, to possibly remember us and others who go ahead with these projects, even though it will strain some family and town budgets.

I would not like our community to be penalized later because we acted on a thing as important as this now.

I hope I've put our position across to you.

Sincerely,

ERNEST A. SHOULL,
Mayor.

KESWICK, IOWA,
February 25, 1973.

Hon. DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: I am writing you in answer to your request for information regarding effects of the recent withholding of federal funds and the 18-month moratorium on federal housing assistance on a small rural Iowa community.

In my judgment the effect of the 18-month

moratorium will have considerable effect on housing as it has been instrumental in the construction and improvement of approximately forty per cent (40%) of all units which have been either newly erected or improved in our community during the last ten years.

The greatest effect in a small rural community will be in the sewer systems and treatment plants. Without considerable outside assistance it will be totally impossible for any small rural community to construct sewage facilities to meet any ecological requirements.

Sincerely,

JACK V. KERR,
Mayor.

HARLAN, IOWA,
February 22, 1973.

Hon. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: I am writing to you in my capacity as Mayor of Harlan, Iowa to relate to you the impact which the recent impounding of federal funds has had upon our community. First I would like to establish that Harlan, Iowa is the County Seat for Shelby County. Our community does provide the greater portion of shopping, medical care and hospital facilities for this entire Shelby County area. More recently we have been called upon to provide water for a newly developed rural water district in the south portion of our county and to also establish low income housing for the elderly. Plans for the low income housing project have been under way since 1970 and were in the final stages for acceptance by the Department of Housing and Urban Development. With the curtailment of these federal funds for the Rural Development Act our plans for providing water to this Shelby County Water District have been completely impaired. I am enclosing letters which I have received that substantiate my imminent concern for these projects.

If rural America is to be given the opportunity to develop economically and to maintain its responsibility to its people, the federal Government must fund these vital programs. We call upon you, Senator Clark, for your understanding and ultimate aid.

Most sincerely,

K. L. MUELLER,
Mayor.

HARLAN MUNICIPAL UTILITIES,
Harlan, Iowa, February 21, 1973.

Re Federal Funding for Shelby County Rural Water District No. 1

Mayor K. L. MUELLER,
City of Harlan, City Hall,
Harlan, Iowa

DEAR SIR: This is to advise you that the development of an adequate and potable water supply for the above named rural water district depends completely upon federal funding under the Rural Development Act of 1972.

The Board of Trustees of the Harlan Municipal Utilities have agreed to furnish the water supply for this district and have authorized and engaged an engineering consultant to make a study and survey of the Harlan Water System to determine the additional facilities required to do so.

It is our understanding that the recent presidential order curtailing federal funding for certain programs will defer federal funding for projects such as the Shelby County Water District No. 1.

In our opinion, the need for completion of this project is beyond question due to the quality of the ground water available to well supplies within the district which includes some 250 farm supplies and at least 4 city supplies.

Any support that is given toward the restoration of federal funding for this project will certainly be appreciated.

Respectfully submitted,

DONALD L. BRAGG,
General Manager.

STATE OF IOWA,
DEPARTMENT OF SOCIAL SERVICES,
Harlan, Iowa, December 12, 1972.

Mr. K. L. MUELLER,
Mayor,
Harlan, Iowa

DEAR MR. MUELLER: After reading the article on low-rent housing for the elderly, I decided to write urging you to do what you can to apply for low-rent housing as soon as possible.

I was startled to see the headline "still several years off" and this part of the article "the earliest possible date for construction would probably be sometime in 1976." Yesterday I talked with an elderly lady who needs to relocate in Harlan. If we had low-rent housing, this lady would not have this extreme hardship of trying to do the impossible with her limited Social Security. With medicine costing upwards of $40.00 per month and rent taking half or more of her Social Security check, the most skillful statistician could not figure a way to budget her money. Not too long ago I visited with another elderly lady who happened to be receiving Old Age Assistance and she was faced with a similar problem. I have no idea of how many units are needed but there is a definite need for some right now.

I am sure you know the small towns around Harlan are losing their services. These services are being concentrated in Harlan and the people are following them. Many services at a distance are not used. In our office we see people who depend on others (this is usually not reliable) for transportation to get their food stamps. There are many people who live outside of Harlan and who are eligible for food stamps that do not get them for that very reason.

I am urging you to place low-rent housing on the top of your priority list. The many people who will enjoy a better retirement because you have helped them obtain low-rent housing will appreciate what you are doing by making this a number one priority.

Thank you for your kind attention.

Yours truly,

RON PFEIFER,
Director.

TEMPLETON, IOWA,
February 28, 1973.

DEAR MR. CLARK: Received your letter requesting assistance concerning the recent impoundment of federal funds.

We are in the process of putting in a $238,000 sewage and lagoon system. We received federal funds for this before the impoundment went into effect. Had we not received federal funds this project would have been impossible.

It took approximately five years to get this project on the road. We plan to finish our project this year. Had funds not been allocated we would be up the river without a paddle. It would have been impossible for a town of 312 people to finance this project.

I feel its time to knock on a few heads there in Washington. I realize I am a little young for the mayor job of this town but it doesn't take a whole lot of intelligence to figure some of our fearless leaders out.

We always hear everyone is out to help the little town survive. I sometimes wonder though. We get a little revenue sharing funds for the town and then get stabbed in the back by impounding federal funds.

There are several towns in the immediate area trying to get the federal funds to finance projects like ours. As long as this impoundment is in effect this is impossible.

Hope the above information will help.

Yours truly,

RAYMOND NEPPLE,
Mayor.

WEBSTER, JORDAN & OLIVER,
Winterset, Iowa, February 26, 1973.

Senator DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: Donald Stewart, mayor of the Town of Bevington, has requested that I answer your letter of February 15, 1973. The Town of Bevington has made application with the Farmers Home Administration for a combination grant-loan to construct a water works and water system for the town. The town would have approximately 26 water users when the project is completed.

The town has incurred the expense of $750 for an engineering study by Anderson Engineering Company in Des Moines. This study made an estimate of the cost of the project and the location and type of the water works plant.

If the town was able to obtain the grant, the cost per month per user would be at least $6.50 per month. Without the grant the cost would be at least $12 per month per user.

We would appreciate anything that you can do on behalf of the Town of Bevington.

Thank you for your help.

Sincerely,

JERROLD B. OLIVER.

EMERSON, IOWA, *February 20, 1973.*

DEAR SIR: I am writing in regard to your request for information about the recent impoundment of federal funds; and the 18 month moratorium on federal housing assistance.

I feel this will definitely effect our community as we have applied for a much needed grant to remodel our sewer plant; and bring it up to State and federal specifications.

We also have our application into H.U.D. for a low rent housing loan which we feel is badly needed to relieve a housing shortage here; which was created by new industry locating at Red Oak and Shenandoah recently.

Good luck at your future hearing.

Sincerely,

QUENTIN JOHNSON,
Mayor.

MESERVEY, IOWA,
February 23, 1973.

Senator DICK CLARK,
Old Senate Office Building,
Washington, D.C.:

The town of Meservey Iowa applied for a loan from the F.H.A. and the E.P.A. for construction of a sewer, October 1972. As of this date no reply has been received. This is our only project involving Federal funds.

RAKEL A. SMITH,
Town clerk.

BARNUM, IOWA,
February 22, 1973.

DEAR SENATOR CLARK: Congratulations on your new assignment. There is a lot of unpopular comment in this community about the impounding of Federal Grants and Loans especially in Sewerage and Farm Programs.

We have received replies from you, Senator Hughes and Senator Joe Coleman that all will support our efforts in establishing a Sewerage System in Barnum.

Thank you all very much. I will help in any way I can if a hearing is held.

Sincerely,

LEO J. WALSH.

MARCH 6, 1973.

Hon. DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: Leland is a community with a population of 223. Each house has its own well and almost every one is a shallow well. As this is not very healthy, the town has been trying to establish a municipal water system since April, 1971.

Leland voters approved a system with an estimated cost of $115,000 plus engineering and legal fees in December, 1971. FHA agreed at that time to provide a $50,000 grant to cover a portion of the system's cost. The remainder of the cost was to be covered by government backed revenue bonds—issue of which was not to exceed $95,000.

Upon advice from FHA advisers and engineering consultants, the original system was expanded at various points during 1972. Most expensive addition to the system was a water tower, which FHA advisers recommended because the original pressure tank system would prove inadequate for a growing town.

Estimated cost of the total project rose first to $165,000; then to $195,000. With cost increases came assurances from the FHA that the federal grant would be enlarged.

FHA officials have now told the Leland council that the federal grant will not exceed $50,000. Additional expenses brought about by expansion of the system must be borne entirely by the town. The problem is that Leland voters approved only $95,000 in revenue bonds, and Leland's share of the cost is now estimated at $145,000. Another election would have to be held before more bonds could be issued.

If the town is forced to abandon the project at this point, there would be many bills to be paid—the engineers, bonding and legal fees plus $6000 for the well which has already been drilled.

We would appreciate your assistance in this matter. Thank you.

Sincerely,

OTTO NOLTE,
Mayor, Leland, Iowa.

DAWSON, IOWA,
February 28, 1973.

Re community development testimony.
Senator DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: Impoundment of Federal Funds will have a direct effect on the Town of Dawson, Iowa. We have a sewage problem, and Dawson is made up of approximately 40% fixed income property owners (elderly people).

For years Dawson has used septic tanks and the county drain tile (the town does not have a drainage system), but as the law reads now the county tile cannot be used.

Culver Engineering of Jefferson, Iowa has made the preliminary study for a sewer system and it will be presented at our next council meeting. This study took about nine months at a cost of $1,000.00.

Dallas County Health Department has been very understanding with Dawson since we let the contract for the study. But where do we go from here? The town has approximately $5,000.00 in savings from our water department. A lagoon type sewer system will cost around $100,000.00. The project will not be possible to complete without some type of outside help in an outright grant due to our 40% elderly fixed income families.

New housing is at a standstill and will remain so until we get some type of sewer system for the town. No Federal Loan Agency will guarantee a loan without a sewer system or ¼ acre lot size.

I trust the above information will be of some help to you so maybe you can in turn help us.

Sincerely,

WILLIAM W. GOODMAN, *Mayor.*

WINFIELD, IOWA,
February 27, 1973.

Hon. DICK CLARK,
U.S. Senator,
Washington, D.C.

DEAR SENATOR CLARK: Thank you for your interest in problems caused by the President's impoundment of federal funds. I will enclose a copy of estimated total cost of sewer project from the town of Winfield.

To a community of 889 people, this project must have both federal and state financial help.

If you add the other projects, required by federal and state directives, Anti-Pollution and Sanitary Land Fills etc., you can begin to understand the problems involved in small communities as well as the larger cities.

In reference to the sewer project, this is a must. Water from individual septic tanks empties into field title which empty into an open road ditch at the edge of town yet inside the city limits. This becomes stagnant and is causing all sorts of problems.

Our requests for help from F.H.A. was passed on to EPA where it sits and none will be forthcoming until the freeze is off, if then.

Any assistance that you can give us will be greatly appreciated.

Sincerely,

LELAND C. MCCOSH,
Mayor.

POWERS-WILLIS AND ASSOCIATES,
December 1, 1972.

Re sewer system improvements, Winfield, Iowa.
Mr. LELAND MCCOSH,
Cooperative Manpower Systems,
Burlington, Iowa.

DEAR LELAND: Following is a summary of the estimated total project costs for the various improvements needed to the sanitary sewer system for Winfield which have been discussed with you and the Town Council.

Rehabilitation of existing sanitary sewers for infiltration reduction	$130,000
Extension of sanitary sewers to serve areas now without sewer service	123,000
Improvements to existing sewage treatment plant	84,000
Total cost of improvements	337,000

Very truly yours,

WAYNE A. REED, P.E.,
Powers-Willis and Associates.

FEBRUARY 27, 1973.

Hon. DICK CLARK,
U.S. Senator,
Washington, D.C.

DEAR SENATOR CLARK: In addition to serving as mayor of Winfield (a token position), I am employed full time as the Rural Area Coordinator for the Manpower Program of the Southeast Iowa Community Action Organization, Inc.

As the rural coordinator I would also like to address myself to you concerning the impoundment of OEO funds.

In each county I work with CAP outreach workers to place the hard core unemployed in jobs within the community. The outreach people find the ones in need of a job (social welfare employees also identify many of those in need of jobs), and I do my own personal "job development" for them.

May I give an example?

The county of Louisa has one CAP employee: an outreach worker. Since I began working with her about 18 months ago, I have personally placed 81 unemployed people in jobs with local industry and/or retailers.

Awhile back we did a survey of the first 25 who were placed. After six months, 18 were still working at the original job, and several had received promotions in pay. Five of the seven no longer employed were in seasonal jobs which had terminated.

In order to give more local support towards employing the so-called unemployable in Louisa County, about a year ago we organized a private, non-profit organization (Louisa County Rural Employment Program, Inc.), in that county made up of seven low income persons representing both those employed full time at subsistence wages and also some on ADC.

These people are most willing to give their time and effort to the cause but I am fully aware that the Rural Manpower Program, such as we are operating, will go down the drain without the outreach worker and myself to do the leg work.

Although our Community Action Organization comprises a five-county area, my efforts have been limited mainly to Washington, Henry and Louisa Counties as these are the more "rural" areas.

Sincerely,

LELAND C. MCCASH,
Rural Manpower Coordinator, Southeast Iowa CAO, Inc.

HUDSON, IOWA,
March 1, 1973.

Hon. DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: The Town of Hudson has always believed in paying its own way, and the recent impoundment of Federal Funds and the 18 month moratorium on federal housing assistance will have no effect on our community.

Should we decide to build new sewage plant facilities at a later date the impoundment of funds for such purposes might affect us. However, no application for such funds has been made, hence the moratorium and delays are available if federal funds for such purposes has not affected us in any way as yet.

Very truly yours,

GEO. M. STRAYER,
Mayor, Town of Hudson.

CITY OF FAIRFIELD,
February 28, 1973.

Senator DICK CLARK,
Old Senate Office Building,
Washington, D.C.

Senator CLARK: I have been asked to respond to your letter of February 15, 1973 to Mayor Shan Campbell.

After talking to our Public Works Director I find, that although the funds were not completely diminished, in the area of water pollution, the reduction of funds could seriously hamper our chances of an early completion of our sewer separation project which is badly needed.

In the area of low rent housing for the elderly, we have been approved and were anticipating funding this year.

We have just completed a new Law Enforcement Complex and the government was participating on a 75% basis. This is funded under LEAA and I do not know what has happened in this area.

If I can be of any further service, please contact.

Sincerely,

EDWIN E. STATER,
City Finance Officer.

CALUMET, IOWA,
March 5, 1973.

HON. DICK CLARK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: This is in reply to your letter of Feb. 15, 1973. The letter was in regard to the recent impoundments of federal funds and the effect it will have on all rural communities.

The Town of Calumet has been trying to construct a Sanitary Sewer System. We started this project early in 1967. We made a formal application for a grant and loan to the Farmers Home Administration. After five years of renewed applications, rejections, letter writing, engineer reports and more rejections we are right back where we started.

Every six months or so we would receive a form letter from the Farmers Home Administration regretting to inform us that our application had been turned down. The letter would go on to say that other projects would contribute more to the welfare of rural people and that since the funds were quite limited they would have to file our application for the present time.

During all of this we were harassed by the State Department of Health, namely the Iowa Water Pollution Control Commission, telling us that we would have to construct a sanitary sewer system. Finally we were almost forced to sign a "Consent Order" which among other things states: "That no later than August 1, 1973, the Town of Calumet shall award a contract for construction of said facilitates.

The Town of Calumet with a population of 219 can in no way, without help, go ahead with this much needed project. The Town of Calumet would also like to blacktop its streets but because of the nature of the project the sewer system would have to be constructed first.

We are also pleased with your assignment as chairman of the Senate Sub-Committee on Rural Development and we will certainly appreciate any assistance you can give to the Town of Calumet and all rural communities.

Sincerely yours.

JOHN R. BIRD,
Town Clerk.

JANICE, IOWA,
March 3, 1973.

DICK CLARK;

DEAR SIR: In reply to your letter on the recent impoundments of federal fund's & what it has done to our community! It has affected us in many ways.

One, our town is in the process of putting in a new sewer but without a federal grant I don't think we can do it.

Two, we also were in the process of putting up a 5 unit housing for the elderly, which was completely stopped!

We have a population of 270 & strictly a farming community setting between 2 cities with big industry & I'm sure these recent impoundments have really affected our growth.

People are reluctant to build because of no sewer system altho they seem to want to live in a smaller town & drive to their work!

The farmers are quite put out because REAP was dropped!

It seems funny that we can talk about spending millions to build up North Vietnam & cut so many good programs out at home! It's time people in Washington wake up before the whole country turns into a Wounded Knee, S.D. Thank you for your letter & concern!! Good Luck!!

MAYOR DAVID SWENUMSON.

TOWN COUNCIL, MOULTON, IOWA,
February 26, 1973.

HON. DICK CLARK,
U.S. Senator;

I will try and answer your letter of February 15 to the best of my knowledge. First let me state that I am a firm believer in the free enterprise system. However I know that this will not work in all of our systems today. I know that a large number of our departments in Federal Government need to be overhauled. No doubt the intent was good to start with. But some where along the line has been abused. You know as I know that a lot of people have received a lot of money that were not entitled to.

We have two very nice apartment houses here in Moulton. Each having two apartments. We have in the process of buying land to build two more of the same. However, this will be delayed for eighteen months or until some changes are made, which is discouraging of course.

Two years ago we completed a new lagoon system here and without Federal and State money we would simply be out of business. Moulton like all other cities has money problems and with out Federal aid cannot expect to move ahead as all cities would like to.

As for the farmers, I expect their problems will increase with some of the aid cut off. However, I am in no position to analize their situation.

And finally, The Revenue Sharing Money has been and will be a great help to our city. I must admit that our cities must have help if we are to remain stable.

W. L. DULEY,
Mayor.

ST. CHARLES, IOWA,
March 3, 1973.

Senator DICK CLARK,
Old Senate Office Building
Washington, D.C.

DEAR SENATOR CLARK: In response to your letter requesting information concerning the effect upon the town of St. Charles of the impoundment of Federal funds, we have two programs effected. We have been informed that an FHA grant of $40,000 for a municipal sanitary sewer system and an FHA loan of $60,000 for a senior citizen manor are no longer available.

Prior to the impoundment of Federal funds, the city of St. Charles had invested approximately $7,000 in a sanitary sewage system. This $7,000 represents the engineers fee for work 90% completed. The engineer's fee must be paid regardless of completion of the system. The acquisition of land for a lagoon is the next step. Over 80% of the home-owners paid a connection fee and signed a contract with the town to become users of the sewer system upon its completion. The town is near its limits of indebtedness and could not issue bonds or fund this system without the FHA assistance.

An amount of $5,700 has been spent on the St. Charles Manor, an apartment home for senior citizens. In addition, the town of St. Charles has purchased $1,000 worth of water lines to extend the main line to the manor. The blue prints were drawn, the land graded, and bids were ready to be let. A new street has also been staked and graded. Many persons have donated their time, money and equipment in doing much of the work, also.

We appreciate anything you can do to make these funds available to us again. If you need any further information, please let me know.

Sincerely,

GRANT LLEWELLYN,
Mayor.

GUTHRIE CENTER, IOWA,
February 20, 1973.

DICK CLARK,
Washington, D.C.

DEAR MR. CLARK: The only information I can give you on the effects the impounding of funds will have here is something we have had pending for 3 or 4 years.

This was housing for the elderly under the H.U.D. program. It supposedly was filed and the city received the word "no funds"—which seems to be the usual thing when it gets to the small community. Our plans are filed with the Dean Harter Co. of Lincoln, Nebr.

I am happy we have someone who is interested in trying to help the small town. Our neighbor to the south is caught in the middle of trying to get a new water system. Will send you the clipping of our local paper.

I do hope this will help and wish you much success.

Sincerely,

MADALINE M. DICKEY,
Mayor.

GOVERNMENT CANCELS, MENLO LEFT "HANGING"

The town of Menlo is in a dilemma. The federal government OK'd a grant for a new water system and then rescinded the grant after contracts for a new well had been let.

Wayne O'Brien, Menlo mayor, told the Guthrian the Farmers Home Administration approved plans for a federally funded improved water project of approximately $200,000. In accordance with stipulations for the grant, the town advertised for bids for a new well south of town near the river. The contract for the digging of the well was let in December with digging to begin January 9.

However, Congress in the first week of January wiped out grants for such water improvement projects and Menlo was left 'hanging' because the contract had been signed and therefore had to be honored. To pay for the digging of the well, the town had to borrow $5,000 from the Security State Bank in Menlo.

Deterioration of the casing in an old deep well in the town necessitated a new source of water. O'Brien said Menlo is really in a bind now because it can't afford the upkeep on the 1800' deep well which is going bad. At the same time, the town has gone $5,000 in the hole to finance the new well but no funds are available to complete the nearly $200,000 project.

The FHA notified Menlo it could loan the small southern Guthrie County town the money to complete the water system, but not on a grant basis. O'Brien said a loan of this type is not feasible to the community since it would send water rates rocketing.

No solution to the water problem is in sight. When the new well is completed soon it apparently will remain dormant south of town and the water in Menlo which has never drawn raves for its palatability certainly will not improve.

MONTICELLO, IOWA.,
March 3, 1973.

HON. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR DICK: I am sliding this letter in with the one from Jim Robinson, chairman of our low-rent housing commission.

I have taken the liberty of including in the package of HUD applications, correspondence, etc., on low cost housing; all of our paper work on the application for grant to improve our water system in Monticello. This you will note, has also been in the fire for quite some time.

All together, hundreds upon hundreds of man hours have been spent—gratis, by our unpaid LRH commission, and the same is true of our water system application, with the exception that the City has spent considerable money for clerking, engineering, etc., on this venture.

The throat cutting of a blindfolded horse awaiting his ration of oats after a hard days work is a little severe. Better starve him to death slowly—gives him a chance to rest up while he waits to die.

Hope the enclosed will help in the hear-

ings. I know you will do what is possible, and best.

Kindest Personal Regards,
G. L. "Gus" Norlin,
Mayor, City of Monticello.

Vinton, Iowa, *March 12, 1973.*

Hon. Dick Clark,
U.S. Senate,
Washington, D.C.

Dear Senator Clark: Please forgive my delay in replying to your letter of Feb. 15, 1973. In response to your inquiry, I can make this statement for the city of Vinton.

We are in great need of a new sanitary waste water treatment plant due to the continued growth of our city and the need for newly developed building areas in our recently annexed areas.

The Howard Green Engineering Co. of Cedar Rapids is presently making a study of present and future needs as to size and area of location of a new sanitary disposal Plant.

Our present facility is many years old and being taxed to excessive use of its capacity, we have been looking forward to Federal aid from the Environmental Protection Agency.

It would be impossible for a city the size of Vinton to undertake a project that would fulfill our needs without Federal and State grants.

Your interest and efforts in behalf of our rural communities is greatly appreciated. I'm enclosing Editorial that appeared in our local newspaper.

Very truly yours,
Jack N. Siegel, *Mayor.*

[From the Cedar Valley Times]

Vinton's Plant Dilemma

First District Congressman Ed Mezvinsky hit the nail squarely on the head during his recent visit with Vinton officials when he made a comment concerning cuts in federal programs providing financial assistance to cities. Mezvinsky remarked that cities are now being caught between two acts of the federal government. On one hand, they are expected to meet certain federal guidelines; but on the other hand, they are being denied the money they were once promised to initiate projects to meet these guidelines.

An excellent example of what we mean is Vinton's current sanitary sewage disposal plant dilemma. In the past few years, the present plant has been becoming more and more inadequate to the point where it should be replaced. The city council took what appeared to be wise and prudent action by not spending any money on engineering for the new plant until they could more readily determine where new developments were to spring up in the annexed portions of the city and until they could determine the scope of these new developments.

Several weeks ago, the council ordered consulting engineers to begin a preliminary survey on the project. The survey is a necessary first step since it helps to determine exactly what needs are to be met and is a requirement for receiving federal funding assistance.

But since then, the rug may have been pulled out from under the project with President Nixon's announcement that such federal funding, amounting to 75 per cent in most cases, has been curtailed as an administration economy move.

So the city is left with an inadequate disposal plant failing to meet government guidelines and no funds with which to construct a new plant. If the city was to try to finance the plant, it would face an almost impossible task since the project would most likely have to be paid for by revenue bonds, and the cost of the project (conservatively estimated at $2 million) would make the city exceed their legal bonded indebtedness limit.

Unfortunately, the federal funding cut comes at a time when the city is in the middle of a $1.8 million electric project and contemplating an expensive water project to say nothing about the second extensive street improvement project in two years.

What can the city do now? Vinton cannot and will not be allowed to continue to provide sewage treatment which, at times, is inadequate. By the same token, a new plant can't be built with money that doesn't exist. Mezvinsky says the answer may lie in Washington. He said that the funding may come from different federal sources.

We hope the council and the federal government can figure some way out of this dilemma. Perhaps the President would be wise to consider Vinton and the hundreds of other American cities and towns in the same situation when he makes across-the-board cuts in federal funding aid.

But all signs indicate that the future holds more, not fewer such cuts. We feel that some of these "economy" moves deserve a second thought on the part of the administration.

Storm Lake, Iowa,
March 2, 1973.

Hon. Senator Clark,
Old Senate Office Building,
Washington, D.C.

Dear Senator Clark: Mayor, Lloyd Bridge of Storm Lake, Iowa has handed me your letter of Feb. 15 regarding a request for information pertaining to application for Federal grant.

The above project was submitted to H.U.D. office in Omaha in November of 1970. It was assigned the identification number of Iowa W.S. 107 on December 9, 1970.

This is a perimeter type sanitary trunk line which would relieve a badly overloaded system and offer sanitary service to the newer and developing areas of the City. It would make sanitary service available to the low rent housing for the elderly area which is also awaiting approval. There is a new 50 unit motel, a 22 unit motel and other commercial developments in this area now getting by on septic tanks and temporary force mains to handle sewer problems.

The City has sent numerous delegations to the Omaha office during the last two plus years to confer with the H.U.D. officials. We were usually told that we were high on the list, given some more paper work to do and sent home. After several weeks we would repeat the process. Had we not been encouraged by the hope of getting a federal grant we would probably have tried to get other financing at that time. Now, two one-half years later, we are informed that the grant is frozen for 18 months.

The total result will mean higher costs due to inflated prices since 1970, loss of the housing for the elderly project and considerable delay in the much needed facilities.

We are now making some studies leading to the construction of a new disposal plant. We feel this will be eligible for E.P.A. funding and that maybe the perimeter sanitary line can be made a part of that project.

This is another example of inconsistent state and federal standards. In 1966 we constructed a lagoon disposal plant to treat wastes from the local packing plant. They set the standards and approved the design and construction of the plant. This is nearly a one million dollar facility. Now, five years later, the standards have been changed and much more money will have to be spent to meet these standards. Neither is there any guarantee that in another five years we will again find ourselves in the same position. This must stop somewhere before we are bankrupt.

We will certainly hope you will be able to use this information to secure some help for the western Iowa communities faced with more controls, more rigid standards and less help to accomplish the desired ends.

Yours truly,
R. C. Edson,
Director of Public Works.

Moorhead, Iowa,
March 15, 1973.

Senator Dick Clark,
Old Senate Office Building,
Washington, D.C.

Dear Senator Clark: In answer to your letter of February 15, 1973, regarding information about the effect of recent impoundments of federal funds on the present and future development of our community:

Our community has been in the process of receiving a federal grant to begin construction of a sewer system for the town of Moorhead, and since all other necessary surveys, applications for F.H.A. loans, and paperwork has been completed, we are at a stand-still because of the impoundments of these federal funds.

Due to the run-off of cistern and cesspool drainage from our residential, business and school districts, into the nearby Soldier River, we feel it is of utmost importance that this sewer construction get underway as soon as possible.

Any help you can give us regarding speeding up our federal grant will be greatly appreciated.

Sincerely,
Ivan H. Nielsen,
Mayor, City of Moorhead.

Rhodes, Iowa,
March 11, 1973.

Hon. Dick Clark,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

Dear Sir: My apologies for not answering your letter sooner. I appreciate the opportunities to express our feelings with congress as we are unable to correspond as larger cities are able to.

We are proceeding with our sewer projects as funds was allocated for it in 1972. Hopefully construction will start in April. We are one of the lucky ones who received their grant before the impoundment of funds.

It would have been completely impossible for us to have put in the sewer system without the aid of this important government program. I know of one community here in central Iowa who was too late to receive funding. The town will not be able to proceed with a sewer system which is badly needed.

Many times it is hard to realize that the need of this kind is so important to us. The cost of our sewer system was approximately $325,000.00. It will still be expensive to our community but yet it will be possible. Without government help, it would be an impossibility.

I feel that water, sewer, and housing projects are important and severely needed by smaller communities. Without help in these areas our communities will just exist or slowly dwindle, with them we can provide the facilities and housing that is needed today.

I hope we can do our share to provide a better community for our residents and future residents, since we did receive our grant and loan.

I hope Congress and the President will soon make it possible for other communities to once again receive this much needed help.

Sincerely,
William W. Overman,
Mayor.

Hillsboro, Iowa,
March 9, 1973.

Senator Dick Clark,
Old Senate Office Building,
Washington, D.C.

Dear Senator Clark: At the regular town council meeting, your letter was read before council by Mayor Doan. It was decided by council to write to you to see if there is anything that your office could do to help us in

any way to speed things along in getting our city water.

Over 5 years ago, Hillsboro applied for a loan from FHA to erect our own city water. About 2 years ago, Hillsboro was granted the loan which was a $90,000.00 loan and a $35,000.00 grant.

The engineers have estimated that drilling a well of our own would cost more than $125,000.00, so they recommended buying water from the town of Stockport, who just recently put city water in themselves.

This has all been approved by the people of the community and by FHA, but it seems that this past year everything came to a standstill. The council has had meetings with everyone concerned, but it just seems that nothing can be accomplished to speed things up.

The town council would appreciate anything you could do to help us in this matter, as they feel that they have done too much work too long to lose the money now. If there is any more information that you need, we will be glad to do anything we can to assist you.

Sincerely yours,

NANCY GRIFFIN, *Clerk,*
M. M. DOAN, Jr., *Mayor,*
Town Council of Hillsboro.

KELLERTON, IOWA,
February 21, 1973.

DEAR MR. CLARK: In the last two years, the town of Kellerton has been doing the preliminary work of putting in a city sewer system. We have completed all the town survey required by F.H.A. We have also hired an engineering firm to make and complete the preliminary survey for us. We planned on doing this with a federal loan and grant.

With federal funds impounded, we could go no further with this project. If we can not get federal help for this project, we can not do it. We would surely appreciate any help on this problem. Our engineering firm is Associated Engineers Inc. of Fort Dodge, Iowa. They have our application for loans and grants filed with FHA and EDA in Washington. If I can give you any more information that would be of any help, please let me know.

Sincerely,

JAMIE F. MEADOW, *Mayor.*

Mr. ROBERT C. BYRD. Mr. President, I wish to express my support for H.R. 3298, which was reported by the Senate Committee on Agriculture and Forestry on March 19, 1973.

I strongly disagree with the administration's proposal to eliminate the grant portion of these water and sewer development programs, as announced on January 10, 1973. The grants are the very foundation and heart of the program, since most rural communites receiving grants under this program need these funds to help them in securing professional engineering assistance to develop detailed and comprehensive plans for their water and sewer systems.

Communities which are served under this program are those rural towns and communities with populations of 10,000 or less, and most towns of this size are already operating on a meager and inadequate tax base.

I have a longstanding interest in this program, and as a member of the Senate Appropriations Subcommittee on Agriculture, I have for the past several years proposed amendments to provide additional water and sewer grant funds above the budget request. Last year, the fiscal year 1973 budget proposed to allocate only $42,000,000 for this program. My amendment to the fiscal year 1973 bill, which was included in the Senate-passed bill increased this program level to $200,000,000. The final figure included in the public law, however, was $150,000,000 which was the amount agreed upon in conference.

The Department's own tabulations which have been presented to the Agriculture Appropriations Subcommittee, year after year, clearly show that the funding they have been requesting has not been sufficient to fill even one-half the needs of this program. The most recent figures that I have obtained from the Department of Agriculture reflect that there are, on hand and in process, nationwide loan requests totaling $992,400,000, of which those from West Virginia totaled $12,920,175, and nationwide grant requests totaling $274,600,000, of which those from West Virginia totaled $8,138,916. In addition, there are $320,000,000 of nationwide grant requests which have not even been processed due to lack of funds, of which $4,346,987 represents those requests from West Virginia which have not been processed due to lack of funds.

If the rural communities of this country do not have sufficient funds to install adequate water, sewer and solid waste disposal systems, there is absolutely no way in which they can meet Federal and State pollution abatement standards. Furthermore, without the requisites of adequate water and sewer systems, these rural communities cannot hope to attract and hold job-creating or recreation-oriented industries, and without them, it becomes a fact of life that they will also be unable to increase their tax base to meet both national and local development needs.

Mr. President, if the administration is successful in its effort to eliminate this program, I believe that it will be a setback for the rural areas of this country which desperately need this program to upgrade their water and sewer systems to conform to recently implemented environmental standards and to achieve standards necessary for the maintenance of good health. If the citizens of our rural communities are not provided with adequate water and sewer systems, I do not foresee any measure of success being achieved with any of our rural development programs, since these two basic necessities are the keystones to any type of rural development and growth.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MONDALE), the Senator from Louisiana (Mr. LONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Mississippi (Mr. STENNIS), the Senator from Minnesota (Mr. MONDALE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. JAVITS), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The Senator from Kansas (Mr. DOLE) and the Senator from Texas (Mr. TOWER) are necessarily absent.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The result was announced—yeas 66, nays 22, as follows:

[No. 58 Leg.]

YEAS—66

Abourezk	Fulbright	McIntyre
Aiken	Goldwater	Metcalf
Allen	Gravel	Montoya
Bayh	Gurney	Moss
Beall	Hart	Muskie
Bentsen	Hartke	Nelson
Bible	Haskell	Nunn
Biden	Hatfield	Packwood
Brooke	Hathaway	Pearson
Burdick	Hollings	Pell
Byrd, Robert C.	Huddleston	Proxmire
Cannon	Hughes	Randolph
Case	Humphrey	Ribicoff
Chiles	Jackson	Schweiker
Church	Johnston	Sparkman
Clark	Kennedy	Stevens
Cook	Magnuson	Stevenson
Dominick	Mansfield	Symington
Eagleton	Mathias	Talmadge
Eastland	McClellan	Thurmond
Ervin	McGee	Tunney
Fong	McGovern	Young

NAYS—22

Bartlett	Curtis	Percy
Bellmon	Domenici	Roth
Bennett	Fannin	Saxbe
Brock	Griffin	Scott, Pa.
Buckley	Hansen	Scott, Va.
Byrd, Harry F., Jr.	Helms	Taft
	Hruska	Weicker
Cotton	McClure	

NOT VOTING—12

Baker	Javits	Stafford
Cranston	Long	Stennis
Dole	Mondale	Tower
Inouye	Pastore	Williams

So the bill (H.R. 3298) was passed.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the bill was passed.

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

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

(The remarks Senator HOLLINGS made at this point on the introduction of Sen-

ate Joint Resolution 83, proposing an amendment to the Constitution to require that States providing public education provide it equally on a statewide basis to all its citizens, are printed earlier in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

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

Mr. SPARKMAN. Mr. President, will the Senator please withhold that request?

Mr. HOLLINGS. Mr. President, I withdraw that request.

RENEWAL OF RURAL HOUSING PROGRAMS

Mr. SPARKMAN. Mr. President, I had hoped that the amendment offered by the junior Senator from South Dakota (Mr. ABOUREZK) to the bill that just passed the Senate, which amendment would have permitted the renewal of the rural housing program, might have been accepted.

I discussed this matter with some of those who were greatly interested in the bill that just passed the Senate. However, they thought that it was not feasible to do so at this time.

It is very important, I think, that the rural housing program be reinstated. In fact, there are two such programs. One is for homeownership, and the other is for rental housing, corresponding very largely to the section 235 and section 236 programs in urban areas.

Mr. President, those rural housing measures were passed by Congress and signed into law by the President. The appropriations were passed by Congress and were signed into law by the President. They were doing a good job out in the rural areas where a good job is badly needed.

These programs provided 120,000 desperately needed housing units during the fiscal year 1972. Prior to their suspension by the administration, it had been estimated that they would account for almost 140,000 units in this fiscal year. This estimate has now been reduced by 30,000 units, all of it in housing for lower-income families.

Another of the programs suspended provides loans to nonprofit organizations to enable them to make available home sites for those of modest income. Finally, programs to provide loans and grants to assist in the provision of housing for domestic farm labor were also suspended.

Mr. President, these are programs enacted by the Banking Committee over the years, after much thought and thorough consideration, to meet a very desperate need for adequate housing in our farm and other rural areas. In announcing the suspension of these programs the administration indicated that during the proposed 18-month suspension it would undertake a review of them to determine whether there were better means to meet our rural housing needs for lower-income families. While I share the concern of the administration that we choose the most effective and efficient means to provide housing for these families, I believe that it is totally inappropriate that we ignore this need for as long as 18 months while we study and reevaluate programs which have been working successfully and which were only put into being after close study by Congress.

Mr. President, I need scarcely remind you, and the other Members of this body, of the desperate need for decent housing which exists in the rural parts of this country. Although less than 30 percent of our population resides in rural areas, over 50 percent of our substandard housing is found there. Furthermore, it seems obvious that without adequate housing, one of the basic necessities of life, rural areas cannot hope to keep their present share of the population.

The result most certainly will be further emigration to urban areas by people who too often lack the skills to compete successfully in the cities. The result of the administration's efforts to save money by precipitately terminating these farmers' home programs will be to encourage economic depression in our rural areas and contribute to social problems in the urban parts of the country.

Under the proposed amendment the Secretary of Agriculture would be directed to continue these programs for rural homeownership, for low-income families, for rural rental and cooperative housing, and for farm labor housing at the levels authorized in the fiscal year 1973 Appropriations Act for the Farmers Home Administration. It would further direct him to utilize at least 50 percent of the funds authorized for the rural housing insurance fund for low-income families needing interest credit assistance under section 521 of the Housing Act of 1949. This latter requirement is consistent with the pattern established prior to the January 9 cutoff and consistent with the basis under which authorization was provided for the rural housing insurance fund in the fiscal year 1973 Appropriations Act.

I regret that it did not seem feasible to take this matter up at this time. I am confident, however, that we may pass it either as a part of this year's housing bill or as a separate measure.

It is desperately needed. I know of no complaint against the rural housing program as it has been working, and I know that all of us are pleased when we ride out through the rural areas and see good, adequate, satisfactory housing in which those families are living. This program was not born all at once. It was worked up over the years and improved as time went on.

When the administration answered the telegrams that I sent them regarding the entire housing program, particularly the 18-months moratorium, the President stated two things that he wanted done first. One was that the administration be able to reevaluate the various programs; the second was that he wanted his special revenue-share program for community development enacted.

Year after year after year, the Committee on Banking, Housing and Urban Affairs has reevaluated the various programs we have and is working at it this year, as well. We will start oversight hearings in a few days in the field of housing throughout the country.

Furthermore, the Senate passed last year, on March 2, what I consider a fine, adequate housing bill. Title III of that bill included a provision on community development very similar to the President's special revenue-sharing proposal for community development. It was a good measure, carefully worked out. It contained provisions for rural housing as well as urban housing. Certainly we will proceed in the same way this year; and when we report a housing bill to the Senate, as soon as we can do so, I am confident that a title will be written into the bill, similar to the President's special revenue-sharing program for rural development. Unless, earlier than that, we have passed a separate rural housing bill to take care of the people in the country who need decent housing, provisions for such housing will be included in the bill.

THE VETO ON THE PANAMA RESOLUTION

Mr. THURMOND. Mr. President, yesterday the United States cast its third veto in the United Nations Security Council, against a resolution sponsored by the Republic of Panama calling for the "abrogation" of the 1903 treaty. I applaud the use of the veto against this resolution. I think it is directly reflective of the mood of the U.S. Congress on this topic.

Yet, the veto comes as a climax to a series of diplomatic blunders that has in the long run greatly eroded the U.S. position in the zone. Only the day before the veto was cast, Ambassador Scali reiterated the stand that the United States has been taking in its negotiations with Panama; namely, that the United States seeks an end to the 1903 treaty and is ready to conclude a new treaty that is of a fixed duration, that gives up large sections of the present Canal Zone, and that recognizes Panamanian jurisdiction in the canal area. He further asserted that the United States would seek to retain control for the defense and operation of the canal during the fixed period of duration.

This position is only an apparent contrast with the veto. According to the news accounts available this morning, the veto was cast because of certain extreme phrases within the resolution. There does not appear to be any backing down on the fundamental issues as outlined on Tuesday. We are still seemingly prepared to surrender our sovereignty; the disagreement is over the manner and the timing.

This matter should never have been taken before an international body. The charter of the United Nations specifically excludes the discussion of domestic problems of its members. The Canal Zone is territory of the United States over which Congress has exercised its jurisdiction for 70 years under article IV, section 3 of the Constitution. We should have taken steps to prevent the special session in Panama City from dealing with such an agenda. Having failed to do that, we should have refrained from discussing any substantive

policy questions, thereby giving an air of legitimacy to the debate. When the debate came to its predictable end, we at least had the courage to use the veto. But the use of the veto on Wednesday is meaningless if it simply means a mere delay in the implementation of the policies proclaimed by Ambassador Scali on Tuesday.

On a practical basis, the stated position of the administration is unwise and jeopardizes the future security of our operations in the Canal Zone. The proper defense and operation of the Canal is incompatible with the surrender of our sovereignty. We must face the power realities of the 20th century. By giving ultimate or even partial jurisdiction to Panama, we would create the conditions for unreasonable pressures upon that government both from within and without. We would not create the proper environment for stability; we would be encouraging disequilibrium. Then if we tried to protect the Canal during an upheaval, we would be faced with the fact that we would be without the necessary juridical basis for the operation and defense of the Canal. We would be at the mercy of whoever controlled Panama at that moment.

Mr. President, yesterday morning, I sent a telegram to President Nixon strongly protesting the unwise statements made by Ambassador Scali the previous afternoon. Although I am gratified that this action was followed by the veto of the extreme Panamanian resolution, I want to make my telegram available to my colleagues.

I ask unanimous consent that the telegram which I sent to the President yesterday be printed in the RECORD.

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

The PRESIDENT,
The White House,
Washington, D.C.:

News reports indicate that Ambassador Scali, without authorization by the Congress, told a U.N. Security Council meeting in Panama City yesterday that the U.S. is prepared to abandon its exercise of sovereignty in the Canal Zone under the 1903 Treaty and turn Jurisdiction over to the Republic of Panama. I am surprised that the administration would approve Ambassador Scali making such a statement before an international body that, under the U.N. Charter, has no jurisdiction over the canal matter or over U.S. territory in the zone. Such statements fly in the face of a growing congressional concern over the possibility of surrendering sovereignty which Congress has continually exercised for 70 years, under Article IV, Section 3, Clause 2 of the Constitution. Rash promises are unwise and endanger the future security of U.S. operations in the zone. Unless we have full exercise of sovereignty in the clearly defined area that we now own, the U.S. cannot hope to fulfill its responsibilities for the security and operation of the Canal.

Respectfully,

STROM THURMOND,
U.S. Senator.

ORDER FOR ADJOURNMENT UNTIL MONDAY

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

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

ORDER FOR RECOGNITION OF SENATORS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, immediately following the recognition of the two leaders or their designees under the standing order, the following Senators be recognized for not to exceed 15 minutes each, and in the order stated:

Mr. HELMS, Mr. BROCK, Mr. GRIFFIN, Mr. HARRY F. BYRD, JR., and Mr. ROBERT C. BYRD.

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

TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, MARCH 26

Mr. ROBERT C. BYRD. I ask unanimous consent that at the conclusion of the orders for recognition of Senators on Monday, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider a nomination, reported earlier today by the Committee on Interior and Insular Affairs, which has been cleared on both sides.

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

INTERIOR DEPARTMENT

The second assistant legislative clerk read the nomination of Stephen Alan Wakefield, of Texas, to be an Assistant Secretary of the Interior.

The PRESIDNIG OFFICER. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

QUORUM CALL

Mr. THURMOND. 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 (Mr. PELL). Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider three nominations which were reported earlier today by the Committee on Armed Services, all of which have been cleared with the minority and all of which have been cleared with the acting chairman of the committee (Mr. SYMINGTON).

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

U.S. AIR FORCE

The second assistant legislative clerk read the nomination of William W. Woodruff, of Virginia, to be an Assistant Secretary of the Air Force.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The second assistant legislative clerk read the nomination of Hadlai A. Hull, of Minnesota, to be an Assistant Secretary of the Army.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Carl S. Wallace, of Virginia, to be an Assistant Secretary of the Army.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the 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 FOR RECOGNITION OF SENATOR DOMENICI ON MONDAY IN PLACE OF SENATOR BROCK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that in lieu of the name of Mr. BROCK, with respect to the special orders on Monday, the name of Mr. BROCK be vacated and the name of Mr. DOMENICI be substituted therefor.

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

ORDER FOR ADJOURNMENT FROM MONDAY, MARCH 26, 1973, TO 10 A.M. ON TUESDAY, MARCH 27, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday it stand in adjournment until 10 a.m. on Tuesday next.

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

AUTHORIZATION FOR YEAS AND NAYS TO BE ORDERED ON VOTES ON FIVE TREATIES TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order at any time the yeas and nays on all five of the treaties which will be voted on next Tuesday with one show of seconds.

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

ORDER FOR CONSECUTIVE VOTES ON TREATIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the votes on the treaties next week be consecutive votes, one right after the other.

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

LIMITATION ON TIME FOR VOTES ON TREATIES ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the vote Tuesday on the first treaty, the vote on each of the four succeeding treaties be limited to 10 minutes, with the warning bells to sound midway.

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

UNANIMOUS-CONSENT AGREEMENT THAT FIRST YEA-AND-NAY VOTE ON TREATIES OCCUR AT 10:30 A.M., TUESDAY, MARCH 27, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 10:30 a.m. on Tuesday, March 27, 1973, the first yea-and-nay vote—and it will be a yea-and-nay vote, although it has not yet been ordered—occur on the first of the five treaties.

The PRESIDING OFFICER (Mr. PELL). The Chair would like to inquire, having a particular interest in this matter, the time schedule for the first vote.

Mr. ROBERT C. BYRD. Ten-thirty a.m.

The PRESIDING OFFICER. The Chair would suggest the absence of a quorum, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Is there objection?

Mr. PELL. I object to the time certain at 10:30 a.m. on Tuesday.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, the leadership has its travails and problems, but it will survive, as it has in the past.

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

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

Mr. PELL. Mr. President, I ask that my previous objection be vacated.

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

The unanimous-consent request of the Senator from West Virginia is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Rhode Island. He is one of the most congenial of Senators, and he is certainly one of the most cooperative and understanding of all Senators. I appreciate his withdrawing his objection to the request.

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

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

AUTHORIZATION FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE REPORTS UNTIL MIDNIGHT FRIDAY, MARCH 23, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare have until midnight tomorrow, Friday, March 23, to file reports.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I will state the program for Monday.

The Senate will convene at 12 o'clock meridian.

Following the recognition of the two leaders or their designees under the standing order, Mr. HELMS will be recognized for not to exceed 15 minutes, after which Mr. DOMENICI will be recognized for not to exceed 15 minutes, after which Mr. GRIFFIN will be recognized for not to exceed 15 minutes, after which Mr. HARRY F. BYRD, JR., will be recognized for 15 minutes, to be followed by the junior Senator from West Virginia for not to exceed 15 minutes.

There will then be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes each.

During the day, the Senate may take up some noncontroversial nominations and any noncontroversial measures that are on the legislative calendar. During the day, the Senate also will take up the omnibus health program extension bill, with Senators, who wish to do so, delivering opening statements thereon. There will be no votes on that bill on Monday. No votes are anticipated at all for Monday.

On Tuesday the Senate will take up the five treaties, one of which is the environmental treaty with Japan, one of which is the treaty with Ethiopia regarding criminal provisions, and the remaining three being consular conventions. There will be yea and nays votes on each of these five treaties. The first of these votes will occur, if unanimous consent is obtained—which I shall seek shortly—at 10:30 a.m. The votes on the remaining four treaties will follow back to back. The treaties all were reported unanimously and are not expected to be controversial.

Upon disposition of the five treaties on Tuesday, the Senate will resume consideration of the omnibus health program extension bill. Yea and nay votes will occur on that bill.

That is as far ahead as I can see, except to say, by way of information, that following disposition of the omnibus health program extension bill, it is expected that the disaster relief bill will be taken up. Following disposition of the disaster relief bill, it is anticipated that the Senate will probably take up the dollar revaluation measure. There are various other bills which will be on the calendar by the first of the week.

I would not like to be held to the order in which I have enumerated these measures. They may or may not be taken up in that order. But as of now it is anticipated they would follow action on the omnibus health program extension bill, as I have indicated.

Therefore, next week promises to be a busy week—particularly following Monday—with yea-and-nay votes probably occurring daily through Friday.

ADJOURNMENT UNTIL MONDAY, MARCH 26, 1973

Mr. ROBERT C. BYRD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock meridian on Monday next.

The motion was agreed to; and at 5:32 p.m. the Senate adjourned until Monday, March 26, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 22, 1973:

DEPARTMENT OF JUSTICE

Wallace H. Johnson, Jr., of Virginia, to be an Assistant Attorney General vice Dale Kent Frizzell.

DEPARTMENT OF THE INTERIOR

Dale Kent Frizzell, of Kansas, to be Solicitor of the Department of the Interior, vice Mitchell Melich, resigned.

Laurence E. Lynn, Jr., of California, to be an Assistant Secretary of the Interior, vice John W. Larson.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 22, 1973:

DEPARTMENT OF THE INTERIOR

Stephen Alan Wakefield, of Texas, to be an Assistant Secretary of the Interior.

DEPARTMENT OF DEFENSE

William W. Woodruff, of Virginia, to be an Assistant Secretary of the Air Force.

Hadlai A. Hull, of Minnesota, to be an Assistant Secretary of the Army.

Carl S. Wallace, of Virginia, to be an Assistant Secretary of the Army.

(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.)

EXTENSIONS OF REMARKS

THE WORK OF THE HOUSE COMMITTEE ON INTERNAL SECURITY, 1973

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1973

Mr. BURKE of Florida. Mr. Speaker, on February 20, 1973, the Honorable RICHARD ICHORD, chairman of the House Committee on Internal Security, opened this year's series of hearings on the theory and practice of communism. The subject of this hearing was the Communist Party—U.S.A. and Soviet anti-Semitism. The chairman pointed out that since 1919 the CPUSA has been a "disciplined organization operating in this Nation under Soviet control with the aim of establishing a Communist Party dictatorship in the U.S.A." The chairman further stated that—

The policies of the Soviet Union regarding its Jewish citizens have been a matter of considerable discussion and concern in recent years. All decent human beings are appalled by the mistreatment by the Soviet Government of its Jewish minority and, interestingly enough, as further evidence of the discipline of the Communist Party—U.S.C. to the Communist Party—Soviet Union, the Communist Party of the United States continues to support and defend every twist of Soviet policy. Even if some of the members of the Communist Party—U.S.A. had wished to publicly criticize the Soviet Union for its anti-Semitism, the Communist Party—U.S.A. has in the main prevented them from so criticizing.

The main witness at the hearing was Avraham Shifrin, a Soviet Jew who had suffered 10 years imprisonment in slave labor camps only for being Jewish. Shifrin's father had died in a Soviet slave labor camp where he had also been imprisoned only for being Jewish.

Mr. Shifrin testified about the discrimination and persecution that he as a Soviet Jew had experienced for 47 years. Ten of those years were spent in slave labor camps together with other innocent people who had been jailed for their ethnic origins or non-Communist beliefs.

Shifrin pointed out that he had met many people in the Soviet slave labor camps who had been jailed for the practice of their religion, including Baptists, Seventh-Day Adventists, and Catholics. But the Jews, Shifrin indicated, suffered the most severe persecution.

Describing the condition of Soviet Jews today Shifrin testified that there is not a single seminary in the Soviet Union for training rabbis. There are no Jewish schools, and if a person attempted to study Hebrew, which is needed for Jewish prayer, he would be sent to a concentration camp.

A committee staff member placed into the RECORD two crude anti-Semitic brochures which were printed in the Soviet Union in English and shipped into the United States for distribution by the Soviet Government. One of these booklets "Caution: Zionism!" was printed in the Soviet Union in 1970 and had been exposed in the CONGRESSIONAL RECORD by Congressman ASHBROOK in 1971. This particular booklet expressed the Nazi fantasy about a Jewish conspiracy to control the world and even claimed that the Vatican and the Catholic Church were controlled by the Jews.

The other booklet published in Moscow in 1972 entitled "Anti-Communism, the Main Line of Zionism" contains similar Nazi-inspired anti-Jewish canards. The Communist Party-U.S.A. refuses to criticize these publications which are presently being distributed by the Soviet Embassy here in Washington.

Some members of the American Communist Party, according to the evidence developed during the hearing, want to criticize the Soviet Union for its mistreatment of the Jews. The Communist Party has cracked down on those members. Paul Novick, who is over 80 years old and who has been a Communist Party member and leader for over 50 years, has been brought up on charges for attempting to criticize the Soviet Union. A confidential Communist Party document entitled "Charges Preferred Against Comrade Paul Novick" was introduced at the hearing. The main charge against Novick was "his attitude toward the Soviet Union, particularly with regard to the Jewish question."

This hearing was a significant contribution by the Committee on Internal Security to the knowledge that we in the Congress need to understand the persecution of Jews and other minorities in the Soviet Union and to understand the role of the American Communist Party as a puppet organization dancing to the Soviet tune.

This information should also be useful to the American people in light of the fact that the Communist Party has been attempting to pretend that it is a legitimate political party. In the 1972 election, Gus Hall, the party's general secretary, appeared on the ballot of 13 States and the District of Columbia as a Communist Party candidate for the Presidency of the United States.

ABRAHAM LINCOLN

HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1973

Mr. KEATING. Mr. Speaker, historians generally agree that President Lincoln was one of the greatest Presidents ever to serve his country. He governed this country during a period of crisis, a period of turmoil, and a period of tremendous change. Perhaps most important of all. President Lincoln served at a time when the divisions among the American people were perhaps the deepest of any time in our history.

My distinguished colleague from Ohio (Mr. WYLIE) recently spoke about many similarities between Presidents Lincoln and Nixon—similarities of these two men as individuals. I believe these comments of my colleague are most informative and appropriate, and I request that they be printed in the RECORD:

EULOGY TO LINCOLN AT LINCOLN-MCKINLEY DAY BANQUET, MARCH 8, 1973

Abraham Lincoln. *What comes to your mind as you think Abraham Lincoln?* President? Civil War? Common Man? Of course, all of these things.

When I think of Lincoln, I think President; and when I think President, I think of President Nixon. This brings to mind the Civil War—the Vietnam War. As I think—common man and humble beginning—I am again reminded that both Lincoln and Nixon had this kind of heritage which gave each a rare courage to persist for what they believed to be right. An unpopular war was forced on President Lincoln—an unpopular war was forced on President Nixon. President Lincoln did not surrender, and in his courageous persistence, a nation was saved. It was just as important that President Nixon persist in bring to an honorable settlement the Vietnam conflict. I think a surrender in Vietnam would have been just as destructive to the future of our country as allowing the South to secede from the Union.

Now that we have peace, we are caught up in a controversy over amnesty. President Nixon has said there will be no absolute amnesty for those who chose to leave the country at this time of trial. I agree with President Nixon and will support him. But, President Lincoln is frequently mentioned as having granted amnesty following the Civil War as a reason for granting it now. President Lincoln granted amnesty to certain southern troops, which is far different. And he granted conditional amnesty on an individual basis to persons who rejoined their regiments while the Civil War was still on. Contrary to what you might hear otherwise, at no time in our history have we offered complete amnesty to draft dodgers, deserters