By Mrs. SULLIVAN (for herself, Mr. DINGELL, Mr. MAILLIARD, and Mr. PRITCHARD):

H.R. 6396. A bill to amend the Anadromous Fish Conservation Act in order to clarify the duties of the Secretary of the Interior thereunder and to extend the authorization for appropriations to carry out such act; to the Committee on Merchant Marine and Fisheries.

By Mrs. SULLIVAN (for herself, Mr. DINGELL, Mr. MAILLIARD, Mr. GOODLING, Mr. DU PONT, Mr. PRITCHARD, and Mr. HANNA).

H.R. 6397. A bill to authorize the Secretary of the Interior to establish programs and regulations for the protection of the fishery resources of the United States, including the fresh water and marine fish cultural industries, against the dissemination of serious diseases of fish and shellfish; to the Committee on Merchant Marine and Fisheries.

By Mr. THONE:

H.R. 6398. A bill to amend the Communications Act of 1934 to provide that licenses for the operation of a broadcast station shall be issued for a term of 5 years, and to establish orderly procedure for the consideration of applications for the renewal of such licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. WALDIE:

H.R. 6399. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts of retirement benefits from public retirement systems; to the Committee on Ways and Means.

By Mr. BOB WILSON (for himself, Mr. BLACKBURN, Mr. MAYNE, Mr. CRANE, Mr. BAKER, Mr. SCHERLE, Mr. KETCHUM, Mr. WHITEHURST, Mr. FISHER, Mr. VEYSEY, Mr. VANDER JAGT, Mr. KEMP, Mr. MICHEL, Mr. RHODES, Mr. GOLDWATER, Mr. ESHLEMAN, Mr. HOSMER, Mr. HASTINGS, Mr. COLLINS, Mr. NELSEN, Mr. WARE, Mr. TREEN, Mr. BURGENER, Mr. HINSHAW, and Mr. DAVIS of Georgia):

H.R. 6400. A bill to promote the utilization of improved technology in federally assisted housing projects and to increase productivity in order to meet our national housing goals, and for other purposes; to the Committee on Banking and Currency.

By Mr. WINN:

H.R. 6401. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. WOLFF:

H.R. 6402. A bill to prohibit the exportation of grain from the United States whenever the supply of grain is not sufficient to meet domestic needs; to the Committee on Banking and Currency.

By Mr. WOLFF (for himself and Mr. RANGEL):

H.R. 6403. A bill to amend the Internal Revenue Code of 1954 to provide an additional itemized deduction for individuals who rent their principal residences; to the Committee on Ways and Means.

By Mr. WYMAN:

H.R. 6404. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 6405. A bill to provide that, after January 1, 1973, Memorial Day be observed on May 30 of each day and Veterans Day be observed on the 11th of November each year; to the Committee on the Judiciary.

By Mr. WYMAN (for himself and Mr. VEYSEY):

H.R. 6406. A bill to amend the Federal Trade Commisison Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Georgia:

H.R. 6407. A bill to amend the Urban Mass Transportation Act of 1964 to require community representation and participation (including proportionate representation of minorities and low-income groups), through the appointment of State and local advisory councils, in policy and decisionmaking by State and local transit agenices seeking assistance under that act; to the Committee on Banking and Currency.

H.R. 6408. A bill to amend the Urban Mass Transportation Act of 1964 to require proportionate representation of minority and low-income groups on State and local transit agencies seeking assistance under that act; to the Committee on Banking and Currency.

By Mr. YOUNG of South Carolina:

H.R. 6409. A bill to extend for 5 more years the expiring provisions of the Agricultural Act of 1970; to the Committee on Agriculture.

By Mr. ZWACH:

H.R. 6410. A bill to amend the Fish and Wildlife Act of 1956, to protect game and wildlife resources by prohibiting the use of lead shot for hunting in marshes and other aquatic areas, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BIAGGI (for himself, Mr. ROSENTHAL, Mrs. HECKLER of Massachusetts, Mr. BRASCO, Mr. BINGHAM, and Mr. HARRINGTON):

H.J. Res. 469. Joint resolution authorizing the Secretary of Health, Education, and Welfare to encourage and assist in the distribution of the "Patient's Bill of Rights" to patients in hospitals and other health care facilities; to the Committee on Interstate and Foreign Commerce.

By Mr. MAZZOLI:

H.J. Res. 470. Joint resolution proposing an amendment to the Constitution relating to the term of office of Members of the House of Representatives and the eligibility of such Members to be elected to the Senate; to the Committee on the Judiciary.

By Mr. WHITEHURST (for himself, Mrs. HOLT, and Mr. TREEN):

H.J. Res. 471. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. DON H. CLAUSEN:

H. Con. Res. 168. Concurrent resolution expressing the sense of Congress that our NATO allies should contribute more to the cost of their own defense; to the Committee on Foreign Affairs.

By Mr. CONABLE:

H. Con. Res. 169. Concurrent resolution providing recognition for Columbus; to the Committee on House Administration.

By Mr. LOTT:

H. Con. Res. 170. Concurrent resolution relating to the U.S. fishing industry; to the Committee on Merchant Marine and Fisheries.

By Mr. RUPPE:

H. Con. Res. 171. Concurrent resolution expressing the sense of the Congress that summer youth programs under the Economic Opportunity Act of 1964 should be continued; to the Committee on Education and Labor.

By Mr. RARICK (for himself and Mr. DOWNING):

H. Res. 335. Resolution maintaining U.S. sovereignty, Panama Canal Zone; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

118. The SPEAKER presented a memorial of the Legislature of the State of New Hampshire, relative to setting a starting date of the Vietnam conflict for administrative purposes; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Ms. HOLTZMAN:

H.R. 6411. A bill for the relief of Murray Swartz; to the Committee on the Judiciary.

By Mr. McKAY:

H.R. 6412. A bill for the relief of Monique Olive; to the Committee on the Judiciary.

By Mr. RONCALIO of Wyoming:

H.R. 6413. A bill for the relief of Harry H. Hashimoto; to the Committee on the Judiciary.

By Mr. RUPPE:

H.R. 6414. A bill granting authority to the Secretary of the Army to renew the license of the Ira D. MacLachlan Post No. 3, The American Legion, Sault Sainte Marie, Mich., to use a certain parcel of land in Saint Marys Falls Canal project; to the Committee on Armed Services.

SENATE—*Thursday, March 29, 1973*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

Dr. Leonard H. Cochran, Methodist minister, retired, Perry, Ga., offered the following prayer:

Almighty God, may those who work here as servants of the Nation humbly acknowledge their dependence upon Thee so that we may safely depend upon them.

As a great rock arrests the drifting sand of the desert, allowing vegetation to take root and grow at its sheltered base, so may these Senators put their backs against the drifting life of this day until noble virtues and lasting qualities of life can take root and flourish in the land.

Aid them in doing that which will assure the continuance of the Nation in a glorious future.

May some one of them be able to say what other men will take note of, and long remember. May each of them have that perception and wisdom to see and to choose the best above the good, the highest above the ordinary, and the worthy above the popular. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Wednesday, March 28, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time under the standing order.

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

THE JACKSON AMENDMENT ON FREEDOM OF EMIGRATION

Mr. JACKSON. Mr. President, last week there were hints from Moscow that Soviet citizens wishing to emigrate would be granted permission to do so. The suggestion that Soviet citizens would at last be given their freedom was whispered to Western journalists by unnamed Soviet "sources." A handful of visas were distributed. The news was managed with unusual sophistication: The Soviets went so far as to invite a television crew to the Moscow offices where cutrate visas were being issued to educated Jews who had been waiting months and even years for permission to emigrate. And Victor Louis, the Moscow "journalist" who surfaces like an oil slick whenever the Kremlin needs a PR man, suggested in an Israeli newspaper that the Kremlin has decided to stop collecting the "education" tax on emigrating Jews, but the law will remain on the statute books.

That was last week.

This week, Mr. President, one courageous family, scattered on three continents, is risking starvation to obtain freedom and to make it clear to us what they already know: That there has been no genuine movement toward a policy of free emigration in the Soviet Union, that families are still being cruelly divided, and that, tax or no tax, there are innocent men and women in the Soviet Union who cannot buy a visa at any price.

Mr. President, I want to speak for a moment about Mark Yampolsky and his family. And I want my colleagues to know that as I speak, Mark Yampolsky is standing in front of the Soviet Embassy on 16th Street on the third day of a hunger strike; his wife, Eleanora, is in front of the Soviet Embassy in London, also on a hunger strike; and Eleanora's parents and sister are ill, perhaps gravely, after a 6-day hunger strike in Novosibirsk, Siberia. The inhuman suffering that these brave people have endured is sadly familiar.

Several months ago, and then only after a year-long campaign during which Mark, now 25, was twice arrested and imprisoned, he and his young wife were permitted to buy their freedom from the Soviet Government. They paid more than 10,000 rubles for two exit visas and, along with Eleanora's grandfather, they left Kiev to go to Israel. Unhappily, Eleanora's parents, and her sister—the Poltinnikov family from Novosibirsk, Siberia—were not so fortunate. They have seen each of seven requests for an exit visa turned down cold by the Russian authorities.

Dr. Isaac Poltinnikov, Mark's father-in-law, is an outstanding ophthalmologist who retired 2 years ago. Since applying to emigrate from the Soviet Union last summer he has had his only income, his retirement pension, terminated. He and his family have suffered ceaseless ordeals and abuses including the imprisonment of his wife and daughter—Eleanora's sister—on charges of having petitioned the Soviet authorities for an exit visa.

Last week the Poltinnikovs were again denied permission to emigrate and, in desperation, they began a hunger strike at the central telephone office in Novosibirsk. Eleanora and Mark also resorted to a hunger strike—she in London, he in Washington—when Eleanora was told by the Russian authorities this week that:

> Your parents will never be allowed to emigrate.

Yesterday the Poltinnikov family was refused medical attention at the central telephone office in Novosibirsk. After 6 days of starvation Eleanora's mother, who is a diabetic, suffered a medical crisis that required her to terminate her protest. The family, as far as ever from having the right to emigrate, is recuperating in the apartment of friends in Novosibirsk.

The Government of the Soviet Union has simply and clearly terrorized the Poltinnikov family. What sense is there in the cruel torture of these innocent human beings? What legitimate policy of the Soviet Government is served by keeping them, against their will, from emigrating to freedom?

Mr. President, it seems clear that the Soviet Government is terrorizing the Poltinnikov family in order to discourage others who wish to emigrate from applying for exit permits. Soviet citizens who apply for permission to emigrate are routinely fired from their jobs or relieved of their pensions—like Dr. Isaac Poltinnikov they are left destitute. Soviet authorities hope to deter through fear and intimidation, through harassment, through imprisonment in corrective labor camps, in jails, and in institutions for the mentally ill.

Last week's managed news of a significant shift in Soviet emigration policy was a fraud—and a transparent one at that. There is more truth in Mark Yampolsky and his hunger strike on 16th Street than in all the articles, all the broadcasts, all the Tass releases and diplomatic assurances that last week sought to extenuate, explain, and obscure. The Soviet Government has penned in the Poltinnikov family in Novosibirsk and it is doing the same thing to thousands of other men, women, and children all over the Soviet Union.

Before last November's Presidential elections, as many Senators will recall, the Soviets permitted a number of families to emigrate without payment of the education ransom. Immediately after the election the ransom was reimposed. This followed the pattern that had been set before last year's Moscow summit when, again, a "tactical liberalization" of Soviet emigration policy was followed by a relapse into the old pattern of harassment and denial. I must say that I am amazed that the Soviet authorities thought, as apparently they did, that last week's selective release of a few families in Moscow at bargain basement prices would fool the American people. The fact is that for every Soviet citizen who was unable financially to pay the notorious education ransom, there were—and are—hundreds who cannot buy a visa at any price. The fact that some visas are being sold at discount prices is little comfort to the thousands who are not being permitted to buy. Only a policy of granting every legitimate applicant a visa within a fixed and reasonable period of time can alter that.

Mr. President, when one compares last week's hints from Moscow with this week's reality it becomes clear that there can be no effective substitute for the passage of my amendment—cosponsored by 76 Senators—to deny most-favored-nation treatment, credits, credit guarantees, and investment guarantees to States that deny their citizens the right or opportunity to emigrate. This amendment gives the Soviets an incentive to permit free emigration—and it provides a sanction if they do not, either now or at any time in the future. By requiring a semiannual report of compliance, we in Congress can be assured that any positive change in Soviet emigration policy could not be reversed without the loss of MFN and the other trade and credit benefits.

Mr. President, I wish to be clear: I will not put a dollar sign on freedom. I intend to keep faith, as I am certain my colleagues do, with young Mark Yampolsky and with the thousands of brave men and women whose watch he is keeping.

Mr. President, I ask unanimous consent that my remarks made at the National Press Club on Thursday, March 22, 1973, be printed in the RECORD.

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

REMARKS BY SENATOR HENRY M. JACKSON ON EAST-WEST TRADE AND FREEDOM OF EMIGRATION, NATIONAL PRESS CLUB

Ever since the end of World War II the peace and stability of the world have been threatened by the walls that have divided East from West. Churchill recognized the danger to peace and the barrier to freedom drawn across Europe in his famous "Iron Curtain" speech in Fulton, Missouri. And along with an awareness of the danger that lies in division came a determination to do something about it, a resolve repeated by each successive American President to promote the free movement of men and ideas.

When the United Nations Declaration of Human Rights was unanimously approved in 1948, no one would have dreamed that 25 years later it would take a Congressional amendment to a trade bill to remind the

Russians that the Declaration includes the right to emigrate.

There is welcome evidence that the White House and the Kremlin now take seriously the determination of the Congress to withhold trade concessions from countries that deny their citizens the opportunity to emigrate. They cannot help but be impressed by the overwhelming support for my amendment to the forthcoming trade bill—fully three-quarters of the Senate and 275 members of the House are joined as cosponsors.

The amendment is a simple one. Under its provisions, the granting of most-favored-nation treatment and the extension of credits or credit guarantees or investment guarantees to nonmarket countries cannot take place until the President reports to the Congress that the country in question does not deny its citizens the right or opportunity to emigrate, either by imposing more than nominal taxes on emigration or by any other means.

This week we have seen some encouraging signs that the Soviets are being more generous in implementing emigration regulations that they have always claimed are consistent with free emigration. I am sure you have seen the reports that some tens of individuals have had the ransom tax waived and that still others will be permitted to emigrate without the payment of the so-called "education tax." It is my great hope that by the time our amendment is enacted into law—and we intend to see that it is—the practice in the Soviet Union will be such as to permit the President without hesitation to make the statutory report of compliance.

We wrote the reporting requirement into the amendment after observing how capricious Soviet emigration policy has been. We all remember that before the Moscow summit there was a relaxation that was followed, after the summit, by a relapse into the old patterns of harassment and taxation to discourage and deny emigration. So to make certain that, once started, the flow of free emigration will not be shut off, the amendment requires the President to make a report of compliance every six months for so long as MFN and the other trade benefits are made available. It is this provision that gives Congress the essential assurance we require of continuing compliance with the free emigration requirement.

Terminating the collection of the Soviet ransom tax would be a great first step in the direction of removing barriers to free emigration. An end to the Russian practice of firing visa applicants from their jobs would be another. Now, I have heard it said that the Soviets are going to keep the ransom tax on the statute books but they won't apply it in practice. I say that we are going to put the Jackson amendment on the statute books but in the hope that it won't apply to the Soviet Union because they will be in compliance with the free emigration provision.

I'm not against trade with the Soviet Union. Long before the President went to Moscow I was one of a handful of Senators who sponsored the East-West Trade Relations Act to promote trade with the Soviet Union. But I believe that we ought to use our vast economic power to help bring freedom and dignity to thousands of individuals who have been willing to stand up and fight for their right to leave Russia. I am proud that America is fighting to help them obtain their freedom.

Once we watched helplessly as barbed wire fences and walls with watchtowers were built—not to keep people out, but to keep them in. We've seen people machine gunned at the Berlin Wall or shipped off to prison camps. Their crime was the desire to be free.

The thousands of Soviet citizens who wish to emigrate aren't criminals—they're just plain human beings who want to make a better life for themselves in another country where they are welcome. That's a very familiar story to Americans. I wouldn't be here myself if Norway—the country of my parents—had had a repressive emigration policy like the Soviet Union has now.

While we're bargaining with the Russians over dollars and rubles let's do some bargaining on behalf of helpless human beings. When we talk about free trade let's talk about free people, too.

Mr. JACKSON. Mr. President, at this point I wish to announce that the senior Senator from Hawaii (Mr. FONG) and the junior Senator from New Mexico (Mr. DOMENICI) have joined in cosponsorship since I placed the East-West trade and freedom of emigration amendment in the RECORD on March 15, bringing the total number of cosponsors of the amendment to 76, more than three-fourths of the Senate.

ORDER OF BUSINESS

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

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to reserve the remainder of my time.

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

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

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining.

Mr. ROBERT C. BYRD. I ask unanimous consent that that time may be reserved to me.

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

Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

TRUTH IN GOVERNMENT

Mr. MATHIAS. Mr. President, no danger that faces the United States today is more serious than the possibility that a significant number of our people are losing faith in the validity and purpose of our Government. The polls tell us of the growing distrust of the public in the honesty of public officials. That, in turn, leaches confidence in our institutions. I regard a temper of doubt or distrust as a great danger.

When a democratic government is imperilled by loss of confidence, it follows that the people must feel some lack of confidence in themselves. Corrosion attacks throughout the whole system. The challenge to leadership is then the restoration of trust in government and the renewal of faith in the Nation.

It is, therefore, useful to think a minute about the nature of loyalty and of simple patriotism. Each of us in Congress, and every other public official from the President to the most junior civil servant, has expressed his loyalty in its most elemental form when he took his oath to defend the Constitution. I believe that every one of us understood that the obligation of this oath was paramount to any other claim on us. No longer are we free to prefer the interest of a person or a party over the mandate of the Constitution. Loyalty in America is loyalty to the law of the land. The great inheritance from our Revolution is the freedom to choose this loyalty above all others.

Yet, it seems to me that at this moment the issue of conflicting loyalties is presented to us in three distinct cases that are pending in the Senate and demanding determination. The common question that must be answered in all three is whether the persons involved gave a greater loyalty to some lesser interest than to the Constitution. It is in this light that we have to make our separate judgment in the instances of the resurfacing of ITT as an influence on foreign policy, the nomination of L. Patrick Gray III to be Director of the Federal Bureau of Investigation, and in the investigation of Watergate election abuses.

The very fact that we are required to make judgments in these cases imposes upon us the identical choices that lay before the parties who are involved in each. We, ourselves, have to decide what is loyalty to the law, what is defense of the Constitution; and what is simply the strong pull of friendship, partisanship, or some veiled interest.

Such a choice seems simple when it is presented as an academic proposition; but each specific case bristles with practical problems and subordinate questions. Not the least of the cautions we must observe is the fact that loyalty to the law imposes adherence to the principle that every man is innocent until he is proven otherwise. Unjust accusations can no more be tolerated in the Senate than unjust actions can be condoned.

Our responsibilities are great, our difficulties are great, but whether our work will be great depends on whether we, ourselves, are inspired by the impartial spirit of the Constitution and whether we can accurately communicate it to our fellow countrymen.

In this task our only tool is truth. And it is truth that usually suffers first when loyalties are divided. No person who is involved or engaged in the life of his generation can avoid the competing demands of his family, his friends, his business or his State. If he gives equal priority to each, or revolving priority to the most pressing, his life will undoubtedly be chaotic. But if he, in his personal life, as we in our national life, establishes some order, he can expect to live in peace and security. It is when we are tempted to ignore the priorities of our obligations that we get into trouble. We trifle with the truth.

Some years ago, the official spokesman

for the Department of Defense, Assistant Secretary Arthur Sylvester, attempted to legitimize the practice, in which the Department had presumably been engaged, of lying to the people of the United States in the name of their Government. The result was as disastrous as it was predictable. Popular understanding and support for the war in Vietnam was not increased; on the contrary, it was seriously undermined. Even after several changes in administration in the Pentagon, its credibility has not been fully restored.

Consider, on the other hand, the example of Winston Churchill in the Battle of Britain. As Walter Lippmann has pointed out, Churchill demonstrated his faith in democracy by sharing the truth with his people.

No matter how bad the news, no matter how serious the situation, no matter how desperate the danger, Churchill not only faced the truth but he told it. The result was not despair in Britain but rather renewed confidence in the Prime Minister, in his government, and in the ultimate values of the British Constitution, which made winning worthwhile.

And so I say again that the pursuit of truth is the only direction in which we can go in search of the way to preserve our loyalty to the Constitution and the laws. A visible, unshakeable demonstration of that loyalty is the only way I know to restore the confidence, hope, and aspiration that many of us find missing in our national life today.

We are more likely to reach this goal if we candidly admit the obstacles in our way. It is very human to want to do a favor for a friend or an errand for an organization, or perhaps to keep our powder dry for another occasion which may or may not happen. But these are temptations that we share with all humanity and so we need not be ashamed of being tempted, but only of succumbing and betraying our prime loyalty.

It will be asked, I am sure, why I have taken the time to philosophize in this way without adding any new or dramatic element to the continuing debate. I did so because I think the pervasive problem of confusion of loyalties has poisoned public ethical behavior and hit at the heart of scepticism about Government and politics. I am tried of hearing about how "they all do it in Washington" and I want to hear more of "it may have been that way once, but it is not that way anymore."

The only way to restore confidence and trust throughout our society is for everyone who shares the privilege of leadership to obey the law, and to meet the small questions and the great issues with equal courage.

We shall need the encouragement of concerned citizens. We shall need the cooperation and the candor of those who share power with us at every level of government. We shall need to discipline ourselves to a kind of objectivity that rejects partisanship whether we are cast in the role of prosecutor or defender in any given case. We shall need to reaffirm the strength of our own moral fiber and the influence of conscience on the course of our lives.

But I have faith in the healing strength of truth. I have confidence that we can prove again that for men and women everywhere America is still the last best hope on Earth.

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

Mr. MATHIAS. I am happy to yield to the distinguished Senator from Montana.

Mr. MANSFIELD. Mr. President, I have listened to the distinguished Senator from Maryland (Mr. MATHIAS), to his profound and moving statement on the national condition, in effect, his declaration of conscience.

I find that what he has said is profound, because the theme of his observation is of fundamental importance to the Nation. He deals with the erosion of the confidence of citizens, and especially of young citizens, in Government. He attributes this erosion, correctly, in my judgment to the increasing disregard of the constitutional base of our institutions by those with primary responsibility for upholding the Constitution, including ourselves. It is a disregard illuminated by the tragedy of a Vietnam, an Indochina, and by the cynicism of a Watergate—an ITT.

The Senator's statement is deeply moving, because he has the integrity to face the fact that, few, if any of us in Government have been entirely free of fault in the process. There is no self-serving superiority in his comments; there is no moralistic prattling. There is only honesty and trust in the healing power of truth. I commend the Senator for his candor no less than for his contribution to the Senate's understanding.

Mr. MATHIAS. Mr. President, I am grateful for the generous remarks of the distinguished majority leader. I do feel that we all share some responsibility in this situation in which we find ourselves today. I think, however, that perhaps it is appropriate that as we contemplate with great satisfaction and pleasure the fact that the last American in Vietnam left today, we should also look back on the mistakes that we made on the road that led us into Vietnam, and that we can try to find a better way to translate what we are trying to do in Government to something which is understandable and believable as an article of faith in the American people.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon (Mr. HATFIELD) is recognized for not to exceed 15 minutes.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. How much time does the Senator from Maryland have remaining?

The PRESIDING OFFICER. The Senator from Maryland has no time remaining.

Mr. HATFIELD. Mr. President, I understand I have 15 minutes.

The PRESIDING OFFICER. The Senator has 15 minutes.

CONSTITUTIONAL RESPONSIBILITY AND THE WAR IN INDOCHINA

Mr. HATFIELD. Mr. President, before I go into the speech for which I asked that this time be allotted, I wish to commend the Senator from Maryland (Mr. MATHIAS) for his perceptive and excellent statement. He has emphasized truths that are absolutely essential to preserving the vitality and integrity of constitutional government.

The Senator from Maryland stated that the tragedy of Vietnam "has raised the large question once more, whether there is any reasonable way to prevent the United States from sliding into war again. A logical result of the search into the causes of the war in Vietnam," the Senator stated, "has been to force the Congress to reexamine the constitutional foundations of our Government."

Mr. President, those words have an especially timely relevance to the situation we are facing in Indochina this very day.

It has been my firm conviction that since the repeal of the Gulf of Tonkin resolution in 1970, that the administration has had no constitutional authority for pursuing any military action in Indochina other than the withdrawal of our troops and their protection. But as we know, our policy in these past years has been not only the withdrawal of our troops, but also the political objective of support for the regimes in South Vietnam, Laos, and Cambodia. It has been consistently maintained by many of my colleagues in this body, as well as by myself, that there has been no constitutional authority for military actions designed to achieve these political purposes, for Congress has never passed any resolution specifically authorizing such commitments.

When asked to comment on the constitutionality of our military actions in Indochina in the past few years, the administration has constantly cited the power of the Commander in Chief to protect his troops. July 1, 1970, Howard K. Smith asked the President, in a series of questions, what the legal basis was for our policy once the Gulf of Tonkin resolution was repealed. The President replied:

> The President of the United States has the Constitutional right—not only the right but the responsibility—to use his powers to protect American forces when they are engaged in military actions; and under these circumstances, starting at the time I became President, I have that power and I am exercising that power.

Later, Mr. Smith pressed his question even further stating:

> Do you have a legal justification to follow that policy (meaning the President's overall policy in Indochina) once the Tonkin Gulf resolution is dead?

The President replied:

> Yes, sir, Mr. Smith, the legal justification is the one I have given, and that is the right of the President of the United States under the Constitution to protect the lives of American men. That is the legal justification.

I recall these matters for one crucial reason. Today, the last American soldiers stationed in South Vietnam will

come home. I rejoice in this. All Americans do. And I commend the President for achieving this goal.

Yet, one disturbing fact remains. Our B–52s are continuing, daily, to drop the bombs on Cambodia. We are told that this bombing is essential to support the Lon Nol regime there.

Since the beginning of this week the administration has been asked what the constitutional justification for such bombing is. Two administration spokesmen, Ambassador William Sullivan of the State Department, and the Secretary of Defense, have gone so far to suggest that the constitutional authoriy is linked, in some way, to the reelection of President Nixon. Yesterday, it was suggested that the authority rests with the SEATO Treaty, or with the claim that the North Vietnamese are violating article 20 of the peace agreement.

However, the government of Lon Nol in Cambodia has explicitly removed its country from the application of the SEATO Treaty. Further, our bombs are falling not simply on North Vietnamese troops remaining in Cambodia, but on the indigenous Cambodian insurgents fighting against Lon Nol. Thus, neither of those two speculated rationales can in any way provide the constitutional justification for such bombing.

Mr. President, the Senator from Maryland has pointed out eloquently that officials of this Government, as well as the Members of Congress, take the oath of office to "defend the Constitution."

But consider what has happened this week. Faced with the uncomfortable fact that the past constitutional justifications for our policy in Indochina will be lost with the last soldier that leaves today, the administration has merely suggested that lawyers are working on this problem. In the meantime, we hear Ambassador Sullivan suggest that the reelection of a President carries with it some kind of constitutional mandate to make war.

Never has it even been suggested, or speculated, that the defense of the Constitution may take priority over the defense of the Lon Nol regime.

It has been painful for anyone who is committed to the Constitution of the United States to see officials of this administration so obviously committed to pursuing the policy they have predetermined, and annoyed at the fact that they will have to go through some legal gymnastics and create some sort of constitutional rationalization for that policy.

This is not "defending the Constitution." This is treating our Constitution with disdain.

Mr. President, I am most deeply grateful for the return of the last American soldier from Vietnam today.

But I am also most distressed. For if our bombing now continues in Cambodia, we will be on our way to make the Constitution of the United States the last casualty of this war.

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

Mr. HATFIELD. I yield.

Mr. MATHIAS. I think he would agree that in the wake of war and destruction in Vietnam, which, happily for Americans, is ending today, even if it is not ending for others today, we begin the process of introspection to try to ascertain what went wrong and why it went wrong. I think we have to say candidly that we in the Congress share a part of the responsibility for unwise decisions and for procedural failures on our part which would have led to making contributions to better decisions and more effective action.

I believe, if we continue this process in the constructive spirit in which the Senator from Oregon has expressed it today, we can find ways to avoid a repetition of those errors and again sliding into some of the folly and tragedy of the past.

Mr. HATFIELD. I thank the Senator.

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

Mr. HATFIELD. I yield.

Mr. JAVITS. I have read the speeches of both the Senator from Maryland and the Senator from Oregon with the deepest interest and concern, and I literally dashed over from an urgent committee hearing to express on the floor of the Senate my own feeling of solidarity and deep involvement in exactly what they have said.

The American crisis is a moral crisis. And it is a constitutional crisis. What are the powers of Congress? What are the powers of the President? It is a question of the confidence of Americans in our society and its moral integrity.

I deeply believe that, notwithstanding all modernisms and their tremendous attractions, the eternal verities remain, especially in the hearts of the young, who are the most modern.

I feel strongly that, as we strive to implement these concepts, in company with all our colleagues and my colleagues who have just spoken, Senator MATHIAS and Senator HATFIELD, speaking as they have to the young men and women of the new generation as well as to those in responsible positions of an older generation, they are striking a note of frankness and integrity which needs to be struck, without self-consciousness and with deep conviction. There is nothing sanctimonious about it or evangelistic. It is what our country needs if it is to be roused to greatness in terms of human achievements, and not merely in terms of bricks and mortar, and machinery, and all the paraphernalia of economic activity.

I am grateful to them for the eloquent words which they have spoken on the floor today.

Mr. HATFIELD. I thank the Senator from New York. I deeply appreciate his contribution to the colloquy this morning.

ORDER OF BUSINESS—INTRODUCTION OF BILLS

Mr. HATFIELD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Oregon has 5 minutes remaining.

(The remarks Senator HATFIELD made on the introduction of S. 1418 to commemorate the 100th birthday anniversary of former President Herbert Hoover, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

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

(The remarks Senator BEALL made when he introduced Senate Joint Resolution 86, providing for a 2-year suspension of Federal support of projects involving psychosurgery, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

THE CONTINUING WAR ON CRIME

Mr. ALLEN. Mr. President, there has been a lot of talk about the war on crime—that is good.

There has been some action and there has been some progress and that is good.

But let us face it—the problem is not under control and it will never be under control until it can be said that every citizen of this Nation is protected in the enjoyment of his God given right to feel secure in his home and community.

The law abiding, hard working, tax paying citizens of our Nation demand no less and are entitled to no less than adequate protection of life and property from the ravages of a marauding criminal element in our society. They demand no less and will accept no less than full enjoyment of the constitutionally protected right to live in peace and tranquility—and free to walk the streets of this Nation without fear or hindrance. The time is ripe now for less talk and more action.

In this connection my hat is off to the dedicated and long suffering law enforcement personnel who, at the risk of life and limb do their dead level best to protect us from the criminal element who stalk their prey from the shadows with savage and criminal intent.

But law enforcement personnel do not do the job alone. They need our help. We have saddled on them a near unbearable burden of responsibilities. They, along with the vast majority of our citizens, are fed up with toothless paper tiger penal statutes which do not deter. They are disgusted with brainwashed sociological judges who read the Constitution as though it were written to protect convicted criminals and not the rights of law-abiding citizens. They are sickened by jellyfish judges who seem content to sentence convicted criminals with a slap on the wrist, a tut-tut, and a bored wave of the hands.

Mr. President, it is time to get tough with the criminal element in our society. Permissiveness has failed. It is time to throw the book at degenerate psychopaths whose crimes of violence against persons are uninhibited by conscience or fear of punishment. Coldblooded murderers, demented assaulters with deadly weapons, the savage rapists, the heartless kidnapers, skyjackers, terrorists, and dopepushers all must be made to receive mandatory sentences commensurate with the crime to remove them from the society which they reject.

Mr. President, that is the least we can do. But there is more that we can do and must do in the area of Federal criminal law enforcement. Too, there is more that we can do and must do to help in the area of local law enforcement

without succumbing to the temptation to create a Federal police force.

Mr. President, the fact that some progress in the war on crime has been made is encouraging evidence that we can achieve even more if we determine to do so.

In this connection, I wish to join my colleagues in noting the great significance of the statistics on crime released yesterday by the Justice Department. As a Senator from the State of Alabama, with a number of relatively large urban centers, I would like to cite particularly the data which indicates the progress which has been made in reducing crime in our major cities.

The preliminary year-end statistics pointed out that 94 major cities reported actual decreases in serious crimes, compared with 53 cities in 1971, 22 cities in 1970, and 17 cities in 1969. I am pleased to know that three of Alabama's largest cities are among the 94 cities showing decreases in crime in 1972. Huntsville had a 19.9 percent decrease; Mobile, 15.2 percent; and Montgomery, 3.2 percent. Each of these decreases is above the national average. Senators will be particularly interested to note that the Nation's Capital registered fewer crimes in almost every category. This national trend is no small feat, especially in view of the fact that the last measurable decrease in serious crime—and that is 2 percent—was recorded in 1955.

There is no doubt that this milestone in the fight to reduce crime is directly attributable to the frequently unrecognized and often maligned efforts of law enforcement officers throughout the Nation to turn back the unprecedented wave of crime which swept over us in the 1960s.

In comparing these figures to those of the 1960s, we find that the crime spiral peaked in 1968 when serious crime rose 17 percent above the previous year. In 1969 and 1970, crime decreased 11 percent, while in 1971 the increase had been cut back to 6 percent.

There can be no doubt that much of this progress is directly attributable to the sense of outrage which developed among law abiding Americans who, if they escaped the direct effects of crime themselves, nevertheless witnessed the riots, the mass violence, the wanton disregard of law and decency which in the 1960s were becoming so prominent a feature of American society.

Mr. President, many social theorists seem to believe that the American people are simply sheep—that the American people do not understand what is happening in society and what Government should do to improve it. On this issue of crime and violence, Mr. President, the American—the ordinary man in the street—has shown that he knows much more about what is really happening and what needs to be done than those social theorists sitting in their "think tanks" and their cloistered college communities.

I have agreed with most of the goals of this administration, and I have given my full support to its war on crime. If even there has been Government action which is truly responsive to the needs and desires of the people, the war on crime is it. But the war is far from over. These figures show, if anything, that the fight must go on. We know we are winning, and it is no time for retreat. I commend President Nixon and his administration for their dedication to full support of law enforcement. Let us act promptly and favorably on the President's most recent proposals in the continuing war against crime.

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

QUORUM CALL

Mr. MANSFIELD. Mr. President, I want to suggest the absence of a quorum and ask unanimous consent that the time be charged to the time remaining of the distinguished Senator from Washington (Mr. JACKSON) and up to 5 minutes of the time of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES, 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 Senator from Florida is recognized for not to exceed 15 minutes.

(The remarks Senator CHILES made on the introduction of S. 1414, the Congressional Budget Control Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

PROPOSED ANTICRIME LEGISLATION

Mr. NUNN. Mr. President, I rise today to applaud the package of anticrime legislation proposed by the President of the United States, and by Senators MCCLELLAN, HRUSKA, ERVIN, and others in our distinguished body.

I am indeed encouraged by the crime statistics released by Attorney General Kleindienst yesterday. Being from Georgia, I am particularly encouraged since three Georgia cities—Columbus, Macon, and Savannah—were among those reporting decreases in major crimes. I only wish that the statistics for all our cities in Georgia, and throughout the Nation, were as impressive.

Unfortunately, however, according to information I have just received from local Atlanta sources, Atlanta is experiencing an upsurge in major crimes as shown by a comparison between the first 2 months of 1972 and the first 2 months of 1973.

I would like to mention here that I am very hopeful that those statistics do not indicate a trend for the entire year 1973, but here they are:

Homicides, which experienced an 11-percent increase in 1972, are up 43 percent for the first 2 months of 1973. Robberies increased 39 percent in 1972 over 1971, and increased a staggering 102 percent for the first 2 months of 1973.

Rapes, which decreased 4 percent in 1972, have increased 16 percent for the same 2-month period.

Assaults are up 17 percent, burglaries are up 7 percent, and grand larcenies are up 20 percent in the city of Atlanta.

At its inception our legal system recognized the doctrine that a man's home was his castle. Throughout our history the doctrine has been considered more a philosophical concept than a literal reality. Unfortunately, the proliferation of crime has caused us to turn this historical concept into practical necessity. The citizens of this Nation have been compelled to turn their apartments and homes into castles—surrounded by moats of electric burglar alarms, walls of steel bars, and by bolt-locked doors. No longer do we feel free to take an evening's walk through streets and parks our dollars have purchased.

Statistics also indicate that a substantial portion of the crime is being committed by drug addicts who commit these acts to raise money to feed their insatiable appetite for more drugs. In a recent study of six major cities conducted by the Bureau of Narcotics and Dangerous Drugs, almost 70 percent of those persons arrested for burglary showed evidence of being addicted to drugs. Well over 50 percent of those arrested for robbery were addicted to drugs. In the major crime category, including burglary and robbery, over 40 percent of those persons arrested were addicted to drugs.

In Atlanta, Ga., 25 to 35 percent of the major crimes are committed by such addicts.

I think this should give us cause for reflection.

DRUG ADDICTS AND PUSHERS

The President has recommended increased funding for the apprehension, rehabilitation, and treatment of drug addicts. He is also advocating increased mandatory sentences for drug pushers.

I am in agreement with these proposals.

Until we can bring the problem of drug addiction under control, our citizens will never regain the use of their streets and parks. While progress appears to have been made in the apprehension of drug traffickers and in the seizure of illegal drugs, we are not operating at maximum capacity in getting people off drugs. Not only must we interdict the drug supply routes but we must also provide solutions to decrease the demand for drugs.

In the drug field, we have massive problems of supply and demand, and we must attack both. Drug addiction is a multiple-faceted problem, not exclusively within the realm of the criminal process. It is also a medical problem. In addition to the President's proposals, we need to seriously consider the adoption of a sys-

tem of involuntary medical treatment for narcotic addicts before they are forced to resort to the commission of crime—prior to their apprehension while engaged in criminal activity. This system would be in addition to the Narcotic Addict Rehabilitation Act which has, for various reasons, not been fully implemented. We have an estimated 500,000 addicts in this country. We must interdict the addicts' path from addiction to criminal acts. I can think of no parent who would rather have his son or daughter languish in prison than receive medical assistance for his or her affliction. The President says we have the funds and resources available for such purposes. I say, let us use them.

CAPITAL PUNISHMENT

The President has also recommended the reintroduction of capital punishment for certain classes of crimes. He feels that the possible imposition of the death penalty acts as a deterrent to crime. I am in complete agreement with this philosophy. While many people both within and without Congress conscientiously believe that the death penalty does not deter crime, common sense dictates otherwise. Some have said that rehabilitation requires, not the severity of the punishment but its certainty. Although I agree with this philosophy, I would add an additional factor—not only must punishment be certain but it must also be commensurate with the background of the criminal and the seriousness of the crime. No armed bank robber will ever be deterred by the knowledge that if apprehended he will certainly receive an immediate sentence of only 6 months imprisonment. We must make punishment certain; we must let it fit the crime and the criminal; and we must insure its swift application.

Since the Supreme Court's decision outlawing the death penalty the homicide rate in Atlanta has jumped 45 percent. In the recent Prince Georges County vending machine robbery the perpetrators bragged that they could kill their hostages since they no longer faced the possibility of capital punishment. While these illustrations are by no means conclusive evidence, they are illustrative of the callous disregard for human life exhibited by today's criminal. The problem in trying to statistically analyze the deterrent effect of the death penalty is that we do not know whom to poll. We cannot determine which people or how many people did not commit murder because they feared the possibility of receiving capital punishment.

THE PROPOSED CRIMINAL CODE REVISION

I am also pleased that legislation has been introduced to comprehensively revise and simplify the Federal Criminal Code for the first time since its inception almost 200 years ago. Senator McCLELLAN, the sponsor of S. 1, and Senators HRUSKA and McCLELLAN, the sponsors of S. 1400 are both due our appreciation; and our strongest attention needs to be devoted to this, one of the most crucial matters facing the 93d Congress. We have seen too many criminals set free, their convictions set aside on legal loopholes and technicalities which have nothing to do with their guilt or innocence. S. 1400 contains a codification of a valid insanity defense based on the long-recognized McNaughton rule—the right-wrong test. Heretofore the defense of insanity has varied on a case-by-case basis, with different Federal jurisdictions adopting differing rules for criminal responsibility. To say that a person suffering from some mental impairment could be guilty of a Federal crime in one Federal circuit, and not guilty in another circuit, only breeds contempt for such a legal system. Such situations demand correction if the system is to be viable and survive.

CONCLUSION

In conclusion, I must reiterate that we owe our fellow citizens and constituents the best legal system the mind of man can promulgate. They deserve and expect no less. We must insure that their rights to life, liberty and the pursuit of happiness, free from the fear of criminal attack are not merely catchwords and meaningless slogans without substance. Our congressional leadership and the President are to be commended for their actions in the war against crime. We must return the streets, parks and homes to those who toil and sweat have built them. We must sweep crime from our streets and neighborhoods, from our cities, suburbs and rural areas. We in the Congress must marshal our support and assistance to assure the passage of meaningful legislation in the area of criminal law. I submit that we have no higher priority.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. McINTYRE. Under the previous order the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the time allotted to me.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. 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. GRIFFIN. Mr. President, I yield such time as he may require of the time remaining to me to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

DECREASE IN SERIOUS CRIME IN THE UNITED STATES

Mr. HRUSKA. Mr. President, it was announced yesterday that, for the first time since 1955, serious crime in the United States had decreased. The nationwide statistics gathered by the FBI show that the crime rate declined by 3 percent in 1972. For each of the 16 years prior to 1972, however, serious crime had shown an increase. Therefore, the new statistics are heartening and show a welcomed improvement in our law enforcement efforts.

Seven serious crime classifications are used to establish an index to measure the trend and distribution of crime in the United States. These crimes are murder, forcible rape, robbery, aggravated assault, burglary, larceny of $50 and over in value, and auto theft. From 1960 to 1968, serious crime had increased 122 percent.

It will be recalled that one major public opinion poll in 1968 considered lawlessness to be the top domestic problem facing the Nation. Another poll showed that four out of five Americans believed that "law and order has broken down in this country." There was a very real fear by thoughtful citizens everywhere that crime and violence were becoming a threat to the stability of our society. Some persons believed that it was a direct threat to our continued existence as a law-abiding Nation possessed of domestic tranquillity.

It was obvious that a growing sense of permissiveness in America as well intentioned as it was poorly reasoned, existed in great degree over a prolonged period of time. It did not just happen that within a few years time America experienced that crime wave that threatened to become uncontrollable. However, many people were reluctant to take the steps necessary to control crime.

This increase in crime accelerated each year after 1960 until it reached the high annual rate of increase of 17 percent in 1968.

Then came 2 declining years—1969 and 1970—in each of which there was a lesser increase of only 11 percent. In 1971, the rate of increase dropped to 6 percent.

During 1972, when the 3-percent actual decrease was registered, 94 major cities reported actual decreases in serious crimes. This compared with 53 such cities in 1971, 22 cities in 1970, and 17 cities in 1969.

Now there are some who question the credibility of the FBI statistics gathered under the uniform crime reporting program. However, these same individuals were quick to embrace the gloomier side of statistics in years past. Hopefully, they will recognize the tremendous significance of these most recent trends.

The UCR program has statistical validity and the most recent data available signals the reversal of the crime growth pattern.

Mr. President, there is still too much crime in our Nation—to a point of unacceptability. The present efforts and resolution in the field of law enforcement, however, must not only continue, but must be increased, improved upon, and intensified.

The fact is, however, that the tone and the pitch of a countrywide drive against lawlessness has been geared up to a point of tremendous progress, with even greater promise ahead.

The wave of lawlessness and permissiveness which waxed and peaked in the cities did not just fade and start to go away by itself.

Active, deliberate, and massive forces were set in motion to counteract and to blunt it, and to finally turn it back.

Engaged in this massive effort are three principal forces: The law enforcement authorities in States and localities

which bear the chief responsibility for law enforcement and which are "on the firing line"; second, public understanding and support of the problem, of the entire situation, and of active concentration on their part; and third, the fact that the tone was set at the top in our Nation's councils and in our Presidential leadership.

Mr. President, law enforcement in America is the chief responsibility of State and local governments.

It follows that the progress made in these more recent years is chiefly due to the dedicated, vigorous, and tenacious followup of State and local law enforcement authorities.

To them the report of a 3-percent decrease nationwide will mean much by way of encouragement, by way of realization that their work is not in vain, that in striving as they have, new and even higher effectiveness is not impossible.

The force of public understanding and support is a tremendous one. The realization of the danger point which had been reached only 5 short years ago, did much to impart a tremendous momentum from this source. It is hoped that it will continue, now that such tangible results are reported.

In the third place, our Nation's Capital has experienced a firm grip and strong view of what was needed on its part.

A program of legislation and funding has been attained that is working. While much remains to be done, a great deal has already been accomplished. Imaginative legislation such as the Controlled Substances Act, the Organized Crime Control Act, the Omnibus Crime Control Act creating the Law Enforcement Assistance Administration and amendments thereto, and the District of Columbia Criminal Act has assisted significantly to this effect.

Also central to the national effort has been the leadership of President Nixon, who has evidenced a direct, driving, and meaningful personal interest and knowledgeability in the area of crime control. He has acted strongly. He has acted with vision and with sureness.

Because of all these factors, the wave of serious crime is being brought under control. Its trend has been reversed. We have turned the corner.

We are on the right road. The pattern has been set; the broad policies, and the specifics are working.

It is becoming widely established that the best way to attack crime is the same way crime attacks our people—without pity. National efforts are now based on this philosophy, and it is working.

Additional measures are in the making and pending in Congress, including:

Revision of the Federal Criminal Code;

Restoration of the death penalty;

The Heroin and Morphine Trafficking Act;

A Special Revenue Sharing Act in the area of law enforcement; and

A proposal to reorganize all narcotics and dangerous drugs enforcement agencies.

Every law-abiding American welcomes this achievement in crime reduction as announced yesterday.

But we must not rest at this point. We must continue to develop anticrime programs and support the dedicated men and women who carry them out.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the Department of Justice news release on this subject, dated March 28, 1973, including a table of statistics showing cities having a decrease in their crime index during the calendar year 1972, as compared with 1971.

There being no objection, the release and attached table were ordered to be printed in the RECORD, as follows:

FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., March 28, 1973.

NEWS RELEASE

Serious crime in the United States declined 3 percent in 1972, the first actual decrease in crime in 17 years, Attorney General Richard G. Kleindienst announced today.

The downturn in the volume of crime was disclosed in preliminary year-end statistics tabulated by the FBI and released today.

"This is a day that we have been looking forward to for many years," the Attorney General said. "It is an important milestone in the fight to reduce crime and is directly attributable to the strong efforts of law enforcement officers throughout the nation to turn back the wave of crime that rolled upward in the 1960's."

During 1972, 94 major cities reported actual decreases in serious crime, Mr. Kleindienst said, compared with 53 cities in 1971, 22 cities in 1970, and 17 cities in 1969.

Nationally, serious crime declined 8 percent in the final quarter of the year, after registering a 1 percent increase through the first nine months of 1972.

The last measurable decrease in serious crime—2 percent—was recorded in 1955, according to FBI crime records.

The crime spiral peaked in 1968 when serious crime rose 17 percent above the previous year. In 1969 and 1970, serious crime increased 11 percent, while in 1971, the increase was 6 percent.

"We enter this new period with an acute awareness that crime is still unacceptably high," Mr. Kleindienst said. "We pledge to renew our determination and efforts to make our communities safer places in which to live."

The preliminary figures are contained in the FBI's Uniform Crime Reports, a collection of nationwide police statistics supplied voluntarily by local, county, and state law enforcement agencies. The figures were released today by FBI Acting Director L. Patrick Gray, III.

Violent crime increased by 1 percent in 1972, compared with a 9 percent increase the year before. Robberies, however, which make up the largest number of crimes in the violent category, showed a 4 percent decrease in 1972. Murder was up 4 percent in 1972, aggravated assault increased 6 percent, and forcible rape increased 11 percent over the previous year.

Property crime decreased 3 percent, compared with a 6 percent increase in 1971. Auto theft declined 7 percent, larceny $50 and over dropped 3 percent, and burglary was down 2 percent.

Cities over 100,000 population reported an average decrease of 7 percent in the volume of Crime Index Offenses. Crime in suburban areas increased 2 percent, compared to an 11 percent increase in 1971, while crime in rural areas went up 4 percent compared to a 6 percent rise in the previous reporting period.

Serious crime in Washington, D.C., continued to decline. The 1972 decrease was 26.9 percent, compared with the 1971 decrease of 13 percent.

The nation's capital registered fewer crimes in every category, except for a 16 percent increase in rape. Auto theft decreased 33 percent, burglary decreased 32 percent, robbery decreased 31 percent, larceny $50 and over decreased 18 percent, murder decreased 11 percent, and aggravated assault decreased 2 percent.

A copy of the preliminary crime figures for 1972 is attached. Final crime figures and crime rates per unit of population will be available in the detailed Uniform Crime Reports scheduled for release this summer.

Also attached is a list of the 94 major cities reporting crime decreases.

CITIES WITH DECREASE IN CRIME INDEX, JANUARY-DECEMBER, 1972 VS. 1971

Agency:	*Index percent decrease*
Akron, Ohio	9.5
Albany, N.Y.	23.8
Alexandria, Va.	2.1
Allentown, Pa.	15.4
Arlington, Va.	15.4
Austin, Tex.	3.7
Baltimore, Md.	6.5
Beaumont, Tex.	1.6
Berkeley, Calif.	2.7
Boston, Mass.	8.8
Bridgeport, Conn.	14.6
Buffalo, N.Y.	6.7
Cambridge, Mass.	7.7
Cedar Rapids, Iowa	3.8
Charlotte, N.C.	11.8
Chicago, Ill.	4.1
Cincinnati, Ohio	5.0
Cleveland, Ohio	11.3
Columbia, S.C.	16.6
Columbus, Ga.	3.0
Columbus, Ohio	9.5
Corpus Christi, Tex.	.8
Dallas, Tex.	2.6
Dearborn, Mich.	8.8
Des Moines, Iowa	9.1
Detroit, Mich.	15.8
Duluth, Minn.	6.8
Elizabeth, N.J.	4.2
El Paso, Tex.	16.5
Erie, Pa.	.1
Evansville, Ind.	13.4
Fall River, Mass.	14.2
Fort Lauderdale, Fla.	4.2
Fort Worth, Tex.	5.6
Gary, Ind.	3.7
Glendale, Calif.	5.8
Hammond, Ind.	2.3
Hampton, Va.	6.9
Hartford, Conn.	19.8
Hialeah, Fla.	8.2
Hollywood, Fla.	7.5
Honolulu, Hawaii	15.3
Huntsville, Ala.	19.9
Indianapolis, Ind.	16.0
Jacksonville, Fla.	4.9
Jersey City, N.J.	8.3
Kansas City, Mo.	13.2
Lansing, Mich.	6.3
Lexington, Ky.	6.5
Los Angeles, Calif.	3.8
Louisville, Ky.	11.3
Lubbock, Tex.	11.0
Macon, Ga.	3.1
Miami, Fla.	9.9
Milwaukee, Wis.	3.9
Mobile, Ala.	15.2
Montgomery, Ala.	3.2
Nashville, Tenn.	18.0
Newark, N.J.	10.2
New Bedford, Mass.	20.3
New Haven, Conn.	9.7
New Orleans, La.	15.2
New York, N.Y.	18.0
Norfolk, Va.	18.1
Oakland, Calif.	3.4
Orlando, Fla.	10.7
Parma, Ohio	9.7
Pasadena, Calif.	1.6
Philadelphia, Pa.	4.5
Pittsburgh, Pa.	11.0
Portsmouth, Va.	2.0
Providence, R.I.	13.5
Raleigh, N.C.	5.0
Richmond, Va.	11.8

Rochester, N.Y.	8.6
St. Louis, Mo.	4.1
Salt Lake City, Utah	10.0
San Francisco, Calif.	19.0
Savannah, Ga.	13.8
Scranton, Pa.	27.0
Seattle, Wash.	3.8
Shreveport, La.	8.4
Spokane, Wash.	2.3
Stamford, Conn.	27.6
Syracuse, N.Y.	11.1
Topeka, Kans.	15.2
Torrance, Calif.	5.2
Trenton, N.J.	7.7
Warren, Mich.	2.8
Washington, D.C.	26.9
Waterbury, Conn.	7.7
Wichita, Kans.	.7
Yonkers, N.Y.	11.7
Youngstown, Ohio	11.9

Mr. GRIFFIN. I thank the distinguished Senator from Nebraska. I commend him for a very important and thoughtful statement. It is one which will be welcomed, I know, by people all over the country as they realize that the war against crime is meeting with some success.

Time and time again in the past we have seen in the newspapers that there had been a drop in the rate of increase in crimes. While this was always encouraging, it was also disturbing that the number of crimes was still on the increase.

Now, as I understand it, we are talking about an actual decline in crime in these major cities. I certainly share the views so eloquently expressed by the Senator from Nebraska that first among those who deserve the credit are the law enforcement and other public officials at the local level because, as he said, they are on the firing lines. They are the ones who have to deal with the problem on a day-to-day basis.

I had to leave the Chamber briefly during the presentation made by the distinguished Senator from Nebraska, and I wonder if he made reference in his statement to particular cities. I know there are very encouraging statistics about some of the larger cities. While I imagine he will put the whole list in the record, I think it would be well to focus on some of the larger cities and what they have been able to achieve.

Mr. HRUSKA. If the Senator will yield, Mr. President, 94 cities experienced a substantial actual decrease in the crime rate in 1972. The entire tabulation has been placed in the RECORD, and it is a very gratifying one indeed.

I might say that in the Senator's State of Michigan there were at least four metropolitan areas in which a decrease occurred. Detroit was one of them, Dearborn was another, Lansing was the third, and Warren the fourth.

In the city of Washington, D.C., Mr. President, the rate of decrease was 26 percent in 1 year.

Mr. GRIFFIN. I think that is particularly encouraging, since we know that Washington, D.C., for too long has been referred to by many people as the crime capital of the Nation because the crime here was so extensive. A 26-percent decline in the rate of actual crime in the Nation's Capital is indeed a notable achievement.

Mr. President, I was remarking about the record made by some of the cities around the country, and the distinguished Senator from Nebraska did not have the statistics immediately available. Now he does, and I wonder whether the Senator from Nebraska would indicate some of the percentages in major cities around the country. I would also be interested specifically in those for some of the cities in Michigan.

Mr. HRUSKA. Mr. President, the fact is that in Michigan there are four cities in which there has been an actual and absolute decrease in the rate of crime in 1972: Dearborn, experienced an 8.8 percent decrease; Detroit, 15.8 percent; Lansing, 6.3 percent; and Warren, 2.8 percent—these were all net decreases in the rate.

I might say that in the Greater Metropolitan Washington area, for example, we have not only Washington, D.C., with 26.9 percent, but also Alexandria with 2.1 percent; Arlington with 15.4 percent; Baltimore, with 6.5 percent. Additionally, Hampton, Va.—a little further south, 6.9 percent; and Norfolk, Va., 18 percent. All those are net decreases. A total of 94 cities nationwide have participated in this very fine record of increasing the proficiency of their law enforcement agencies.

Mr. GRIFFIN. I thank the distinguished Senator from Nebraska for those references and his observations.

As he pointed out earlier, this record for 1972 marks the first time in 17 years that there has been an actual decrease in the crime rate in the United States. In every other year in the last 17 years there has been an increase. In fact, in 1968 serious crime in the United States increased 17 percent above the previous year.

The statistics show that across the Nation as a whole there was a decrease by 3 percent—with the significant decreases, percentagewise, in some of the major cities. This indicates that we must be doing something right and that we ought to stay on course.

It suggests, of course, that bills which will be considered later in the day on the Senate floor will be important in terms of fighting crime. Furthermore, President Nixon just recently proposed additional legislation dealing with drug trafficking and other serious crimes. I think his proposals should have the early consideration of the Congress.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 5610) to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 5610) to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes, was read twice by its title and referred to the Committee on Foreign Relations.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, without prejudice to the distinguished Senator from Kentucky (Mr. COOK), I ask unanimous consent that I may be recognized at this time to use a portion of the time allotted to me under the order.

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

SENATOR SAM ERVIN: A FIGHTER FOR FIRST AMENDMENT PRINCIPLES

Mr. ROBERT C. BYRD. Mr. President, those of us who serve in the Senate with Senator SAM ERVIN, of North Carolina, know very well of his determined commitment to the principles of the first amendment. Time and time again, my distinguished friend from North Carolina has reminded us that these great principles—freedom of speech, freedom of the press, freedom of religion, freedom to petition the government for redress of grievances—must be zealously guarded.

In recent years, Senator ERVIN has spoken out with particular concern about the state of freedom of the press in America. He has pointed to the historical fact that a vigorous, free press is an essential ingredient of any free society. As chairman of the Senate Subcommittee on Constitutional Rights, he has conducted two series of hearings over the past 2 years which have instructed us all as to current problems facing the press in America. He is now sponsoring legislation to protect newsmen from unwarranted government subpenas.

I am delighted that Senator ERVIN is now receiving recognition outside the corridors of the Congress for his outstanding leadership with respect to this subject. At this time, I want to call to the Senate's attention several awards and honors which have been presented to Senator ERVIN in this connection.

The National Newspaper Association presented Senator ERVIN its Award of Merit for 1972 "in recognition of his efforts to articulate the true meaning and significance of the U.S. Constitution, especially first amendment rights, for the American people."

On June 28, 1972, Senator ERVIN was awarded a Special Citation of the National Press Photographers Association "in recognition of his concern that the right of a free press in this Nation shall not be eroded away, and in appreciation of his role in seeking to assure that the rights and privileges of newsgathering shall be accorded to the photojournalist."

Our colleague from North Carolina was presented on December 1, 1972, with The Paul W. White Award of The Radio Television News Directors Association "for the outstanding contribution to broadcast journalism."

As "the public official who has made an outstanding contribution for the defense

and preservation of the freedom of the news media," Senator ERVIN was awarded the Thomas Jefferson Award on February 16, 1973, by Texas Tech University, the Texas Daily Newspaper Association and the Texas Association of Broadcasters.

Finally, Mr. President, just this week, the National Association of Broadcasters recognized Senator ERVIN "for his tenacious devotion to the objectives of our American Society established by the Constitution of the United States" in a special citation.

I congratulate Senator ERVIN on these impressive and well-deserved awards. Even more, however, I commend him for his unyielding insistence that freedom of the press be preserved in our great country. He has reminded us that no people can be truly free without the freedom to know about the world in which they live and about those things which affect their lives. His leadership should be an inspiration to all Americans who love freedom and cherish liberty.

THE NEED FOR UTILIZATION OF OUR COAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, at one time, the fuel providing the most energy in the United States was coal. In recent years petroleum and natural gas have displaced coal in many of its uses. Now, it appears, coal is in position to make a comeback. Production from our domestic resources of petroleum and natural gas has not kept up with demand, and fuel shortages have hit many parts of the Nation. Our recoverable coal reserves are enormous, however, and could suffice for many decades to come.

There are two problems with this. One is that the environmental degradation caused by certain methods of coal extraction has been excessive. The solution to this problem is more careful attention to environmental factors when mining coal and the inclusion in the cost of coal of the expense of preserving mined areas.

The other problem is the conversion of coal into the liquid and gaseous hydrocarbon forms that our transportation system and appliances are designed for, and extracting the sulfur and other harmful constituents of the coal simultaneously. You cannot put coal into a gas stove or an automobile, but you can make synthetic natural gas or gasoline from it.

The gasification of coal is not science fiction. Indeed, coal gas was used for a century in cities all over the country before large deposits of natural gas were available. At least seven different methods of converting coal into pipeline-quality gas have been tested in the laboratory. Gas from commercial application of the most efficient of these processes could be available for as little as 70 cents per thousand cubic feet, including the costs of capital, operating expenses, and a 9-percent annual rate of return to the manufacturer. This price is in the range of prices for pipeline gas from natural gas wells in some areas.

It is far less than the price of imported natural gas, which comes in liquid form from overseas at prices no lower than $1 per thousand cubic feet, and poses problems of national economic security and balance-of-payment deficits.

It is also less than the price of substitute gas manufactured from petroleum liquids, which must be imported from refineries abroad, with similar balance of payments and national security considerations.

At present, pilot plants are being built to test the commercial potential of several coal gasification processes. Several firms are planning to implement the Lurgi gasification process in plants now under construction. This technology was developed years ago in Europe and is the only one commercially available now. The gas produced, however, has only half the heating value of natural gas and will cost about as much per thousand cubic feet. The more efficient means of conversion are those which still need research and development.

The Office of Coal Research of the Department of the Interior has jointly initiated projects exploring several of these processes. The most promising currently may be the CO_2 acceptor gasification process being attempted in South Dakota by Consolidation Coal Co. with support from the Office of Coal Research. Another is the HYGAS process being implemented in a pilot plant near Chicago by the Institute of Gas Technology. The American Gas Association and the Office of Coal Research have begun a program of sharing the costs of this research, two-thirds funded by the Government.

A more novel concept currently being investigated is the "in situ" gasification of coal: the formation of coal gas underground in the coal seam itself. This is a long way from commercial practicability but could eventually lead to less expensive gasified coal without the ill effects of mining.

Liquid fuels also can conceivably be manufactured from coal. The Office of Coal Research sponsored a pilot plant to produce gasoline from coal in Cresap, W. Va., constructed by the Consolidation Coal Co. This plant did not meet original design objectives, but is being reconverted to fuel oil output. Nonetheless, gasoline can be manufactured from a coal feedstock and the technology for commercial operation of such a process should be pursued. Char oil, useful for refining feedstock and as fuel in its own right, can be extracted from coal, and an Office of Coal Research project to do so is going on. Another project will use a solvent to dissolve the coal into a low-ash, low-sulfur boiler fuel.

Thus there are many potential applications of our most abundant fuel to our most vital uses, provided we have the technology to perform the conversions. Private industry has shown a ready willingness to do its part in development of these new processes. The importance of such research necessitates a Government involvement, however.

I am concerned that our efforts have not been strenuous enough. This should not be merely another lukewarm, long-range program—we must develop the capability to use our coal resources as fast as is feasible. I am hopeful that the President's upcoming energy message will dwell at length on his plans for accelerating our efforts to achieve this capability. I urge my colleagues to join with me in supporting these very important activities.

Coal is not the only resource which might be amenable to speedier development. It is well known that billions of barrels of badly needed oil are locked in shale deposits in the West. The technology for producing this oil at prices competitive with other sources is not available. A concerted Government program would, however, help greatly in achieving this new technology, aiding present industrial efforts. If we are to solve our energy problem, these options must be pursued.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of the time allotted to me without prejudice to the Senator from Kentucky.

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

MESSAGE FROM THE PRESIDENT

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

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. HUDDLESTON) laid before the Senate a message from the President of the United States submitting the nomination of Marshall Wright, of Arkansas, a Foreign Service Officer of Class two, to be an Assistant Secretary of State, which was referred to the Committee on Foreign Relations.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky (Mr. COOK) is recognized for not to exceed 15 minutes.

THE 1972 CRIME STATISTICS

Mr. COOK. Mr. President, I am very happy to note that the most recent crime statistics which were released last night by the Department of Justice report the first actual decrease in serious crime in 17 years. The preliminary year-end statistics pointed out that 94 major cities reported actual decreases in serious crimes compared with 53 cities in 1971, 22 cities in 1970, and 17 cities in 1969. Two of these 94 major cities that reported a crime decrease for 1972 are in my own State. Lexington, Ky., had a 6.5 percent decrease in serious crime while Louisville, Ky., had an 11.3 percent decrease. In addition, Members of Congress will be particularly interested to note that the Nation's Capital registered fewer crimes in almost every category. This national trend is no small feat, especially in view of the fact that the last measurable de-

crease in serious crime—2 percent—was recorded in 1955.

Mr. President, the three percent reduction in crime last year is solid proof of the success of this administration's war on crime. I want to take this opportunity, on behalf of myself and the people of my State, to thank not only the President, for his leadership in this campaign, but also the tens of thousands of hard-working and often abused law enforcement officers throughout the Nation whose diligence and dedication have made this reversal possible. We all owe them a great debt of gratitude.

In comparing these figures with those of the 1960's we find that the crime spiral peaked in 1968 when serious crime rose 17 percent above the previous year. In 1969 and 1970, serious crime increased 11 percent, while in 1971 the increase had been cut back to 6 percent.

Although there is no question that crime remains unacceptably high, we all must cooperate with law enforcement efforts and renew our national determination to make America's communities safer places in which to live. It is now our task to see that this new trend continues. We at the Federal level must continue to provide the support which local officials need to deal with crime.

I commend the distinguished Senator from Michigan for reminding us that we have three measures on the calendar this afternoon which have been reported by the Committee on the Judiciary, of which the distinguished Senator from Nebraska is the ranking minority member; that we will take up these measures and hopefully will conclude action on them this afternoon, with a substantial majority of votes.

Once again, the President has taken the lead by proposing increased aid to the States and localities, reinstitution of the death penalty for the most heinous crimes, and adoption of strong new measures to curtail the illegal traffic and use of drugs which has promoted so many crimes and destroyed so many lives in recent years.

We in Congress should join the President in the war on crime in order that future years will likewise show reductions in crime and a return to the peace, order, and tranquility which the American people deserve—not only deserve, but which they absolutely must have, to the best of our ability.

Mr. HARRY F. BYRD, JR. Mr. President, what most Americans do not realize is that even if they have never felt a gun in their back, the explosion of crime in this country is costing them money. Crime is inflationary. It is an integral part of high prices.

Fed by fatheaded permissiveness, crime has swelled to the point where it:

Increases insurance rates, which increase the cost of doing business, which increases prices.

Empties out downtown areas after dark, forcing businesses to close down or spend the money to move to the suburbs where crime again catches up with them and begins the insurance cycle all over.

Boosts taxes to pay for increased police forces, court personnel, judges, prisons.

Drives up the price of real estate in the suburbs because of the demand by homeseekers fleeing the cities.

Requires Government to spend enormous sums trying to restore the abandoned downtowns of major cities.

President Nixon is trying to fight inflation and spending by fighting crime. It is beginning to look like he is having some success.

The latest FBI statistics show that for the first time since 1955, serious crime in this country decreased by 3 percent last year.

The President's declaration of war on crime deserves much credit. His newest proposals on capital punishment, drug crackdowns, and reform of the court system deserve much consideration.

We must win the war against crime and against inflation.

REDUCTION IN CRIME IN THE UNITED STATES

Mr. EASTLAND. Mr. President, I have just had the opportunity to review the latest statistics on crime which were released yesterday by the Department of Justice and the Federal Bureau of Investigation.

This report contains the welcome and heartening figures that indicate a decrease in crime during 1972. In a nation where ever-increasing crime has become commonplace, this is indeed good news. In fact, this is the first time in 17 years—since 1955—that there has been an actual decrease in serious crime.

It is a sad fact that, in recent years, we have almost become resigned to spiraling statistics. Criminals stalked the streets in ever-increasing numbers, and our citizens were literally at the mercy of this ruthless element. We were faced with danger not only in the streets—but in our own homes. There was no haven of safety.

While our citizens fell prey to criminals, the courts were turning free those who had been apprehended by the police. It was a time that saw many charged with serious crimes back on the street to rob and kill again and again.

Over a period of two decades, the number of major crimes skyrocked year after year. We were literally living in an era of lawlessness.

Then, in 1968, the crime spiral peaked. It rose an unprecedented 17 percent above the previous year. But this was to be the highwater mark. In 1969 and 1970, the pace of the criminal was slowed—with serious crime increasing 11 percent—and in 1971, the increase was cut to 6 percent.

Now, comes 1972, and, for the first time, we see an actual decrease in major crime in the United States.

Mr. President, this is proof that the Federal Government can do something about crime.

It took a President who would state emphatically to the Nation that he intended to do something about "law and order." President Nixon set the wheels in motion that would lead to a reduction in crime.

These figures which have been presented here indicate that his efforts are paying off. But there are others that are due credit. From the man in the White House to the policeman walking the beat, each has contributed significantly to reducing crime.

I know that the Attorney General of the United States, the Nation's chief law enforcement officer, is a man dedicated to eradicating crime. I am convinced that he has done his part and will now reintensify his efforts.

The Federal Bureau of Investigation has taken the leadership in meeting the challenge of the criminal element. Not only have the dedicated special agents of the FBI dealt with crime on a first-hand basis, but the numerous services offered by the FBI to local law enforcement—in the form of crime information, training, and expert laboratory work—have contributed most significantly toward the reduction of crime.

Credit, however, is due to many, many more dedicated law enforcement officers—State police, sheriffs, and local policemen—who have formed the first line of defense between the criminal and the citizen. These men and women, in a dedicated day-to-day effort, have performed ably and with a sense of dedication to their country and its citizens. It is a sad fact that in the last 3 years alone more than 350 law enforcement officers have given their lives in the battle against crime.

Last, but perhaps most important, the citizens of this country played a significant role in the reduction of crime. It was an aroused citizenry—a Nation fed up with crime—that demanded an end to lawlessness. And it was the citizen who was not afraid to become involved that provided the key to putting the criminal behind bars.

All in all, Mr. President, this has been a national effort—an effort that has met with success. To me, it is proof that we can meet the challenge of crime and overcome it.

It is my hope that this shall constitute a rededication of our Nation and its people to the principle of law and order. We now shall go forward with a renewed sense of pride in the United States and the great country it is.

Mr. President, I am convinced that only when this Nation is free of crime will we, as a Nation, be truly free.

CRIME AND THE SMALL BUSINESSMAN

Mr. JAVITS. Mr. President, all of us are undoubtedly aware of the unique dangers of criminal violence which daily confront the Nation's small businessmen.

The FBI has reported that 63 percent of all armed robberies are committed with firearms. As I have stated so often in the past, the arguments in favor of strong, Federal gun-control legislation requiring a national system of licensing and registration are overwhelming.

A brief, thoughtful statement on the need for remedial gun control legislation has been published by the National Small Business Association. I ask unanimous consent that its text be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

IT'S YOUR BUSINESS

(By John Lewis)

Been shot at lately? Ever looked down the barrel of a .45? Experienced the thrill of a pistol whipping? Surrendered your cash receipts to thieves lately? If your answers to the above questions are "No," consider yourself fortunate. But for how long?

According to the most recent FBI Uniform Crime Reports, 385,910 mechants, manufacturers, professional offices, etc., were stuck up in 1971. To quote this Crime Report, "—63% of all armed robbery is committed with a firearm—". How many small businessmen, or their employees, or their customers were shot at, wounded, or killed? Most times for no reason other than the fact they happened to be there when the thieves arrived!

National Small Business Association, with its headquarters in Washington, has heard all the arguments and read all the literature for and against gun control. Furthermore, each plea based on the Second Amendment to the Constitution of the United States has been laid before us.

The Second Amendment of the "Bill of Rights" provides that "A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed." When this was adopted in 1791, our forefathers had a justifiable fear that foreign nations might cast covetous eyes on American geography. They had just passed through a period when the government had been unable to provide sufficient muskets for all those fighting for freedom. Further, the frontier was just opening, and a "fowling piece" was a necessary piece of equipment to ward off hostiles of any type. Until the mid-1800's there were few gun shops, fewer manufacturers, and no time to wait around for "arms" shipments from abroad.

The legitimate hunter, sportsman, honest gun collector, or target shooter, should have no beef against gun control. Our concern is with the illegitimate bounty "hunter" and the ease with which he obtains a gun to strengthen his "bargaining" position when he demands the cash, valuables, possessions, and merchandise of you and the small businessman. The small businessman as a rule is uninsured, unprotected, and bears almost always 100% of the loss—in property, injury and sometimes his own life.

Since you and small business are the most frequent victims of the "bearer of arms" misusing and unlawfully exercising his constitutional rights, something must be done.

You and small business have a selfish interest in remedial legislation. American small business and all who depend upon it are one half of the total population of the United States! Small business employs almost 50% of the private work force. That plus the employers and the families adds to over 100 million people dependent upon the wages, salaries, profits, and benefits of small business.

Should a group of cruel and ruthless individuals be allowed to march into a business establishment, brandish an easily obtained gun, and march out with the sweat-earned receipts of the proprietor and his employees?

Fiction? Listen to your radio or TV news either on any Sunday night or Monday morning. Add up, if you will, the weekend's total of armed robberies, assaults, shootings, and holdups of small businesses across the nation and in your own community. Add up also, the total number of bodies which were left dead, maimed, or punctured because a trigger-happy thief had a gun. What are the odds for or against you as you walk down a street at night?

Give your views to your Senators and your Congressman. They represent you. They want your opinion and they are responsive. As a constituent, it's your business to become involved.

ORDER OF BUSINESS

Mr. COOK. Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, would the Senator allow his time to be reserved?

Mr. COOK. Yes. I reserve the remainder of my time, and I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. And have the quorum charged against that time.

Mr. MANSFIELD. Mr. President, will the Senator withhold his request, and will he yield?

Mr. COOK. Yes. I yield.

ORDER FOR VOTE ON THE PRESIDENTIAL VETO MESSAGE TO OCCUR AT 2 P.M. TUESDAY, APRIL 3, 1973

Mr. MANSFIELD. Mr. President, this has been cleared all around.

I ask unanimous consent that the vote on the Presidential veto of the vocational rehabilitation bill occur at 2 p.m. on Tuesday next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that, beginning at 12 o'clock noon on Tuesday next, the time be equally divided between the distinguished Senator from California (Mr. CRANSTON) and the distinguished Republican leader, the Senator from Pennsylvania (Mr. SCOTT), or whomever he may designate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the unanimous consent agreement is as follows:

Ordered, That, effective on Tuesday, April 3, 1973, the Senate proceed to vote on the veto of S. 7, the Vocational Rehabilitation Act, at 2 p.m.

Ordered further, That the debate between 12 o'clock and 2 p.m. o'clock be equally divided and controlled by the Senator from California (Mr. CRANSTON) and the minority leader or his designee.

Mr. MANSFIELD. So the Senate is on notice that there will be a vote at 2 o'clock definitely on Tuesday next and there will be 2 hours of debate, the time to be equally divided.

QUORUM CALL

Mr. COOK. Mr. President, now, I suggest the absence of a quorum, the time to be taken out of the remainder of the time allotted to me.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Kentucky yield to the distinguished Senator from North Carolina some of his time?

Mr. COOK. Mr. President, I yield whatever time the Senator may require within the limitations of time allotted to me.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The Senator is recognized.

A REVERSAL IN THE RISE IN SERIOUS CRIME

Mr. HELMS. Mr. President, the statistics released yesterday by Attorney General Kleindienst reveal that last year, for the first time in almost two decades, there has been a reversal in the rise in serious crime. The FBI figures show an actual decrease in violent crime by some 3 percent—a decrease for which many Americans had almost ceased to hope during the violent years of the 1960's. These statistics are eloquent testimony to the policies espoused by the Nixon administration and by many Members of this Senate on both sides of the aisle. I join my colleagues in rejoicing at this announcement and in urging adoption of the most recent proposals which the administration has made to step up the war on crime and the criminals who perpetrate it.

But I would like to take this occasion to pause, Mr. President, and to reflect upon some recent American history, for the greatest guides for future action are the lessons we learn from the past. Specifically, I would like to take this occasion to reflect upon the permissive—indeed, the pernicious—policies which the Federal Government pursued during the 1960's. It was those policies which contributed so much to the shocking rise in crime and violence which we experienced in the latter half of the decade.

With these latest remarks by Attorney General Kleindienst in hand, I would reflect upon what we were hearing in the mid-1960's from his predecessor, Attorney General Ramsey Clark. I do not recall Attorney General Clark announcing that crime had been reduced. I do not recall his announcing that even the rate of increase in crime had been reduced.

But I do recall Attorney General Ramsey Clark lecturing Members of Congress and the American people on what he called the "rights" of violent, militant demonstrators at a time when our cities were being looted and burned. I do recall lecturing us on what he called the "rights" of accused criminals to be immediately set free on the streets and the rights of the convicted criminals to various kinds of dubious "rehabilitation" at a time when "rehabilitated" criminals paroled after short terms and accused criminals released on low bond were again indulging themselves in rapes, robberies, and murders. And I would like to take this occasion to remind Senators of the naivete, and the gross irresponsibility of those policies which Attorney

General Clark espoused and which, to such an unfortunate degree, were forced upon the American people.

Mr. President, it was not necessary for many of us to await Mr. Clark's trips to Hanoi, with associates like Miss Jane Fonda and Mr. David Dellinger, and his other curious excursions into the field of foreign affairs, to recognize innate intellectual ineptness. Mr. President, we recognized these qualities in him years ago when he had no solid accomplishments to report on behalf of his administration at the Department of Justice, but rather uttering the simplistic cliches in his advocacy of fairytale concepts of law and justice which churned such havoc upon the Nation.

Such reflection upon recent history, Mr. President, inspires in me an even greater appreciation for the tough-minded policies of the Nixon administration as the proper response to criminality.

Such reflection enables me to support with even greater assurance an uncompromising support of the war on crime.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HUDDLESTON). Under the previous order, the Senator from Louisiana is recognized for not to exceed 15 minutes.

CATASTROPHIC HEALTH INSURANCE

Mr. LONG. Mr. President, I ask unanimous consent that Mr. Michael Stern, of the staff of the Committee on Finance, have the privilege of the floor while this statement is being made.

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

(The remarks of Senator LONG on the introduction of S. 1416, to provide catastrophic health insurance coverage, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

EXTENSION OF INTEREST EQUALIZATION TAX—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 3577, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H.R. 3577) to provide an extension of the interest equalization tax, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report signed by all of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of March 28, 1973, at pp. 10029–10030.)

Mr. LONG. Mr. President, the Senate made some 15 amendments to the interest equalization tax when it was before us. All but two of these the House has agreed to.

One of the amendments to which the House did not agree was our amendment extending this tax until April 1, 1975. The House version of the bill extended the tax until July 1, 1974. The House conferees indicated that they desired to reconsider this tax in depth before the end of this Congress. Your conferees believe that it did in fact make very little difference whether this reconsideration occurred before the end of June 1974 or before the end of March 1975. We plan to reconsider the tax, and it makes little difference to us as to which time this occurs. Because of the House conferees' insistence on this point, we accepted their June 30, 1974, date for the extension of this tax.

The other Senate amendment which I was unable to keep on the bill was the amendment offered here on the floor which would have required by the Secretary of the Treasury not later than 120 days after the date of enactment of this act to submit to Congress proposals for a comprehensive reform of the tax laws.

Chairman MILLS of the House Committee on Ways and Means informed the Senate conferees that the Secretary of the Treasury was already specifically committed to appear before the Ways and Means Committee on April 30, 1973, and possibly also on May 1, 1973, to present the administration proposals on tax reform. Since this opportunity for appearance had been offered by him to the Treasury and since the Treasury had already officially accepted and agreed to appear on that date, the House conferees thought that this amendment requiring the submission of tax reform proposals was no longer necessary and in fact was inappropriate.

It seems to me that we have accomplished everything that the Senate sought to do by this amendment. We have obtained specific assurance that the administration proposals on tax reform will be presented to the Congress well within the 120-day period provided by the Senate floor amendment. In addition, the House conferees resisted this amendment because, under the rules of the House, it would be nongermane to this particular bill.

In view of these considerations, the Senate conferees really could not further insist on retaining this amendment.

It is important that we act promptly on this conference report because the tax expires this Saturday night at midnight. In view of that, I urge the Senate to promptly agree to this conference report.

Mr. TOWER. Mr. President, would the Senator withhold that motion? The Senator from Utah (Mr. BENNETT) wanted to address himself to this matter. I would appreciate it if the Senator would defer his motion.

Mr. LONG. I am pleased to do so.

Mr. JAVITS. Mr. President, if the Senator would yield, I happened to be in the Chamber and heard the Senator's explanation of the reasons why the Senate conferees were willing to drop the 120-day amendment. I understand that and I do not think that we need to get into a row about that particular point.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. ROBERT C. BYRD. Mr. President, I believe that I have 11 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I yield my time to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for an additional 11 minutes.

Mr. JAVITS. Mr. President, the Senator may recall that I had a similar amendment and that the administration assured us that a report would be out. For one reason or another it was not The Senator may recall that we were also due to get a similar report at the end of the year. There was a big crisis involved then, and they did not submit it at that time.

The purpose of the Senate being so clear and the Senator from Louisiana being sympathetic to that purpose, would it be proper for the Senator to spread his interpretation of this matter on the record to the effect that this be done by April 30 and that if it is not done in the House Ways and Means Committee, it will be done in the Senate Finance Committee? The Senate is entitled to get its presentation of this tax package within this time.

Mr. LONG. Mr. President, that is what will happen. The chairman of the House Ways and Means Committee told us that the Secretary of the Treasury had agreed to come before his committee and explain the administration's position on tax reform, which I am sure will be to recommend certain measures and not recommend others. The chairman of the House Ways and Means Committee will give consideration to the administration's position on tax reform during this committee's hearings on tax reform. Under those circumstances, I asked the chairman of the House Ways and Means Committee if he believed they would do exactly that. The chairman of the House committee has not the slightest doubt about it. His view is, of course, that that is what the Secretary will do, tell us what the administration's recommendations are.

I am sure that like any other administration recommendation, it will make some people happy and other people unhappy. It will be between those two extremes.

My guess is that it will be a recommendation which the advocates of raising taxes for a group whom they believe to be favored will be disappointed. Others will be highly pleased. It depends upon which view one holds. In my judgment, tax reform means something different

for perhaps each Senator. Each Senator has his own idea on tax reform. However, we will have the administration's position stated on April 30, and perhaps it will be continued over to May 1. The administration will state it and explain it. And the House Ways and Means Committee from that point forward will determine how far they want to go with that matter. They have their own ideas on that. They will send us the bill when they complete their action, and it will then be our turn to vote upon the matter.

Mr. JAVITS. Mr. President, I understand that perfectly. My point is that, as on two previous occasions our hopes have been dashed in that regard, would the Senator from Louisiana assure the Senate that he, too, has a very important committee, and that while he cannot in his committee initiate tax reform, he certainly has the right to ask the administration to keep its promise?

If this hope fails over there, I would like to know whether the Senator thinks that it should fail here in view of the declared intention of the Senate.

Mr. LONG. No, I do not think it should. I do not think that is part of the problem. I think that is part of the reason why the House would not accept that, in view of the fact that he told them that he would be there then. It is a promise that the administration will be there by that date. The Secretary of the Treasury has already agreed to be up here much quicker than would otherwise be the case.

Mr. JAVITS. Mr. President, I only ask the Senator if he will join with the rest of us in seeing that this gets done.

Mr. LONG. Yes; I do not want it understood that my ideas on tax reform will be the same as those of the Senator from New York. He represents a great State that has enormous interests in the revenues of the Government because it pays a great deal of those revenues. I represent an average size State. The Senator's State is located in one part of the country and mine is located in another. Our States have different interests, as is the case with all States. But they will be worked out. Invariably I will have an idea on tax reform that varies from the ideas of the Senator from New York, and vice versa.

Mr. JAVITS. Mr. President, I know the Senator understands that I have no desire to load the deck in favor of my State. It is merely the fact that we want the administration at a given time to state its position.

Mr. LONG. The Senator is correct. I am sure that will be the case. And I have been assured by the House that that will be the case.

Mr. BENNETT. Mr. President, if the Senator will yield, as a member of the conference committee, I support the chairman in his interpretation of the situation. And I would like to say to the Senator from New York that a bill will come from the House. And when it does, he and other Senators will have the right to appear before the Senate Committee on Finance and indicate whether it satisfies their interpretation of what the bill should be.

I agree with the distinguished Senator from Louisiana that when the Secretary of the Treasury had already given the chairman of the committee assurance that he would be there to discuss the administration's position, we should at least give him that chance. If he fails, there will be other opportunities to attach a similar amendment to another bill.

I hope that the conference report will be agreed to.

The PRESIDING OFFICER (Mr. HUDDLESTON). The question is on agreeing to the conference report.

The conference report was agreed to.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, will the Senator yield me 3 minutes?

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

The PRESIDING OFFICER. The Senator from West Virginia has 3 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield 3 minutes to the Senator from New York.

THE PRESIDENT'S QUESTIONED CONSTITUTIONAL AUTHORITY TO BOMB CAMBODIA

Mr. JAVITS. Mr. President, I wish to raise today a serious question respecting the authority of the President under the Constitution in the continuing air bombing in Cambodia.

The question is most serious for two reasons: First, it bears on the Senate's prospective action in again considering the War Powers Act which is designed expressly to deal with the twilight zone in the Constitution respecting the war-making powers; and second, it raises a major issue of policy concerning military operations in the Indochina area and the effect upon those operations of laws heretofore enacted dealing with Cambodia.

I wish to make it clear that the issue is not whether it is in the American interest that this bombing in aid of the central government's forces in Cambodia is substantively desirable but rather who is to determine that fact for the United States. It is my judgment that it must be determined by the Congress and the President acting together and not by the President alone, as is apparently being done now. Thus, I believe the President should submit to the Congress the reasons for these actions in Cambodia and seek concurrence of the Congress in them.

I say this also because I believe that these military actions under the circumstances are directly affected by specific provisions of law—one of which I authored—and are, in addition, clearly actions putting forces of the United States into hostilities without prior authorization of the Congress.

I wish to point out that there are no treaty questions involved, as the present government of President Lon Nol has removed Cambodia from the purview of the Southeast Asia Treaty Organization Treaty. In this respect, then Acting Secretary of State Richardson wrote the Senate Foreign Relations Committee on May 30, 1970, "the SEATO Treaty has no application to the current situation in Cambodia."

Nor can air bombing in Cambodia be any longer justified on the same ground that President Nixon justified the move of U.S. forces into Cambodia. On April 30, 1970, when the operation began, he said that his actions were necessary:

> To protect our men who are in Vietnam and to guarantee the continued success of our withdrawal and Vietnamization programs, I have concluded that the time has come for action.

And in July 1970, when describing the reason for this operation, he said:

> The President of the United States has the constitutional right—not only the right, but the responsibility—to use his powers to protect American forces when they are engaged in military actions.

But, today is the day that the American military presence in Vietnam is officially at an end.

I am deeply concerned that none of the laws enacted by Congress affecting Cambodia allow the policy now apparently being pursued there and which policy was most accurately phrased by Secretary Rogers when he testified before the House Foreign Affairs Committee on March 14, 1972, in support of the Cambodian aid request, stating:

> As you know, one of the reasons we have increased the request for Cambodia assistance is that we are anxious to see that the Government in Cambodia survives.

Nor do I find anything in article 20 dealing with Cambodia and Laos of the Agreement on Ending the War and Restoring the Peace in Vietnam signed in Paris on January 27, 1973, to authorize the hostilities being engaged in absent the concurrence of the Congress.

The pertinent provisions of the laws affecting air bombing in Cambodia were contained in the Supplemental Foreign Assistance Act of 1970, section 6 6(b), of which read as follows:

> Military and economic assistance provided by the United States to Cambodia and authorized or appropriated pursuant to this or any other Act shall not be construed as a commitment by the United States to Cambodia for its defense.

I was myself the author of this section (6b). It has undergone some change in succeeding acts, but still reads as follows:

> Enactment of this section shall not be construed as a commitment by the United States to Cambodia for its defense.

Accordingly, I believe it appropriate to ask if we are going to continue the bombing in Cambodia in support of the forces of the Central Government of that country. If so, then the President should seek the concurrence of Congress.

It is my considered judgment that if the War Powers Act as passed by the Senate by a vote of 68 to 16 in 1972 were now in effect, the President would be required to make such a request according to the procedures specified in that act. I believe it greatly in the interest of our country that a comparable request should

now be made by the President before proceeding further in Cambodia.

I would like to quote the majority leader, Senator MANSFIELD, who said recently, regarding the military action in Cambodia:

If we are not careful, we have got the makings of another Vietnam.

These words should be carefully heeded by all in Congress and the Executive, especially in light of the recent tragic chapter of history in Vietnam.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

THE CONTINUED BOMBING IN CAMBODIA—BY WHOSE LEAVE?

Mr. EAGLETON. Mr. President, I would like to join the sentiments and remarks just expressed by the distinguished Senator from New York. I likewise am troubled by the bombing in Cambodia, inasmuch as it has no legal or constitutional basis.

As the Senator from New York has stated, the SEATO Treaty cannot apply as a legal justification for our action in Cambodia. This treaty requires the unanimous agreement of all parties before it can be implemented in the defense of either a signatory or a protocol nation. In addition, of course, the SEATO Treaty, as is the case with other mutual defense treaties, can be used as a vehicle for engaging in hostilities only in accordance with the constitutional processes of each nation.

To even suggest that this treaty could be used to demonstrate legal authority for the bombing in Cambodia would be an insult to this Congress and to the American people.

The Gulf of Tonkin Resolution has long since been repealed. Since the repeal of that resolution in January 1971, the President has, in my opinion, been on very shaky legal ground in conducting offensive military operations in Indochina. Now, however, I do not think that, even using the broadest and most Gargantuan interpretation of the Commander in Chief's authority, the President may unilaterally continue bombing in Cambodia. The one legal straw the President did have after the repeal of the Gulf of Tonkin Resolution—the protection of American forces—is no longer applicable.

The initial foray into Cambodia and the bombing in Cambodia, Laos, and Vietnam was considered at one time to be a part of the President's power to protect American troops there during the withdrawal process. Now that our troops have been totally withdrawn, that rationale for operation in Cambodia goes by the board.

I pay tribute to the Senator from New York for making these remarks on the floor of the Senate, and I agree with him that had the War Powers Act been enacted by Congress last year—as he mentioned, it passed the Senate but an agreement could not be reached in conference with the House—we would have had an appropriate vehicle to determine whether the President had this authority. In my opinion he clearly does not.

As long as we have no legislation in the war powers area, the President is free to describe his power in the broadest possible way. Even before passage of our bill, however, we should not permit such broad interpretations.

What the State Department is now preparing as legal justification for our bombing in Cambodia should be a lesson to this Congress that, if we are to protect our own constitutional prerogatives in the warmaking area, we must carefully delineate the powers of both the President and Congress.

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

Mr. EAGLETON. I yield.

Mr. JAVITS. I wish to pose a rhetorical question to the Senator. There is nothing in the War Powers Act to prevent the President from asking immediately and getting action on the part of Congress immediately; there is no requirement, under the War Powers Act or whatever the methodology may be; he can ask immediately and get action immediately, is that not true?

Mr. EAGLETON. The Senator is correct.

Mr. JAVITS. I thank my colleague.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION FROM DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to prevent the unauthorized manufacture and use of the character "Woodsy Owl," and for other purposes (with an accompanying paper). Referred to the Committee on Agriculture and Forestry.

REPORT OF NATIONAL COMMISSION ON CONSUMER FINANCE

A letter from the Chairman, National Commission on Consumer Finance, transmitting, pursuant to law, a report of that Commission, dated December 31, 1972 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT ON STUDIES OF DEATH, INJURIES, AND ECONOMIC LOSSES RESULTING FROM ACCIDENTAL BURNING OF PRODUCTS, FABRICS, OR RELATED MATERIALS

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on studies of death, injuries, and economic losses resulting from accidental burning of products, fabrics, or related materials, for the fiscal year 1972 with an accompanying report). Referred to the Committee on Commerce.

REPORT ON UTILIZATION OF AUTHORITY TO DESIGNATE AND RENT INADEQUATE QUARTERS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on the utilization of authority to designate and rent inadequate quarters, lease family housing and hire quarters, for the calendar year 1972 (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need to Control Discharges From Sewers Carrying Both Sewage and Storm Runoff," Environmental Protection Agency, dated March 28, 1972 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT ON STATUS OF THE COLORADO RIVER STORAGE PROJECT AND PARTICIPATING PROJECTS

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report on the status of the Colorado River storage project and participating projects, for fiscal year 1972 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORT OF GOVERNMENT COMPTROLLER FOR GUAM

A letter from the Deputy Assistant Secretary for Territorial Affairs, Department of the Interior, transmitting, pursuant to law, the annual report of the Government Comptroller for Guam of the fiscal condition of the Government of Guam, for the year ended June 30, 1972 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORT OF IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report of that Service, for the year ended June 30, 1972 (with an accompanying report). Referred to the Committee on the Judiciary.

REPORT OF ACTION

A letter from the Assistant Director of ACTION Congressional Affairs, transmitting, pursuant to law, a report of that Agency, for the period July 1971, through June 1972 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT ON FUTURE PLANS FOR CERTAIN PUBLIC HEALTH SERVICE HOSPITALS

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on future plans for certain Public Health Service hospitals (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM CIVIL SERVICE COMMISSION

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to provide for payments by the Postal Service to the civil service retirement and disability fund for increases in the unfunded liability of the fund due to increases in benefits for Postal Service employees, and for other purposes (with accompanying papers). Referred to the Committee on Post Office and Civil Service.

PROPOSED LEGISLATION FROM THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Highway Safety Act of 1966, title 23, United States Code, section 401 et seq., and for other purposes (with accompanying papers). Referred to the Committee on Public Works.

PROPOSED LEGISLATION FROM ATOMIC ENERGY COMMISSION

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting a draft of proposed legislation to amend the EURATOM Cooperation Act of 1958, as amended (with accompanying papers). Referred to the Joint Committee on Atomic Energy.

LEGISLATIVE REVIEW REPORT OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS—REPORT OF A COMMITTEE (S. REPT. NO. 93-95)

Mr. JACKSON. Mr. President, in accordance with the provisions of section 118 of the Legislative Reorganization Act of 1970, I submit the legislative review report from the Committee on Interior and Insular Affairs.

The 1970 act requires that each standing committee of the Senate shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

The report I submit today covers the activities of the Committee on Interior and Insular Affairs during the 92d Congress, and I ask that it be printed at this point in the RECORD.

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

OVERSIGHT FUNCTION AND REVIEW ACTIVITIES OF THE SUBCOMMITTEE ON INDIAN AFFAIRS FOR THE 92D CONGRESS

JURISDICTION

The Subcommittee carries jurisdictional responsibility for the oversight activities over the full range of social and economic issues inherent in the Federal relations of American Indians and Alaska Natives. In addition, the Subcommittee maintains an official interest in the programs and activities of the Bureau of Indian Affairs, the Indian Claims Commission, and the Indian Health Services of the U.S. Public Health Service.

No major Subcommittee oversight hearings were conducted into Indian Affairs during the 92nd Congress. However, Subcommittee staff, assisted by GAO supervisory auditors from the Washington, D.C. headquarters and Denver regional offices, conducted an investigation of the activities of Fort Belknap Builders, Inc., a tribal corporation conducting business on the Fort Belknap Reservation, Montana.

The issue on the Fort Belknap Reservation, in general, involved the following:

(1) The official tribal governing body established a corporation under State law whose major purpose was to enter the home construction field.

(2) It was proposed that this corporation, The Fort Belknap Builders, Inc., would assume construction of various Federally subsidized housing projects designated for this Reservation.

(3) The official tribal governing body and the corporation borrowed heavily from private banks in the State of Montana to finance their operation.

(4) The corporation contracted with a private consulting firm to provide general managerial support for the corporation's activities.

(5) Despite the fact that the corporation experienced a substantial cash flow, both from the loans from private banks and Federal funds to support the housing projects, the Builders' corporation subsequently faced a serious financial crisis and found itself behind schedule in completion of the required units in the housing project.

(6) Both the official tribal governing body and the corporation are faced with a heavy indebtedness with no prospect of meeting these obligations.

(7) This entire issue raises serious questions concerning the role and responsibilities of the Department of the Interior and the Department of Housing and Urban Development.

The Subcommittee staff investigation of this issue was incorporated into a formal Committee Print for the use of the full Committee and the public.

OVERSIGHT FUNCTION AND REVIEW ACTIVITIES OF THE SUBCOMMITTEE ON WATER AND POWER RESOURCES

The Subcommittee on Water and Power Resources has the legislative oversight responsibility for legislation and activities relating to irrigation, reclamation, water supply, and related power, recreation, and fish and wildlife conservation; interstate compacts apportioning water; the Federal desalting program; water resources research, planning, and development; and weather modification for increasing water supply. The subcommittee's jurisdiction includes all or part of the activities of the following Federal agencies:

Department of the Interior:
Bureau of Reclamation.
Bonneville Power Administration.
Southeastern Power Administration.
Southwestern Power Administration.
Office of Saline Water.
Office of Water Resources Research.
National Water Commission.
Water Resources Council.

Legislative actions

During the 92d Congress, the Committee undertook legislative oversight hearings of a number of programs on the occasion of considering specific legislation as follows:

Water resources research

In consideration of S. 219 (H.R. 10203), that portion of the program of the Office of Water Resources Research which supports the work of the research institutes in the several states was reviewed in detail. A number of administrative revisions were made in the program including a major increase in the annual level of funding (P.L. 92-175).

Saline water conversion program

A fundamental review of the Federal program for research and development in desalting was initiated by the Committee in the 91st Congress. In the 92d Congress, a report requested by the Chairman from the Office of Science and Technology was received. The enabling legislation authorizing the program was substantially redrafted to reflect the status of the technology and emerging new needs of society for desalting (S. 991). Major redirections and an extension of the authority were made (P.L. 92-60).

Small reclamation loan program

A number of changes were made in the procedures of the small reclamation projects loan program to correct problems which have been experienced in its administration thus far (P.L. 92-167). A complete review of the program's accomplishments was made.

Colorado River storage project

A review of the status of work by the Bureau of Reclamation on the comprehensive Colorado River Storage Project was made in connection with the authorization of additional appropriations (P.L. 92-370).

Missouri River Basin

A regular two-yearly review of the status of work by the Bureau of Reclamation in the Missouri River Basin was made in connection with the authorization of continued appropriations (P.L. 92-371).

Irrigation Distribution System Loan Program

A review was made of the accomplishments and performance of the Bureau of Reclamation under the loan program for construction of irrigation distribution systems. Changes in the administration of the program were made (P.L. 92-487).

Special actions

Southwest Powerplants

The Committee undertook a major study of the impact upon the desert regions of the Southwest of construction of a coal-fired powerplant complex involving a variety of Federal actions within the Committee's oversight jurisdiction. Hearings and inspections were held in the Southwestern States, and hearings were held in Washington, D.C. The Committee reported its findings and recommendations to the Senate on August 4, 1972 (S. Rept. 92-1015).

Rehabilitation and Betterment Projects

In accordance with the provisions of the enabling Act, four reports of the findings of the Secretary of the Interior concerning proposed plans for the rehabilitation and betterment of existing reclamation projects were received and reviewed by the Committee prior to initiation of the work.

Small Reclamation Projects

In accordance with the provisions of the enabling Act, findings of the Secretary of the Interior on two proposed loans for the construction of small reclamation projects were received and reviewed prior to initiation of the work.

Water Research Grants

Proposed grants for research under the provisions of the Water Resources Research Act were submitted to the Committee for review prior to commitment of the funds.

Periodic reports

Annual reports were received by the Committee as follows:

Status of the Colorado River Basin Project;
Quality of Water, Colorado River;
Activities of the National Water Commission;
Activities of the Office of Water Resources Research;
Activities of the Bonneville Power Administration;
Activities of the office of Saline Water;
Progress of Work on the Western U.S. Water Plan;
Reports of River Basin Commissions established under the Water Resources Planning Act;
Activities of the Water Resources Council;
Status of the Upper Colorado River Basin Fund;
Operation of Colorado River Basin Storage Facilities; and
Status of the Colorado River Storage Project and Participating Projects.

RE: OVERSIGHT FUNCTIONS OF THE PARKS, AND RECREATION SUBCOMMITTEE

Oversight hearings on snowmobiles and other off-road vehicles—May 15, 1971

Basically the following conclusions were reached at this session.

(a) Development and production of these vehicles have moved faster than our regulatory and legislative machinery.

(b) Existing State law and Federal regulations are not adequate for the job.

(c) Until recently, we have proceeded under the assumption that when a vehicle is not used on public highways, it need not be licensed. It is now known that this assumption is no longer valid. The proliferation of off-road vehicles is an immediate problem.

(d) An off-road vehicle is any motorized vehicle capable of being utilized off an established road. This definition encompasses a variety of four-wheeled vehicles including those with four-wheel drives, dune buggies, and amphibians, two-wheeled vehicles from trail bikes to motorcycles, snowmobiles, and a variety of specialized propelled vehicles. New air-cushioned machines are now appearing.

(e) Uses cover a wide range. There are individual activities including cross-country

tours, exploration, sightseeing, and transportation to hunt and fish. There are numerous group activities which encompass the types of use just mentioned plus competitive events which draw numerous participants and spectators.

Uses also cover a wide variety of lands. Vehicles can now travel over swamp, tundra, marsh, sand dunes, ice and snow fields, and steep terrain. They are often powerful enough to bring along sufficient supplies for lengthy stays.

(f) There are good and there are harmful aspects in the development of off-road vehicles. Public land managers actually pioneered in the use of some of these vehicles for administrative purposes. Search and rescue missions, firefighting, and other emergency work are obvious pluses. To the frustrated and harassed urban dweller, they provide both release and recreation. Properly operated, individual vehicles do only limited damage to the soil, water, vegetation, and fauna resources during most periods of the year. A major impact is from their sheer numbers: The multiplicity of small impacts. Intensive use on limited areas or on fragile sites leaves devastating scars. Heavy indiscriminate use may have substantial irreversible effects.

(g) In certain respects the vehicles are self-defeating. The two- and four-cycle engines used on vehicles, not licensed for highway use, present substantial noise problems. Areas which were once remote find their quiet shattered. The vehicle destroys the solitude sought.

Many drivers of off-road vehicles are in clubs or organizations that seek to establish safe and considerate practices.

(h) Groups such as the dune buggy operators often construct their own vehicles and proceed with a strong sense of comaraderie in what becomes a family enterprise. The snowmobilers have likewise shown a commendable interest in improved use and safety conditions. The pickup camper group is another highly organized group of users. Motorcyclists are likewise organized but exhibit more individualistic characteristics.

(i) Tragic accidents involving use of off-road vehicles are on the increase. A certain number of accidents is probably inevitable. However, a complicating problem on the public lands is the fact that many visitors are urban dwellers unfamiliar with the hazards of the open country. Another is the large number of dangers that exist on the public lands carrying over from the day when these lands were essentially remote and inaccessible. Abandoned mining shafts and pits are one example.

Specific recommendations were submitted at this hearing which reflected the convictions of a majority of the individuals in attendance. These were:

1. All off-road vehicles should be registered and licensed by the state through a system having appropriate national standards, such as that used for boats. Fees should be established and administered on the principle that the users pay for the services and accommodations they receive. Fees should be adequate to cover the total cost of the program, including land classification, trail or area designation and maintenance, effective education, and enforcement. Authority for enforcement must be clearly established. It is shocking that the Bureau of Land Management lacks anything approaching adequate enforcement authority although it administers the largest acreage of public lands where demands for the use of a variety of types of off-road vehicles are constantly increasing. Full flexible authority should be granted immediately to all federal, state, and local governmental land-managing agencies for handling these vehicles.

Use of off-road vehicles should be permitted only in designated areas or on specific trails at prescribed periods of time. Flexible authority should be granted to permit top-level administrators to close any area or trail upon one or two days notice to prevent erosion, curtail resource degradation, minimize irritating recreational conflicts, eliminate opposition to off-road vehicular activities with the primary purposes of an area, and enhance safety. The overall goal should be to permit reasonable use of off-road vehicles, while simultaneously preventing and minimizing degradation and destruction of (1) fragile soils and aquatic areas, (2) biotic communities, (3) fish and wildlife food and cover and forest seedlings, (4) other important landscape and economic values, and (5) citizen property and privacy rights.

Regulations should prohibit the pursuit, harassment, and taking of all wildlife with the aid of any off-road vehicle. Chasing and killing foxes, coyotes, and other creatures with the aid of snowmobiles and other vehicles, as has been done in past years, should be prohibited. Similarly, off-road vehicles should not be permitted in or near winter concentrations of wildlife. At least some snowmobiles may not realize that disturbing wildlife, such as deer or elk, during the critical winter months can cause additional stress that often means the difference between life or death. This is especially true toward the end of winter when deer and other yarding mammals may have small energy reserves. These reserves can be depleted quickly and the animals exhausted if they are forced to struggle through deep snow in attempting to escape curious pursuers. Concentration areas of wintering deer and other forms of wildlife should be non-use areas for off-road vehicles.

4. Perhaps, by attacking this problem in its early stages, it was concluded that we might avoid the complexities and enigmas which have characterized our experience with the close to 100 million automobiles and trucks that now operate on the streets and highways of this country.

General oversight hearings on the National Parks to cover such problems as traffic management, safety and vandalism were held on June 15, 1971

This was an effort to "take stock" of certain trouble spots that have developed within the national park structure and to ascertain from proper officials what the plans are for future developments or refinement in the Park System.

The concept of a National Park, originally designed for nature preservation, has evolved during the past 100 years with many mutations and innovations in response to national needs. For example, in 1906, largely in response to the depredations on the Indian ruins of the Southwest, the Congress authorized the President to establish—by Proclamation—National Monuments from lands owned or controlled by the United States to protect "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest."

The Act of March 3, 1933, providing for reorganization within the Executive Branch, resulted in an Executive Order transferring to the Department of the Interior for administration by the National Park Service the national memorials and parks of our Nation's Capital, many national monuments, and historical and military parks administered by other Federal agencies.

Again, in 1935, the Congress authorized the Secretary of the Interior—by Secretarial Order—to establish National Historic Sites in either private or Federal ownership to preserve our national history.

In the meantime, the Congress adopted by law a wide variety of park concepts, such as "National Historical Park," "National Military Park," "National Memorial Park," "National Battlefield," "National Battlefield Park," and "National Battlefield Site."

In 1936, the Congress enacted the Park, Parkway and Recreation Area Study Act directing the Secretary of the Interior to make "a comprehensive study * * * of the public park, parkway, and recreational-area programs of the United States * * * such as will provide data helpful in developing a plan for coordinated and adequate public park, parkway, and recreational-area facilities for the people of the United States."

These studies developed the National Seashore and Recreation Demonstration Area concepts. (Some of these Recreation Demonstration Areas, such as Prince William Forest Park and Catoctin Mountain Park were retained in the National Park System while others were transferred to the States.)

This history is necessary in order to demonstrate the various development phases that took place during the formative stages of the System.

The principal concern presently with regard to the National Parks is the very high level of visitor usage—and the attendant automotive traffic that such usage brings to the Parks. The number of visitors in and of themselves is not threatening to the parks, but it is firmly believed that the number of automobiles presently funneled into park units are the cause of substantial damage. The Park Service recognizes this because it is presently banning automobiles from one or two congested parks, or parts of them, and is considering implementing this policy in other areas.

There is no conflict between protecting parks in their natural state and providing outdoor recreation for those who seek it. The need is for a combination of wilderness protection and increased recreation within the parks for the enjoyment and appreciation of these areas in both their natural and developed state. More recreational development outside the parks in the public and private lands of the surrounding regions is also necessary.

There have been heavy expenditures for roads to make it easier for millions to enter the parks. There have not been corresponding increases in expenditures for personnel to supervise the crowds and to protect the parks. This is best demonstrated by the increase in vandalism in some of the parks and the difficulty experienced in handling large volumes of traffic without sufficient personnel. This situation is also reflected in the troublesome safety condition that has sprung up in a few locations. This has caused serious public reaction, and again it is felt that increased ranger protection would lessen the problems measurably.

Consideration of steps that might be taken to increase the ratio of rangers to visitors ought to be approached on an emergency basis and then followed with regulations by the Secretary of the Interior.

Summer resort and carnival features within the parks can be cut back. Vehicles adapted to off-road use have multiplied at an alarming rate and should be restricted in all parks as soon as practical.

The oversight hearing also disclosed that the National Park Service has made some remarkable advancement in recent years in such important fields as general management, maintenance, law enforcement, and personnel development. The public has responded through an ever increasing patronage of the 290 units in the Park System and by an avalanche of commendatory letters. As an illustration of this improvement the Service points to:

Travel expenditures of $7.8 billion by visitors in 1970 on their way to, and in the vicinity of, the areas of the National Park System, amount to more than ten percent of the total expenditures in the travel industry.

Significantly, this gross expenditure of park visitors resulted in personal income of $5.9 billion to employees and businesses pro-

viding tourist services along the way and in the parks.

Of this personal income, an estimated $1.2 billion was returned to the Federal Treasury in Federal taxes, to say nothing of uncounted taxes at the State and local levels of Government.

Another commendable practice which the National Park Service has adopted within the last year is to hold pre-master plan hearings, at which the Service does not present any plan but simply listens to the ideas offered by the public. Once it has heard the public, it develops its own recommendations and then later holds a public meeting (for master plans) or hearing (for wilderness plans) at which it presents the NPS proposal. Once it has taken the public's views into consideration it publishes its final plan (in the case of master plans) or sends its recommendations to Congress (in case of wilderness plans).

The pre-master plan hearing is a highly desirable step because it allows the public to formally present its ideas to the agency team before it has begun to crystalize its own ideas. Another step in this direction: include public members on all master planning and wilderness teams, and let the public be involved in the selection.

The Senate Subcommittee on Parks and Recreation feels strongly that over-sight hearings on the operations and development of practically all Federal Agencies is a desireable practice. It provides both the legislators and the agency an opportunity to constructively review accomplishments and problems that have developed over a designated period.

OVERSIGHT FUNCTION AND REVIEW ACTIVITIES OF THE SUBCOMMITTEE ON TERRITORIES AND INSULAR AFFAIRS

The Subcommittee is primarily responsible for the oversight of legislation and activities relating to the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa. On-site examination of activities at these jurisdictions is hampered due to time and distance factors. Numerous reports from the comptrollers of the Virgin Islands and Guam were received and reviewed during 1971–72.

Guam

The Chairman and staff of the Subcommittee attended the 1971 Conference of Pacific Legislators in Guam, and subsequent to the conference made a visual inspection of a number of facilities constructed in the territory pursuant to legislation enacted in the 88th Congress (Public Law 88–170) to provide for the rehabilitation and replacement of facilities that were destroyed by typhoons in 1963. Authorization for the rehabilitation program expires in fiscal year 1973. Upon return to Washington legislation was introduced to extend and expand the program to meet unanticipated needs following receipt of a complete audit of construction activities.

Other matters of continuing interest to the Subcommittee are:

(a) Needed revision of the tax code relating to equal treatment of U.S. firms doing business in Guam.

(b) The need for a forum before which Guamanians may appear to press their claims for fair value of lands acquired by the U.S. Navy immediately following the retaking of Guam from the Japanese in 1944.

Trust Territory of the Pacific Islands

The most significant legislation relative to the Trust Territory of the Pacific Islands enacted during the 92nd Congress provided for the establishment of the Micronesian Claims Commission to adjudicate both World War II and postwar claims of the citizens of the territory who were damaged by wartime activities.

A second piece of major legislation would expand the Economic Development Loan Fund available to the territory in order to encourage further development and job opportunities through expansion of the business community.

During hearings on these two legislative proposals the Subcommittee had before it representatives of the administration of the territory and examined closely the background need for the bills, as well as the effectiveness of the already existing economic development program.

The Micronesian Claims Commission had just been appointed and begun to function at the conclusion of the 92nd Congress and will be the subject of further study by the Subcommittee in the carrying out of its responsibilities over the four-year span of life the Commission has been given.

The review of the economic development loan program resulted in the enactment of Public Law 92–257 which substantially strengthened the guidelines for the making of loans, the terms and conditions thereof, and other appropriate directives to administrators in order to make the program more effective than it has been in the past.

At the outset of the 93rd Congress it will be necessary to authorize funds for the continued administration of the Trust Territory. At that time close examination will be made into progress of the capital improvement program which has been steadily increased during the past four years.

The Subcommittee has held several informal meetings with members of the U.S. team of negotiators who are currently involved in working out a new political status for Micronesia. It is contemplated that legislation to terminate the existing trusteeship and to establish a new but as yet undetermined relationship with the territory will be forthcoming in the 93rd Congress.

Virgin Islands

The Chairman of the Subcommittee visited the Virgin Islands during the 92nd Congress, spoke with local officials, and has introduced legislation directed to solving minor problems in the territory.

A Constitutional Convention has been operating for several months in the Virgin Islands, and it is expected that at the beginning of the 93rd Congress proposed legislation will be submitted to the Congress to provide for a constitution for the territory, or, in the alternative, a revision of the 1954 Organic Act. At that time, the Subcommittee plans to hold extensive hearings on legislative and administrative issues.

The Committee has expressed concern to the Governor of the Virgin Islands about certain deficiencies in the proper accounting of the expenditure of local funds, as noted by the Virgin Islands Comptroller, and oversight in the matter is continuing.

American Samoa

A review of activities in American Samoa will be undertaken in the 93rd Congress when legislation relating to the election of the Governor and economic development of the territory is considered.

REPORT OF LEGISLATIVE REVIEW ACTIVITIES SUBCOMMITTEE ON MINERALS, MATERIALS AND FUELS, 92D CONGRESS

The Subcommittee on Minerals, Materials and Fuels of the Senate Interior and Insular Affairs Committee is responsible for all proposed legislation and other matters including legislative oversight relating to the mineral resources of the public lands, including public lands withdrawn as forest reserves and the Outer Continental Shelf; alien ownership of mineral lands; mining interests generally; mineral laws, including mining and leasing laws governing the disposition lease and sale of mineral interests owned by the United States and activities of the Bureau of Land Management, Geological Survey and the Bureau of Mines in administering such mineral laws; mining schools and experimental stations, supervision as trustee of mineral rights owned by the Indians and petroleum conservation and conservation of natural mineral resources.

Special Committee action included the following:

A review in March of 1971 of the Helium Conservation program of the Department of the Interior, including the preparation of a printed record of the proceedings.

A review in November of 1971 of the Department of Interior's proposed prototype oil shale leasing program under the Mineral Leasing Act of 1920, including the environmental problems of oil shale, the economics of environmental protection and a review of the draft environmental impact statement under Section 102(2)(c) of the National Environmental Policy Act of 1969.

The Subcommittee also heard testimony on the opinion of the Solicitor dated October 28, 1971 (M–36839) which allowed the Department of the Interior to lease competitively oil shale lands covered by unpatented mining claims, pending ultimate judicial determination of the rights of the parties.

In August of 1971, the Subcommittee conducted an inspection and field hearing on the environmental impact of mining activities in the Custer and Gallatin National Forests in Montana. A specific problem was the effect of proposed Forest Service regulations on access roads for mineral activity.

In addition, the Subcommittee made field inspection trips of surface mining operations in Tennessee and Kentucky and Indian, private and public domain lands in Utah, Wyoming and Idaho. The inspection trips were an important background study to the surface mining legislation pending before the Committee and offered an opportunity to view surface mining activities covering a variety of minerals and under a wide range of differing geologic conditions nation wide.

The staff of the Subcommittee in cooperation with the staff of the Library of Congress prepared and published a background paper entitled the *Issues Related to Surface Mining*.

Legislative review of the activities of the Bureau of Mines included review of Bureau of Mines contracts for research in excess of $25,000, submitted to the Subcommittee and the Congress pursuant to the provisions of Public Law 89–672 (Act of October 15, 1966).

OVERSIGHT FUNCTION AND REVIEW ACTIVITIES OF THE SUBCOMMITTEE ON PUBLIC LANDS

The Subcommittee on Public Lands has oversight jurisdiction which extends to the public lands generally, including forest reserves created from the public domain, and embraces all actions relative to such lands. Examples would be disposals, entries, easements, leases, patents, withdrawals, grazing activities, and wilderness and wild river designations.

The Senate Subcommittee on Public Lands during the 92nd Congress probed deeply into questions of timber management on Federal holdings.

Chairman Frank Church conducted hearings in mid-1971 that zeroed in on one of the most controversial questions ever to involve the nation's Federal timberlands—the practice of clear-cutting. More than 90 witnesses were heard in five days of testimony, including members of Congress, State officials, environmentalists, professional foresters and other scientists, and representatives from the timber and housing industries, the Forest Service, the Bureau of Land Management, and the Department of Housing and Urban Development.

The Subcommittee's attention was directed primarily to clear-cutting practices on the National Forests, especially on examples in Montana, West Virginia, Wyoming and Alaska. This was done because there had

been complaints of the practice on four specific National Forests. Such practices were attacked vehemently by the environmentalists, but clear-cutting as a method was strongly defended by representatives of the timber industry, the Forest Service and representatives of the professional Society of American Foresters. Some of those who opposed clear-cutting suggested a permanent moratorium on all clear-cutting on Federal timberlands. Those who defended the practice basically felt that no Congressional action was needed to limit the use of clear-cutting.

Some serious scientific questions were raised, such as possible long range adverse effects of clear-cutting on soil nutrients. Conversely, other professional forestry witnesses detailed the results of clear-cutting and the scientific research, mainly by the Forest Service through its Nation-wide system of forest experiment stations, demonstrating the need for clear-cutting of certain important tree species if they are to be reforested successfully.

Subcommittee report

Subsequent to the hearings, the Subcommittee issued a full report which was published as a committee print entitled "Clear-cutting on Federal Timberlands" (92nd Congress, 2nd Session; March 1972). The report concluded as follows:

"As indicated in the foregoing the Committee became aware of two major problem areas relating to the selection and conduct of timber harvesting operations on Federal forest lands. First, certain areas have been selected for cutting which should not have been subjected to any activity relating to timber harvesting for any of a number of reasons. These were areas of special scenic values, fragile soils, or other limiting physiographic conditions, areas where adequate regeneration could not be assured, and areas where the costs of special measures to avoid environmental damage or assure regeneration were so high that the activity was imprudent and relatively uneconomic.

"The second problem area relates to the manner in which harvesting operations are carried out. This involves selection of a harvesting method, the manner in which a sale is conducted and to minimize or avoid environmental injury, and careful supervision and enforcement of environmental conditions in road building and timber sale contracts.

"The Committee recognizes that the timber needs of the Nation are incerasing at a rapid pace. The National Forests and other Federal forest lands will play a vital role in meeting those needs. Substantial testimony convinced us that measures to assure adequate timber supplies are essential if we are to house our people and serve other wood product needs at reasonable cost. The measure needed to help the Federal forests play their role must include intensified forest management practices such as reforestation, thinning, genetic improvement, salvage of dead timber, as well as the reforestation of nonstocked private forest lands.

"Accordingly, the Subcommittee believes it is timely and important to suggest guidelines for the conduct of timber harvesting activity on Federal lands which will assure that the problem areas are eliminated while important national needs for timber are being met. In stating these guidelines the Subcommittee does not presume to substitute its judgment for that of qualified professionals who have on-the-ground knowledge and familiarity with local needs and conditions. However, we believe overall policy direction is essential to make Federal forestry administrators aware of the concern and support of the Congress for stronger consideration of environmental impacts in timber management decisions. We are also aware that the Forest Service and the Bureau of Land Management have taken a number of steps to improve their timber management practices. The guidelines set forth by this Subcommittee should serve to strengthen and supplement these ongoing actions.

"Therefore, the Subcommittee believes timber management activities on Federal lands should be subject to the following policy guidelines:

"1. Allowable harvest levels

a. Allowable harvest on Federal forest lands should be reviewed and adjusted periodically to assure that the lands on which they are based are available and suitable for timber production under these guidelines.

b. Increases in allowable harvests based on intensified management practices such as reforestation, thinning, tree improvement and the like should be made only upon demonstration that such practices justify increased allowable harvests, and there is assurance that such practices are satisfactorily funded for continuation to completion.

If planned intensive measures are inadequately funded and thus cannot be accomplished on schedule, allowable harvests should be reduced accordingly,

"2. Harvesting limitations

Clear-cutting should not be used as a cutting method on Federal land areas where:

a. Soil, slope or other watershed conditions are fragile and subject to major injury.

b. There is no assurance that the area can be adequately restocked within five years after harvest.

c. Aesthetic values outweigh other considerations.

d. The method is preferred only because it will give the greatest dollar return or the greatest unit output.

"3. Clear-cutting should be used only where:

a. It is determined to be silviculturally essential to accomplish the relevant forest management objectives.

b. The size of clear-cut blocks, patches or strips are kept at the minimum necessary to accomplish silvicultural and other multiple-use forest management objectives.

c. A multidisciplinary review has first been made of the potential environmental, biological, aesthetic, engineering and economic impacts on each sale area.

d. Clear-cut blocks, patches or strips are, in all cases, shaped and blended as much as possible with the natural terrain.

"4. Timber sale contracts

"Federal timber sale contracts should contain requirements to assure that all possible measures are taken to minimize or avoid adverse environmental impacts of timber harvesting, even if such measures result in lower net returns to the Treasury.

"IN CONCLUSION

"The Subcommittee recommends that the Federal Government take prompt action toward bolstering the confidence and support of the American people for our nation's forestry program. The considerable testimony before the Subcommittee and the studies that have been completed or are now under way illustrate the necessity for establishing a prudent policy for regulating clear-cutting on our forest lands.

"It is the hope of the Subcommittee that the guidelines it has set forth will be quickly adopted and implemented by the Executive Branch."

Timber management hearings

Although the clear-cutting hearings did not consider legislation, the Subcommittee on Public Lands later conducted extensive hearings on general timber management measures introduced by Senators Metcalf and Hatfield, both members of the Subcommittee. Field hearings were held in Atlanta, Georgia; Portland, Oregon, and Syracuse, New York, with a final hearing for government witnesses in Washington. While no final committee action was taken on the measures, an impressive hearing record was compiled which should provide important direction for any future legislation in this particular field.

EXECUTIVE REPORTS OF COMMITTEES

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

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

Charles C. Edwards, of Maryland, to be an Assistant Secretary of Health, Education, and Welfare; and

William H. Kolberg, of Maryland, to be an Assistant Secretary of Labor.

(The above nominations were reported subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of 185 general officers in the Air Force and 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:

Brig. Gen. Ralph T. Holland, and sundry other officers of the Regular Air Force, for temporary appointment in the U.S. Air Force, in the grade of major general;

Maj. Gen. George J. Keegan, Jr., (brigadier general, Regular Air Force), U.S. Air Force, and sundry other officers, for appointment in the Regular Air Force, in the grade of major general;

Brig. Gen. Harold R. Vague (colonel, Regular Air Force), U.S. Air Force, and sundry other officers, for appointment in the Regular Air Force, in the grade of brigadier general; and

Col. Charles A. Veatch, Regular Air Force, and sundry other officers, for temporary appointment in the U.S. Air Force, in the grade of brigadier general.

Mr. THURMOND. Mr. President, in addition, there are 1,732 Navy nominations in the grade of captain and below and 2,980 nominations in the grade of colonel and below in the Air Force and Air Force Reserve. Since these names have appeared previously 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:

Thomas G. Abbey, and sundry other officers, for promotion in the Regular Air Force;

Vicente Martinez, and sundry other persons, for appointment in the Regular Air Force;

Walter H. Escue, and Charles W. Couch, Air Force officers, for reappointment to the active list of the Regular Air Force;

John C. Aasen, and sundry other officers, for promotion in the Air Force Reserve;

Thomas J. Abeln, and sundry other officers, for promotion in the U.S. Air Force;

Benjamin L. Aaron, and sundry other officers, for temporary promotion in the U.S. Navy;

Kenneth J. Bays, and sundry other officers, for promotion as Reserves of the Air Force;

Daniel C. Cady, and sundry other officers, for appointment in the Reserve of the Air Force; and

James G. Sanders, and sundry other officers, for appointment as temporary officers in the U.S. Air Force.

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. CHILES:

S. 1414. A bill to strengthen congressional control in determining priorities of appropriations and expenditures by requiring the Budget to be organized and submitted on the basis of national needs, agency programs, and basic program steps. Referred to the Committee on Government Operations.

By Mr. BUCKLEY (for himself, Mr. BAKER, Mr. BENNETT, Mr. BROOKE, Mr. DOMINICK, Mr. GRAVEL, Mr. JAVITS, Mr. SCOTT of Pennsylvania, and Mr. THURMOND):

S. 1415. A bill to amend the Small Business Act to assist in the financing of small business concerns which are disadvantaged because of certain social or economic considerations not generally applicable to other business enterprises. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. LONG:

S. 1416. A bill to amend the Social Security Act to add a new title XX thereto which will provide insurance against the costs of catastrophic illness. Referred to the Committee on Finance.

By Mr. EAGLETON:

S. 1417. A bill for the relief of Maria Estela Lagus. Referred to the Committee on the Judiciary.

By Mr. HATFIELD (for himself, Mr. BEALL, Mr. BENNETT, Mr. BIBLE, Mr. BROCK, Mr. CLARK, Mr. CRANSTON, Mr. CURTIS, Mr. FANNIN, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HANSEN, Mr. HOLLINGS, Mr. HUGHES, Mr. JAVITS, Mr. MANSFIELD, Mr. MCINTYRE, Mr. PACKWOOD, Mr. SCOTT of Pennsylvania, and Mr. TUNNEY):

S. 1418. A bill to recognize the 50 years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as 31st President of the United States, and in commemoration of the 100th anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution and Peace. Referred to the Committee on Labor and Public Welfare.

By Mr. DOMENICI (by request):

S. 1419. A bill to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex. Referred to the Committee on Interior and Insular Affairs.

By Mr. FONG:

S. 1420. A bill for the relief of Erminia Ancheta Mandac. Referred to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 1421. A bill to amend the administrative procedure provisions of title 5 of the United States Code to make the rulemaking provisions applicable to matters relating to public property, loans, grants, benefits, and contracts; to provide for payment of expenses incurred in connection with proceedings before agencies; to provide for waiver of sovereign immunity; to provide for the enforcement of standards in grant programs, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. RANDOLPH, Mr. STEVENSON, Mr. MONDALE, Mr. PERCY, Mr. BIBLE, Mr. MOSS, Mr. BAKER, Mr. PASTORE, Mr. PELL, Mr. NUNN, Mr. INOUYE, and Mr. BAYH):

S. 1422. A bill to establish a National Institute of Justice, in order to provide a national and coordinated effort for reform of the system of justice in the United States, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself and Mr. JAVITS):

S. 1423. A bill to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services. Referred to the Committee on Labor and Public Welfare.

By Mr. SCHWEIKER:

S. 1424. A bill to provide certain benefits for members of the armed forces and civilian employees of the United States who were in a missing status for any period of time during the Vietnam conflict. Referred to the Committee on Armed Services.

By Mr. MOSS:

S. 1425. A bill for the relief of Rosa Amelia Alba Mauricio. Referred to the Committee on the Judiciary.

By Mr. HRUSKA (by request):

S. 1426. A bill to amend sections 101 and 902 of the Federal Aviation Act of 1958 and chapter 2, title 18, United States Code, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and for other purposes. Referred to the Committee on the Judiciary.

S. 1427. A bill to prohibit the unauthorized possession within any Federal penal or correctional institutiton, any substance or thing, designed to damage the institution or to injure any persons within or part of the institution, and for other purposes. Referred to the Committee on the Judiciary.

S. 1428. A bill to amend section 215, title 18, United States Code, receipt of commissions or gifts for procuring loans, to expand the institutions covered; to encompass indirect payments to bank officials; to make violation of the section a felony; and to specifically include offerors and givers of the proscribed payments; and for other related purposes. Referred to the Committee on the Judiciary.

By Mr. STEVENSON:

S. 1429. A bill to amend the Federal Aviation Act of 1958 to authorize free or reduced rate transportation for severely handicapped persons and persons with sight attending such handicapped persons. Referred to the Committee on Commerce.

By Mr. PELL (for himself, Mr. CASE, Mr. MUSKIE, Mr. HOLLINGS, Mr. MAGNUSON, Mr. MOSS, and Mr. WILLIAMS):

S. 1430. A bill to establish within the Department of State a Bureau of Oceans and International Environmental Affairs to be headed by an Assistant Secretary of State. Referred to the Committee on Foreign Relations.

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

S.J. Res. 86. Joint resolution to suspend, for 2 years, Federal support of projects involving psychosurgery. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY:

S.J. Res. 87. Joint resolution relating to the National Advisory Council on Indian Education. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES:

S. 1414. A bill to strengthen congressional control in determining priorities of appropriations and expenditures by requiring the budget to be organized and submitted on the basis of national needs, agency programs, and basic program steps. Referred to the Committee on Government Operations.

Mr. CHILES. Mr. President, on March 15, 1973, I offered testimony before the Joint Congressional Study Committee on Budget Control. At that time I stated that I was exploring ways in which to make vital budget information available to Congress through a restructuring of the way the Office of Management and Budget presents the budget to Congress.

I am today introducing the Congressional Budget Control Act of 1973. Through this proposed legislation, I hope to offer a framework to help the Congress regain the control it does not now have over the budget.

I suggest that the most effective way to get that control over programs is to control the early steps which actually determine the level of spending that Congress becomes concerned about later—when it is too late to do anything about it.

I believe that Congress ought to be setting the priorities within a budget target and must, therefore, have the visibility within individual programs to effect control over the dollars that these programs eventually command. I believe that Congress must have a clear picture of what separate public needs the Federal Government is trying to satisfy; and I believe Congress must have the capability to sort out and collect in sensible groupings all the programs and activities we annually budget.

The Joint Congressional Study Committee on Budget Control has cited the need for information which will show the effect on expenditures resulting from existing and proposed legislation. The Legislative Reorganization Act of 1970 directed the Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General, to develop a standardized information and data processing system for budgetary and fiscal data, and to develop also a standard set of classification of programs, receipts, and expenditures to be used in the budget system. The Comptroller General has now stated that—

> The system contemplated by the executive branch will not fulfill the information needs of the Congress.

It is my hope that through the implementation of my bill, these congressional information needs might be met.

I do not think anyone here needs to be convinced that Congress lacks visibility over the budget as a whole and particularly the early phases of new programs. When we use words like "fragmentation," "automization," and lack of "coordination," what we are really saying is that we in Congress have the responsibility to stay on top of a budget over which it is virtually impossible to stay on top of. Yet, it is Congress which ought to be setting the priorities within a budget target. It is Congress which should understand and confirm the missions or functions of executive agencies; and, most important, it is Congress which should have the visibility within

individual programs to effect control over the dollars that these programs eventually command. As I will explain in more detail later, it is at these beginning stages of any program, at the research and development level, that Congress ought to be directing most of its energies, because that 5 percent of the budget develops into 95 percent over the years, through small increases from budget to budget.

The President obviously recognizes the control problem as evidenced by his efforts to set up a "super cabinet" to oversee the programs of groups of agencies. How can we do that? How can we perform our responsibilities of oversight, control, and supervision over such a complex operation?

To answer that question we first must answer why Congress does not have the key elements of budget and program control right now. The basic answer is a lack of organization of budget and program-related information; the way it is presented to us, the information we have to work with; and the way we handle this information.

We simply do not have a clear picture of what separate public needs the Federal Government is trying to satisfy we do not have the capability to sort out and collect in sensible groupings all the programs and activities we annually budget.

Let me give the Senate some examples—

First. On March 14, 1973 I sat in on hearings on the new Federalism before the Senate Subcommittee on Intergovernmental Relations. At that hearing OMB Director Roy Ash presented a chart that would boggle the mind of the most sophisticated bureaucrat in our Government. What the chart showed, supposedly, was how 19 separate and distinct programs within HEW operate to prevent school dropouts. That is, 19 separate programs under at least four separate agencies compete with each other for funds to operate 19 different approaches to preventing school dropouts.

I am told that in the case of HEW there are more than 300 programs of which 54 overlap each other and 36 overlap programs of other Departments.

Second. One of the most alarming areas of disjointed information fed to Congress in fragmented fashion is in the area of defense—but no area is exempt, really. In the Department of Defense there are three Military Departments working under their own definitions of their missions, none of which matches the other. The procurement commission, which I served on, found that new weapon programs often start because one of the services feels they 'need" a new aircraft or missile without adequate attention to why, what military mission capability is to be upgraded, how much it is worth and its relationship to other programs being proposed or in being to accomplish similar purposes.

In defense appropriations, Congress never gets the chance to make a real decision until we reach the high money figures—until we are "locked in" in an expensive program. For example, although the AH–56 Cheyenne helicopter, which Congress canceled last year, appeared for large-scale funding in 1965, it began years earlier in exploratory development under a project titled "Aircraft Suppressive Fire." Another project called "Air Mobility" also helped to finance this early armed helicopter exploration. In about 1963, the project was moved into an advanced development activity identified as the "Aircraft Suppressive Fire System."

Following these early efforts, the Army held a competition and selected a developer and producer of that helicopter. In the years that followed, the helicopter encountered great difficulty in development, and the program was finally terminated after the expenditure of several hundred millions of dollars.

It is these kinds of cases which intensify congressional demands for information and justification. But the response has been so far to burden Congress with detailed reviews and deprive it still of workable information.

The examples are endless. What they all point to is the simple fact that Congress must stop merely shrugging its shoulders over its inability to take a whole, complete, and total look at the budget, and instead take action now to require that budget information is given to us in a workable fashion. It is an elementary observation but one that has evidently not been made or at least gone unheeded for far too long.

What shall we do? Congress must have an early opportunity to debate and understand a program's purpose to understand what problem it is we are trying to solve and the goals that we are trying to attain. That purpose ought to be carefully weighed by the appropriate congressional committees to determine its relationship to national needs and other related Federal programs and whether any new programs should be started at all.

Instead of spending hours looking at individual programs—we ought to be studying how programs fullfill best the missions or functions or priorities we have set; and whether or not this or that program unnecessarily duplicates another program or whether a particular activity might better achieve its mission if operated by another agency. Let me give a clearer example of what I mean—

I am including with my statement several budget structures. 1–A is the current budget structure for the space program of NASA and 1–B is an alternative structure designed around the principles I am advocating here today.

The current budget structure is built around activities and specific programs that have little or no relationship to the end-purpose for spending these funds—to national needs—national priorities—whatever they may be. The alternative budget structure shows how each activity of NASA could be related to specific missions—stated national needs or end-purposes. In other words, the activities performed by NASA would not be described in terms of what they were doing, but rather through accurate descriptions of why the work was being done, charted so as to key directly to national needs and priorities. Individual committees and Congressmen may feel a bit uncertain as to whether to spend more or less for "research and development;" but they surely can better reflect the opinion of their constituents—and more sensibly control the budget—if they are given a chance to see and judge how much is spent for development of pollution monitoring capability.

The advantages of the alternative structure are obvious. If the Congress requires OMB to present to the Congress a budget whose programs are all keyed directly to accepted and understood national needs, Congress could obtain a clearer picture of whether or not it is approving a useless duplication or overlap. And, as I stated, there will be a more sensible basis for expressing congressional judgments on the budget than trying to decipher why all the budget line items for products and activities are being appropriated.

Taking again the NASA example, the committee before which this budget structure would be presented would have before it, at the same time, a total budget prepared by OMB to which it could relate easily and efficiently the specific NASA proposal.

Under "operational missions" for example there would be a program for developing pollution monitoring capability. Now I would assume EPA is also involved—and has direct responsibility for—pollution monitoring. Using the alternative budget structure, a committee member would be able to see that NASA is involved in monitoring pollution—and could check easily under "operational missions" in the total budget to see who else is involved in that same activity—how much it was estimated to cost in total, and so forth. Congress would then be in a much better position to have an understanding of what the Government was trying to do in all its departments and agencies to meet a specific national need.

Table 2–A shows, again roughly, how we today receive, analyze, and digest the budget for national defense. It is not a precise reproduction in every detail, but does show the major breakdown in the way the budget is organized.

I do not want to debate the details on these charts but rather to point out one simple fact: Looking at 1–A and 2–A it is difficult at best and nearly impossible for us in the Congress to answer the basic question, "Why are we spending these moneys: What are the end purposes in terms of national needs which are to be met?" As a consequence, it is impossible to use the current budget structure as a sensible handler for allocating resources to national needs—for setting priorities.

Table 2–B is likewise not intended to be an exact specification for a new budget structuring, but only used to demonstrate how a hiararchy of national needs can form the basis for budget review and authorizations. It is just an example of how it is possible to reformluate the budget so that the dollars we are spending and controlling bear a better correlation to the needs the Congress wants to see met.

Budgets are not controlled and priorities are not set just by pouring money into one account or another, increasing

one appropriation and decreasing another. We may know very well what we are spending, but we do not know what we are buying in terms of meeting any public need.

Congress must have the budget organized at the top level in terms of national needs. And then, money going to programs must be tied into these needs.

Finally, Congress must participate and have control over key program steps: First, the defining of program goals; second, the searching for different ways to meet these goals; third, the choosing of the way we will use to try to meet them; and fourth, the close supervision of how well an individual program is being implemented and is achieving its purpose.

It is these four steps I have just specified which, I believe, are the major turning points in any program. Each requires a key decision and the development of special information to make that decision. When one or more of the steps is not performed or the information to make that key decision is not acquired or is inadequate, programs invariably encounter difficulties in performance, schedule, and costs.

I believe the intent of the Legislative Reorganization Act of 1970 was to provide a more useful budget information system to serve all branches of the Government. The act called upon the Department of Treasury and the Office of Management and Budget to carry out its requirements in cooperation with the Comptroller General. The Comptroller General indicates that this purpose is not being accomplished. OMB and Treasury are, to my understanding, awaiting detailed congressional information requirements which will be considered in the context of overall budgetary considerations.

My purpose is offering the Congressional Budget Control Act of 1973 is to provide those detailed congressional information requirements.

The budget as presented to Congress today is not meaningful. It force-fits activities into program labels that are not real or actual, are not easily comparable to other similar or even identical programs in other Departments. What I am arguing for is a budget structure that is functional—and workable.

At a glance, Congress should be able to determine who is doing what—so that it can spend more time deciding whether or not we should be doing it at all.

It is at the research and development level—the beginning stages of any activity that Congress ought to be directing most of its energies—that 5 percent of the budget which inevitably determines how well or poorly the remaining 95 percent will be expanded years later. The usual mechanisms of legislative oversight—reporting, budget review, investigation tend to be ex post facto in nature and are, therefore, limited in usefulness.

There is, under the present budget structure a pitfall that draws the Congress to dwell excessively on trivial detail. We are challenged to confront the budget on the budget's terms, challenged to become specialists and technical experts on smaller and more detailed aspects of Federal expenditures. And even when we are successful in this battle, we have lost the war because we have fragmented our view and control over the basic thrust, direction, and purpose of Federal expenditures. Such issues are never exposed in our current budget; they are hidden.

In summary then, my purpose this morning is to make more vivid the problem we all know only too well. Budgeting for a modern Government is extremely complex and the armada of officials in executive agencies who prepare and justify the President's Budget far outnumbers the congressional subcommittees and their small staffs. The question of how much money should be spent for a Government program is often without a determinate answer. And though the amounts of money that executive agencies request and Congress appropriates are not unrestrained, Congress is in no position to know whether those amounts are well spent.

Right now neither the executive nor Congress approaches the Defense Budget, for example, as an ad hoc problem, intent on a free-ranging examination of all possible alternatives before making a choice. Both branches of Government begin their thinking about the budget with a common and very narrow range of figures already in mind—based on last year's expenditures. I feel very strongly that if we do not "mission-orient" our budget we will continue to play the kind of game we have been playing—overauthorizing in committee in anticipation of cuts in conference.

Congress cannot practically set priorities until we know the missions—and we cannot know the missions until OMB presents the budget in mission form.

I am suggesting that the way OMB presents its budget to the Congress be changed. I have offered a framework for that change—the budget must be presented to Congress in a workable fashion for Congress to regain control. Individual programs must be keyed to functions and missions of Federal agencies and those functions and missions keyed to national needs and priorities. Congress must have that kind of understandable, coordinated information before it can realistically search for different ways to meet the set goals; choose the way we will try to meet them and closely supervise how well our taxpayers' money is being spent.

Until that requirement is placed upon Treasury and OMB, until the Congress receives a budget that is structured in practical and comparable fashion, Congress can talk all it wants to about reasserting itself. I fail to see how any budget can be controlled until it is fully understood.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of my bill, as well as the tables to which I have referred.

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

S. 1414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Budget Control Act of 1973".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress hereby finds that—

(1) the Congress ought to be setting the priorities within a budget target; must have the visibility within individual programs to effect control over the funds that these programs eventually command; must have a clear picture of what separate public needs the Federal Government is trying to satisfy; and must have the capability to sort out and collect in sensible groupings all the programs and activities for which funds are provided;

(2) the Joint Study Committee on Budget Control has cited the need for information which will show the effect on expenditures resulting from existing and proposed legislation;

(3) the Legislative Reorganization Act of 1970 directed the Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General, to develop a standardized information and data processing system for budgetary and fiscal data, and to develop also a standard set of classification of programs, receipts, and expenditures to be used in the budget system; and

(4) the Comptroller General has now stated that the system contemplated by the executive branch will not fulfill the information needs of the Congress.

(b) It is the purpose of this Act—

(1) to reformulate the structure of the Budget to highlight national needs;

(2) to revise Congressional review of the Budget in a manner to let funds be allocated directly in accordance with national priorities; and

(3) to revise budget, authorization, and appropriation information to be based, first, on national needs, second, on programs, and, third, on basic program steps.

SUBMISSION OF BUDGET ON BASIS OF NATIONAL NEEDS, AGENCY PROGRAMS, AND BASIC PROGRAM STEPS

SEC. 3. (a) The Budget of the United States Government transmitted to the Congress by the President pursuant to section 201 of the Budget and Accounting Act, 1921, for the fiscal year ending June 30, 1977, and each fiscal year thereafter, shall be organized so as to present budget authority, proposed budget authority, outlays, and proposed outlays by—

(1) national needs,

(2) agency programs to meet these needs, and

(3) basic program steps.

(b) To assist the President in carrying out the provisions of subsection (a), each agency—

(1) shall develop its budget plans in accordance with the portions of the hierarchy of national needs for which it has assigned responsibility, and shall clearly delegate these responsibilities between the agency's component organizations, and

(2) shall relate all its programs to assigned national needs, shall organize each program by four basic steps (as prescribed in section 4 (b) (3)), and shall present to the Office of Management and Budget, for inclusion in the President's Budget message, information relating to the program step for which budget authority and outlays are being requested.

(c) Programs within an agency meeting similar national needs shall be coordinated by the agency head. Programs of two or more agencies meeting similar national needs shall be coordinated by the Director of the Office of Management and Budget so that the Executive branch and Congress both have a comprehensive overview of all programs meeting similar national needs.

MEANING OF TERMS

SEC. 4. (a) (1) "National needs"; "functions of the Federal government"; "priorities": National needs are the basic and distinct first-order needs of the Nation, such as the needs for national defense, health, public education, energy, transportation, housing, income security, management of natural resources, and a national base of research and technology. The functions of the Federal government are to meet these national needs. Priorities determine, and are reflected in, the allocation of funds to meet each national need.

(2) "Supporting needs": In order to meet each national need, the Federal government must meet supporting needs associated with that national need, depending on national policy and strategy. To meet the need for national defense, supporting needs may include the needs for strategic offense, fleet air defense, and close air support. To meet the need for public education, supporting needs may include the needs for pre-school education, graduate education, and manpower training.

(3) "Hierarchy of national needs": The combined national needs and supporting needs from a hierarchy of national needs which are the end-purpose for which Federal funds are expended, without regard to the means chosen to meet those purposes.

(b) (1) "Agency missions": Responsibility for meeting national needs and supporting needs shall be assigned to the departments and agencies, and their component subdivisions, of the Executive branch (in this Act referred to as "agencies"). The missions of an agency are to meet those national needs for which they are assigned responsibility. Agency missions must be directly defined in terms of the hierarchy of national needs, and the hierarchy of national needs must be matched to the missions of all agencies.

(2) "Agency programs": In order to perform their missions, agencies will carry on one or more programs. A program is an organized set of activities that are, together, directed to providing goods and/or services that will meet a national need or part thereof.

(3) "Basic steps": Every program must progress through four basic steps, of varying duration, as follows:

(A) "Establishing needs and goals": The first step is defining the need to be met by the program and the objective measures of the end results, or goals, to be sought and attained as a consequence of the program. Goals are independent of the means to be used to achieve them. Goals describe the level of mission capability the agency is seeking, when it is to be made available, and the total program cost of providing that capability. Activities performed to execute this step include studies and analyses and do not generally require separate authorization or appropriation.

(B) "Exploring alternatives": The second step is the creation, definition, and evolution of competing means to meet the need. This step draws directly on the base of organized knowledge in the sciences (including social services) in order to identify and evolve those approaches that are promising, to eliminate those that are not promising, and to supply information on the expected costs and benefits of each approach. Activities performed to execute this step are research, development, testing and evaluation and require separate authorization and appropriations.

(C) "Choosing the preferred program approach": The third step is the evaluation and choice of the preferred program approach from among remaining alternatives. The evaluation will determine which approach will best meet the updated goals of the program and the costs and benefits accruing to each alternative in meeting the agency's mission. Research, development, testing, and evaluation activities support this step.

(D) "Implementation": The fourth step is putting the preferred program approach into operation and monitoring its effectiveness. This includes final development preparation of the chosen approach. Activities that support this step include procurement of necessary equipment, operating, and maintenance activities.

EFFECTIVE DATES

SEC. 5. (a) Not later than June 30, 1975, the Director of the Office of Management and Budget, under the direction of the President, shall—

(1) specify a hierarchy of national needs, and

(2) reconcile and assign the responsibilities of the various agencies to meet the national needs so specified.

(b) Not later than June 30, 1976, the head of each agency shall reconcile the programs of his agency to the national needs assigned to his agency and shall organize program information by basic program steps.

CURRENT BUDGET STRUCTURE: SPACE PROGRAM NASA

- Organized by:
  - Activities
  - Disciplines
- Research and Development:
  - Manned Space Flight
  - Space Science & Applications
  - Space Technology
  - Aeronautical Technology
  - Supporting Space Activities
- Construction of Facilities:
  - Manned Space Flight
  - Space Science & Applications
  - Space Technology
  - Aeronautical Technology
- Supporting Space Activities
- Research and Program Management:
  - Manned Space Flight
  - Space Science & Applications
  - Space Technology
  - Aeronautical Technology
  - Supporting Space Activities

CURRENT BUDGET STRUCTURE: NATIONAL DEFENSE—DOD

- Organized by:
  - Activities
  - Military departments
  - Kinds of products
- Military Personnel:
  - Army
  - Navy
  - Marines
  - Air Force
- Reserve Personnel:
  - Army
  - Navy
  - Marines
  - Air Force
- Operation and Maintenance:
  - Army
  - Navy
  - Marines
  - Air Force
- Procurement:
  - Army:
    - Aircraft
    - Missiles
    - Weapons and Tracked Vehicles
    - Ammunition
    - Other
  - Navy:
    - Aircraft
    - Weapons
    - Shipbuilding and Conversion
    - Other
  - Marines
  - Air Force:
    - Aircraft
    - Missiles
    - Other
  - Defense Agencies
- RDT&E:
  - Army
  - Navy
  - Air Force
  - Defense Agencies
- Military Construction:
  - Army
  - Navy
  - Air Force
  - Defense Agencies
- Family Housing:
  - Army National Guard
  - Air National Guard
  - Army Reserve
  - Air Force Reserve

SAMPLE ALTERNATIVE STRUCTURES SPACE PROGRAM—NASA

- Organized by:
  - Missions
  - Programs/Agencies*
  - Steps
  - Basic Program
- Scientific Exploration:
  - Physics & Astronomy:
    - Program 1
    - Program 2
    - Program 3
  - Lunar Exploration:
    - Program 1
    - Program 2
    - Program 3
  - Planetary Exploration:
    - Program 1
    - Program 2
    - Program 3
- Operational Missions:
  - Weather & Climate
  - Pollution Monitoring
  - Earth Resources
  - Earth & Ocean Physics
  - Communications
  - Education
  - Etc.
- Support Missions:
  - Space Transportation:
    - Program 1 (Shuttle)
    - Launch Vehicle
    - Procurement
  - Technology Base Development
  - Administration
  - Etc.

SAMPLE RECOMMENDED BUDGET STRUCTURE

- Organized by:
  - Mission
  - Program/Agency
  - Basic Program Steps/Activities
- Examples:
  - Strategic Offense:
    - Program 1 (e.g. Navy Trident):
      - Exploring Alternatives
      - **Choosing
      - Implementation:
    - Program 2 (AF)
    - (e.g. Minuteman)
  - Strategic Defense
  - Tactical Warfare
  - Land Warfare
  - (Etc.)
- Support Missions:
  - Technology Base R&D:
    - Army
    - Navy
    - Air Force
  - Administration
  - Training
  - Central Supply and Maintenance
  - Personnel:
    - Army
    - Navy
    - Air Force
    - Marines
    - Etc.

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* Cross agency correlation is particularly important here because NASA basically explores and chooses space options to meet national probems; other agencies must do the implementation.

**NB: Each annual appropriations will cover only one program step (or two if there is overlapping (concurrency))

By Mr. BUCKLEY (for himself, Mr. BAKER, Mr. BENNETT, Mr. BROOKE, Mr. DOMINICK, Mr. GRAVEL, Mr. JAVITS, Mr. SCOTT of Pennsylvania, and Mr. THURMOND):

S. 1415. A bill to amend the Small Business Act to assist in the financing of small business concerns which are disadvantaged because of certain social or economic considerations not generally applicable to other business enterprises. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BUCKLEY. Mr. President, I rise to introduce a bill which is designed to help us achieve our goal of full equality of opportunity for all Americans by opening new sources of financing for minority enterprises. It is a bill which will hasten the development of the managerial skills and self-confidence which are so essential to the advancement of those minority groups which are still to have a full participation in our economic life.

The major victories in the march toward full equality have been accomplished through the striking down of laws which discriminated among Americans on the basis of race, and through the passage of others to guarantee that no one will be denied employment or advancement because of race. These laws against discrimination must be vigorously enforced, but they will not in themselves bring about the conditions of full equality among Americans of different origins. The legal barriers are down, but other barriers—social and psychological—still remain. These we cannot legislate away, but we can work to overcome them by creating the climate which will encourage the growth of mutual respect and self-respect among all Americans. I believe that nothing is more certain to bring this about than the rapid vertical integration of our minorities into the economic life of the Nation.

This economic integration is not something that can be accomplished by government edict. It must be achieved in fair competition. Self-respect requires the knowledge of earned success. Mutual respect will follow on the fact of achievement. But government, and our society at large, must recognize that certain handicaps still exist which make the road to achievement more difficult for some groups of Americans than for others.

Certain of these groups, notable black Americans, suffer from the psychological effects of generations of dependency. As a result, they are handicapped by a deficiency of business traditions and of the skills and self-confidence in commercial matters which have made it possible for other minority groups to take full advantage of the dynamics of the American system of free competitive enterprise.

On January 22, 1970, in his state of the Union message, President Nixon said:

> We can fulfill the American Dream only when each person has a fair chance to fulfill his own dreams.

President Nixon's words go to the heart of the problem. Our system of free enterprise has brought to the people of this Nation economic and social gains unparalleled in history. The opportunity to fulfill one's own dream through participation in the system has been an integral part of what America has always stood for. While the opportunity to test one's own ideas and resources and courage in the marketplace does not guarantee success, the denial of such an opportunity guarantees a loss of faith in the ultimate justice of our economic system.

When an American reaches the conclusion that our economic system is inequitable, he is making a philosophical as well as an economic judgment. He is criticizing ultimately basic principles rather than economic techniques. Such a criticism cannot be answered by references to the gross national product. It must be answered in the terms in which the criticism is framed. The member of a minority group who feels he has been left out of the American Dream says: "Show me." It is not enough to provide statistical data or inspirational rhetoric demonstrating the abstract fact of progress. He must be shown the worth of the American system in the only way that demonstrates that worth—by making sure that he has fair access to it. "A piece of the action" is not just a catch phrase; it is a shrewd and precise summing up of what is necessary to prove that our system works for all Americans.

The core of our national existence is the irrevocable and profound commitment to the individual. If an American is denied an equal opportunity to take his chances in the marketplace, he is, in effect, being denied not only as an "economic man" but in his totality as a human being.

The present administration has gone far in the work to expand the access of our minority groups to our economic system.

Since 1969, the Federal Government's procurement program for purchases from minority contractors has increased from $12.7 to $393.9 million. In the same period, from 1969 through 1972, the amount of SBA loans to minority entrepreneurs has increased from $105 to $258.2 million.

While I am gratified to see the progress being made in the creation and administration of programs intended to foster progress in this area, a great gap still remains unfilled. To date, virtually the entire emphasis on the financing of minority business has been through the extension of loans. These are made either directly by the Government or through private lending institutions, such as commercial banks and minority enterprise small business investment companies—organized pursuant to the Small Business Investment Act of 1958 and the Minority Enterprise Small Business Investment Act—which are provided special Government incentives in the form of loan guarantees.

These Federal programs recognize the fact that minority enterprises face certain inherent obstacles when seeking financing in the marketplace. The minority groups which these programs are designed to assist simply have too little in-built business experience and too limited a pool of managerial skills on which to draw.

Therefore the risk of failure in their enterprises is necessarily higher on the average than is the case with others competing for available dollars. Thus either through direct preferences in the case of SBA loans, or through special incentives provided to commercial banks and to MESBIC's, Government policy has sought to equalize these risks.

The problem, however, is that these governmental efforts have concentrated on the device of facilitating debt financing while virtually ignoring the entire area of equality financing which is the more usual, desirable source of funds for high-risk ventures.

One result of this approach has been the large rate of defaults—more than 30 percent—which has been experienced on SBA-guaranteed bank loans which have been made pursuant to the legislation. Now there is nothing surprising or shameful in the fact that a significant percentage of new enterprises should fail, whether or not they are sponsored by members of minority groups. What is novel is that there should be so large a record of loss in loans extended by lending institutions, such as commercial banks, which usually have a very low bad debt experience because of the collateral and other safeguards they normally require. Therefore, an unusually large record of losses has the undesirable result of unfairly stigmatizing minority entrepreneurs.

What we must understand, in assessing the limitations of the present approach, is the consequence of placing too great a reliance on loans as a source of financing for minority entrepreneurs. Commercial banks and other such institutions are simply not in the business of assuming significant risks. They are accustomed to measuring collateral, demonstrated earning power and managerial experience as a precondition to the extension of credit. They are not in the business of weighing the dreams which are the stuff from which new ventures are built. Yet most of the minority enterprises in need of financing have little but future prospects to offer as security. Thus the granting of loans too often requires a willingness to risk beyond the boundaries normally permitted the ordinary commercial banker.

The unwillingness to risk is understandable considering that risk taking is prudent only when the risk/reward ratio is reasonable. Taking open-ended risks for a return of perhaps 10 percent—the approximate average interest rate charged on small business loans—is neither reasonable nor sensible. Recognizing this, the Government has tried to limit the lender's risk through mechanisms such as the SBA 90-percent loan guarantee. It was thought that this would do the trick by enhancing the risk/reward relationship. This device has helped, but not to the desired degree.

There is another problem in the attempt to route minority enterprise financing through conventional banking channels. It simply does not create the sort of relationship between the parties which is best designed to bring to the new venture the interested help of an experienced management. Yet it is the lack of managerial skills and of a broad

base of business experience which so often prove fatal to fledging enterprises no matter how soundly based in concept. It is simply not the business of commercial banks to help supply these needs. Their prime interest is in the security of their loans; and to the extent that a commerical bank is protected against loss by a Government guarantee, to that extent is its concern for the basic economic health of the borrower diminished.

This fact may account in part for the high rate of default among the loans which they have extended to minority businesses, but there are other factors. Because of the moral suasion which has been applied to them, because of the genuine desire on the part of so many to lend a helping hand, and because the risk of loss has been made so low, lending institutions have too often been careless in the screening process which leads to making a loan; and once made, some have a tendency to write off the loan as a form of charity. In too many instances, this has had the effect of providing financing for ventures which are predestined to fail.

Finally, by channeling financing through the medium of loans, these Federal programs have the unfortunate effect of saddling new businesses with so heavy a burden of debt that it becomes even more difficult for them to succeed. The prior claim on working capital of excessive debt service obligations is a common cause for the failure of otherwise viable ventures.

These shortcomings in the current approach can be overcome by making equity financing more readily available to minority businessmen. Under current conditions, the higher degree of risk which is inherent in their ventures makes it infinitely more difficult for them to secure equity financing through normal business channels. The purpose of the bill which I am introducing today is to reduce that element of risk to a point where minority businessmen can be assured of an interested hearing, and of the needed capital in the event that their concepts are basically sound. My bill, which is cosponsored by 10 of my colleagues, would accomplish this goal by amending the Small Business Investment Act of 1958 so as to provide short-term guarantees limiting the size of potential losses while placing no limits on potential gains.

There are a number of institutions—investment banking firms and others—which are in the business of mobilizing venture capital for investment in the shares of new companies. Their relationship to the enterprises they finance is entirely different from that of the commercial banker. They are in the habit of dealing in futures. They are looking not for a return of capital plus interest, but for the chance to participate on the ground floor in new enterprises whose potential may be unlimited. In a very real sense, such an investor becomes a partner in the enterprise, and will bring to it not only a broad base of experience, but a high degree of commitment to its success.

Investment banking firms will usually be represented on the board of directors of the companies which they help launch so as to safeguard their own investment and that of their clients. Through this relationship, investment firms develop a detailed knowledge of the special needs and problems of each of the companies in which they have made important financial commitments, and they are in a position to make specific recommendations as to a broad range of business needs. These firms have an intimate experience with the special problems faced by any new venture, and their advice can be of critical importance in assuring the maximum chance for success of a new minority business. Finally, they can provide inexperienced businessmen with expert advice on the best form of financing—straight equity, or debt, or a combination of both—for each stage in the organization and growth of a new enterprise. Such advice can help the founders preserve a maximum ownership in their business without incurring an extensive level of debt.

I believe it is important that any measure intended to encourage the establishment and growth of minority enterprises be designed to do no more than overcome the special handicaps to which I have already alluded. It will benefit no one if the element of risk is eliminated to such an extent that potential investors lower or abandon their standards in their assessment of the inherent merits of a business proposal. To encourage an abnormal rate of failure through careless screening procedures would retard the achievement of economic integration by destroying confidence and discouraging further investment.

What we must seek is an approach which will make certain that investment bankers and others engaged in the business of investing venture capital will welcome proposals from minority businessmen and assure that these will be examined on the basis of their inherent merits. Beyond adjusting the element of risk to reflect the special handicaps under which minority businessmen must too often operate, it is essential that the relationship between investor and entrepreneur be built on realistic, sound tested business principles. A business venture built on such a foundation will not only have the best chance for success, but the fact of success will have a tremendously important effect within the minority community itself. A man who succeeds not because he is a member of a minority who is a businessman, but because he is a good businessman who happens to belong to a minority, can do more for the pride and economic development of his community than a dozen Government programs that seek to shelter him from the realities of risk and reward that are at the heart of our economic system.

I have sought to accomplish this, in my bill, by granting qualified investors the right, sharply limited in time, to sell their investment to the SBA at 70 percent of cost. I believe that the risk of loss would thereby be sufficiently large to make certain that no investment is lightly made. By the same token, the investor's stake in the new enterprise is sufficiently large to make sure that any reasonable assistance will be extended to insure its success—especially as the investor will particiapte fully in that success. I would also hope that the provisions contained in the bill would encourage large manufacturers to assist in the organization and financing of minority subcontractors, thus forming a relationship which would have the greatest mutual benefits while benefiting the country at large by hastening the full participation by our minorities in our economic life.

Mr. President, as my bill is written, it will bring the SBA's authority to enter into equity guaranteed agreements within the overall limits on existing loans and guarantees which is established pursuant to section 7 of the Small Business Investment Act of 1958. I believe that in this manner the greatest flexibility is assured in enabling an investment firm or other qualified investor to tailor a financing package, including debt as well as equity, to the needs of the particular enterprise to be financed. By the same token, I believe that the overall ability of the SBA to incur contingent liabilities pursuant to section 4(c)(4) should be expanded so as to acommodate the higher risk equity investments which my bill is designed to encourage.

I have not, at this time, proposed an amendment to section 4(c)(4) to accomplish such an expansion because I believe that the extent to which the authorization should be expanded can be better determined after hearings have been held on my proposal. The opinions of firms experienced in equity financing, of the SBA and of others who may have had direct experience of the financing of minority businesses will be most useful in determining the optimum authorization with which to inaugurate the approach incorporated in my bill.

Mr. President, it seems to have become fashionable of late, at least in certain circles to make ritualistic attacks on our Nation's basic institutions. Among these is our system of free, competitive enterprise. I suggest that the best argument in favor of our system is the argument of opportunity.

I believe my bill will help reinforce that argument by encouraging access to our economic system. Mr. President, I send my bill to the desk and ask that it be appropriately referred. I also ask unanimous consent that it be printed in full at this point in the RECORD.

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

S. 1415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 71 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

"(g)(1) Whenever the Administration determines that such action is necessary or desirable to assist small business concerns the participation of which in the free enterprise system is hampered because of social or economic considerations not generally applicable to other business enterprises to obtain the equity capital needed for viable and prudently managed business operations, it may guarantee equity investments in such concerns made by investment companies or other qualified investors. Any such guarantee shall be made pursuant to an agreement by the Administration to purchase equity secu-

rities evidencing the interest of an investor in such a concern in accordance with terms and conditions prescribed by the Administration subject to the following limitations and

"(A) No such agreement shall obligate the Administration to purchase securities covered by the guarantee after the expiration of two years following the date on which the agreement is entered into.

"(B) The small business concern issuing such securities is an eligible concern in accordance with standards and criteria prescribed by the Administration having regard to the purposes of this subsection.

"(C) The financing required by such concern cannot reasonably be obtained except with assistance provided under this subsection.

"(D) The Administration determines that the risks assumed pursuant to any such agreement are reasonable having regard to the purposes of this subsection.

"(2) A guarantee agreement entered into under this subsection by the Administration shall obligate the Administration to purchase securities covered by the agreement and held by an investor. An agreement may, having regard to whether the securities will be privately or publicly held, specify either one but not both of the following conditions giving rise to the obligation to purchase:

"(A) If at any time after the expiration of one year following the date on which a guarantee with respect to securities becomes effective the book value of such securities is less than 70 per centum of their book value at the time of purchase by an investor the Administration shall on demand of the investor purchase such securities from the investor at a price equal to 70 per centum of the price paid for the securities by the investor.

"(B) If at any time after the expiration of one year following the date on which a guarantee with respect to securities becomes effective the market price of such securities is less than 70 per centum of the price at which the securities were first offered for sale, the Administration shall on demand of the investor purchase such securities from the investor at a price equal to 70 per centum of the price paid for the securities by the investor.

"(3) The Administration shall fix a uniform fee which it deems reasonable and necessary for any guarantee issued under this subsection to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration shall also fix such uniform fees for the processing of applications for guarantees under this subsection as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith."

SEC. 2. Paragraphs (1), (2), and (4) of section 4(c) of the Small Business Act are amended by inserting "7(g)," after "7(e),".

By Mr. LONG:

S. 1416. A bill to amend the Social Security Act to add a new title XX thereto which will provide insurance against the cost of catastrophic illness. Referred to the Committee on Finance.

Mr. LONG. Mr. President, I am today introducing an amendment to the Social Security Act to establish a program of catastrophic health insurance coverage. This program would protect virtually all Americans against the devastating financial impact of catastrophic illness or accident.

Catastrophic illnesses and accidents strike at random, and the specter of such a disabling or even fatal occurrence is a part of all our lives. However, in this age of medical and scientific progress, families live not only with the specter of disabling or fatal illness, but also with a haunting fear of the financial devastation accompanying these illnesses.

Astonishing medical progress has gone hand in hand with a skyrocketing increase in the costs of medical care—particularly the costs of the new and sophisticated techniques employed in the treatment of catastrophic illnesses or accidents. The costs of the complex medical care necessary for spinal cord injury, strokes, severe burns and cancer, to name only a few conditions, can be staggering and can easily go beyond the reach of the resources of nearly any family in America. Families can and do work for a lifetime, only to lose everything at the time they are struck by a catastrophic illness.

Every family in America needs and deserves protection against the costs of catastrophic illness and our Government's social insurance system should provide that protection. The overall cost of establishing a catastrophic health insurance program is not large, considering the fact that almost every working family and virtually all retirees in America would receive protection.

As Senators may recall that I sponsored a catastrophic health insurance program during the 91st Congress. That plan was approved overwhelmngly by the Committee on Finance in 1970 as an amendment to H.R. 17550; but was voluntarily withdrawn by me on the Senate floor in order to expedite passage of H.R. 17550, which was approved by the Senate in late December.

I reintroduced the same amendment in the 92d Congress as S. 1376. During Finance Committee consideration of H.R. 1, the social security and welfare bill last year, I contemplated offering my catastrophic amendment to the bill. However, as Senators may recall, the administration had made it very clear that any major increase in the cost of H.R. 1 would surely result in a Presidential veto. For that reason alone, I withheld my catastrophic illness amendment, although I did cosponsor with the Senator from Indiana (Mr. HARTKE) on the Senate floor an amendment to cover under medicare patients with chronic kidney disease who needed dialysis or transplantation. These patients with kidney disease not only needed financial assistance now, but many of them also were sure to die if such assistance were postponed another few years. This amendment, I am pleased to say, became law.

In the 93d Congress we should enact a bill providing protection for families against the financial effects of any catastrophic illness. Consequently, I am reintroducing a catastrophic health insurance plan, improved but very similar to the one which was passed overwhelmingly by the Finance Committee in 1970 and introduced in the 92d Congress as S. 1376.

Basically, my bill would provide protection to all those who are currently and fully insured under social security, their spouses and dependents, and to all social security beneficiaries.

This very broad coverage includes about 95 percent of all persons in the United States, and the vast majority of those not covered are Federal employees and State and local employees. Federal employees are eligible for major medical catastrophic protection under the Federal Employees Heath Benefit Act, and State and local employees could buy into the catastrophic program established under this bill.

The types of services covered under the catastrophic plan would be similar to those currently covered under parts A and B of medicare except that there would be no limitation on hospital days or home health visits. Present medicare part A coverage includes 90 days of hospital care, 100 days of post-hospital extended care, and 100 home health visits. Present part B coverage includes physician's services, laboratory and X-ray services, physical therapy services and other medical and health items and services. Unlike medicare which provides basic insurance coverage, people would be responsible for payment for the first 60 days of hospital care and the first $2,000 in medical expenses in a year.

The heart of any catastrophic plan is there deductibles as this basically defines what will be considered a catastrophe, and distinguishes catastrophic coverage from basic health insurance. My proposal contains deductibles of $2,000 per family for part B physicians' benefits and 60 days hospitalization deductible per individual for hospitalization benefits. In other words, benefits would be payable for a family's medical bills beyond $2,000 and hospitalization would be covered from the 61st day of an individual's hospitalization. After the deductibles have been met, benefits will be payable as under medicare, which calls for a coinsurance payment of 20 percent on medical bills and $17.50 per day for hospital coverage. These coinsurance payments would be limited to a maximum of $1,000, at which point no further coinsurance would be charged.

Families would be expected to insure themselves through the use of present private health insurance arrangements against their basic health care costs, including the first 60 days of hospitalization and the first $2,000 of medical bills. For those families without the resources to obtain this basic private health insurance coverage, I believe the Federal Government should play a role in assuring availability of such basic coverage, as we already do for many of the poor through medicaid, and I will be addressing that issue directly in a short time.

The catastrophic program would be administered along with medicare by the Social Security Administration, and it would incorporate all of medicare's quality, cost and utilization controls.

This avoids setting up a new bureaucracy, and relies instead upon a proven Federal agency which has progressively and visibly improved its performance in administering health insurance for 20 million aged citizens.

Mr. President, I ask unanimous consent that a more detailed explanation of

my proposal be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LONG. Mr. President, while this bill is basically the same as that approved by the Finance Committee in 1970 and introduced in the 92d Congress as S. 1376, it contains several major improvements. First, the more than 20 million aged citizens now covered by medicare would also be covered under catastrophic health insurance. The major effect of this would be to give the aged added protection against the costs of long hospital stays and to treat them in the same fashion as all others covered under the bill. Along with this expanded hospital protection for the aged, the bill would maintain the present medicare 100-day limit on post-hospital skilled nursing facility services, since stays beyond that length do not, in the vast majority of cases, represent extended care as the term has been defined under medicare.

Another significant improvement incorporated in my bill this year would limit total coinsurance payments to a maximum of $1,000 in a year since, in some cases of extremely high cost illnesses, the coinsurance payments themselves could represent a large financial burden. For example, a patient with $20,000 in costs for covered services above the deductible amounts would, under the earlier bills, have been obligated to pay 20 percent of that amount, or $4,000, and the program $16,000. Under the present proposal, as I have noted, his liability would be limited to $1,000 with the program paying $19,000.

Mr. President, the amendment would become effective on January 1, 1975 and would cost an estimated $3.6 billion in the first full year of implementation. It would be financed by a payroll tax of three-tenths of 1 percent each on employees and employers.

The cost estimate on my proposal in 1970 was $3.2 billion a year. The net increase is due primarily to the inflation in medical care prices, which has occurred since that time. This increase highlights, to my mind, the need for Congress to act soon in this area of catastrophic illness as it means that the blameless victims of serious and costly illnesses are currently suffering greater financial losses than they were when Congress began considering my proposal in 1970. The additional costs of including the aged under this bill and the $1,000 limit on a beneficiary's coinsurance liability are generally offset by reductions in the original cost estimate attributable to the coverage of the disabled and those with kidney disease under medicare as provided under H.R. 1.

Mr. President, I believe that of all the constructive legislation this 93d Congress might enact, none would be more appreciated by millions of Americans in all walks of life than providing them with catastrophic health insurance coverage which supplements basic private insurance or medicaid and erases the haunting fear of financial devastation brought about by catastrophic illness.

Mr. President, I send the Catastrophic Health Insurance Act to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. Without objection it is so ordered.

DESCRIPTION OF CATASTROPHIC HEALTH INSURANCE PLAN

ELIGIBILITY

The amendment establishes a new Catastrophic Health Insurance Program (CHIP) as part of the Social Security Act financed by payroll contributions from employees, employers and the self-employed. Under the plan all persons who are fully or currently insured under the social security program; their spouses and dependents (and all Social Security beneficiaries) would be eligible for CHIP protection. All persons who are entitled to retirement, survivors, or disability benefits under Social Security, as well as their spouses and dependent children, would thereby be eligible for CHIP. This constitutes about 95 percent of the population.

The largest noncovered groups are Federal employees, employees covered by the Railroad Retirement Act, and State and local governmental employees who are eligible for Social Security but not covered due to the lack of an agreement with the State. (There are a small number of people who are still not covered by Social Security or other retirement programs; the majority of these are domestic or agricultural workers who have not met the necessary Social Security coverage requirements.)

Federal employees are, however, eligible for both basic and major medical catastrophic health insurance protection under the Federal Employees Health Benefits Act, with the Federal Government paying 40 percent of the costs of such coverage.

BUY-IN FOR STATE AND LOCAL EMPLOYEES

Under the amendment, State and local employees who are not covered by Social Security could receive coverage under CHIP if the State and local governments exercise an option to buy into the program to cover them on a group basis. When purchasing this protection, States would ordinarily be expected to include all employees and eligible annuitants under a singe agreement with the Secretary. A determination by the State as to whether an individual is an annuitant or member of a retirement system or is otherwise eligible to have such coverage purchased on his behalf would, for purposes of the agreement to provide CHIP protection, be final and binding upon the Secretary. Each State which enters into an agreement with the Secretary of Health, Education and Welfare to purchase CHIP protection will be required to reimburse the Federal Catastrophic Health Insurance Trust Fund for the payments made from the fund for the services furnished to those persons covered under CHIP through the State's agreement with the Secretary, plus the administrative expenses incurred by the Department of Health, Education and Welfare in carrying out the agreement. Payments will be made from the fund to providers of services for covered services furnished to these persons on the same basis as for other persons entitled to benefits under CHIP. Conditions are also specified under which the Secretary of the State could, after due notice, terminate the agreement.

BENEFITS

The benefits that would be provided under CHIP would be the same as those currently provided under Parts A and B of Medicare, except that there would be no upper limitations on hospital days, or home health visits. Present Medicare coverage under Part A includes 90 days of hospital care and 100 days of post-hospital extended care in a benefit period, plus an additional life-time reserve of 60 hospital days; and 100 home health visits during the year following discharge from a hospital or extended care facility. Part B coverage includes physicians' services, 100 home health visits annually, outpatient physical therapy services, laboratory and X-ray services and other medical and health items and services such as durable medical equipment.

The major benefits excluded from Medicare, and consequently excluded from this proposal, are nursing home care, prescription drugs, hearing aids, eyeglasses, false teeth and dental care. Medicare's limitations on extended care, on inpatient care in psychiatric hospitals, which limit payment to active treatment subject to a 190-day lifetime maximum, and the program's annual limitation on outpatient services in connection with mental, psychoneurotic and personality disorders are also retained. An additional exclusion would be for items or services which the Secretary of Health, Education and Welfare rules to be experimental in nature.

DEDUCTIBLES AND COINSURANCE

In keeping with the intent of this program to protect against health costs so severe that they usually have a catastrophic impact on a family's finances, a deductible of substantial size would be required. The proposal has two entirely separate deductibles which would parallel the inpatient hospital deductible under Part A and the $50 deductible under Part B of Medicare.

The separate deductibles are intended to enhance the mesh of the program with private insurance coverage. In order to receive both hospital and medical benefits, both deductibles must be met. If a person were to meet the hospital deductible alone, he would become eligible only for the hospital and extended care benefits. Similarly, if a family were to meet the $2,000 medical deductible, they would become eligible only for the medical benefits. There would be hospital and medical coinsurance requirements (as described below) but these would rise to a maximum of $1,000.

HOSPITAL DEDUCTIBLE AND COINSURANCE

There would be a hospital deductible of 60 days hospitalization per year per individual.

After an individual has been hospitalized for a total of 60 days in one year, he would become eligible for payments toward hospital expenses associated with continued hospitalization. The program would thus begin payment with the 61st day of his hospitalization in that year. Only those post-hospital extended care services which he receives subsequent to having met the 60-day deductible would be eligible for payment.

After the hospital deductible has been met, the program would pay hospitals substantially as they are presently paid under Medicare, with the individual being responsible for a coinsurance amount equal to one-fourth of the Medicare inpatient hospital deductible applicable at that time. Extended care services which are eligible for payment would be subject to a daily coinsurance amount equal to one-eighth of the Medicare inpatient hospital deductible. In 1973, this coinsurance amounts to $17.50 a day for inpatient hospital services and $8.75 a day for extended care services. Thus, the coinsurance could rise yearly in proportion to any increase in hospital costs.

MEDICAL DEDUCTIBLE AND COINSURANCE

There would be a supplemental medical deductible initially established at $2,000 per year per family. The Secretary of Health, Education and Welfare would, between July 1 and October 1 of each year (beginning in 1975) determine and announce the amount of the supplemental medical deductible for the following year.

The deductible would be the greater of $2,000 or $2,000 multiplied by the ratio of the physicians' services component of the Consumer Price Index for June of that year

to the level of that component for December, 1974. Thus, the deductible could rise yearly in proportion to any increase in the price of physicians' services.

After a family has incurred expenses of $2,000 for physicians' bills, home health visits, physical therapy services, laboratory and X-ray services and other covered medical and health services, the family would become eligible for payment under the program toward these expenses. For purposes of determining the deductible, a family would be defined as a husband and wife and all dependents.

After the medical deductible had been met, the program would pay for 80 percent of eligible medical expenses, with the patient being responsible for coinsurance of 20 percent.

DEDUCTIBLE CARRYOVER

As in Part B of Medicare, the plan would have a deductible carryover feature—applicable to both the dollar deductible and the hospital-day deductible—under which expenses incured (or hospital days used) but not reimbursed during the last calendar quarter of a year would also count toward the satisfaction of the deductibles for the ensuing year. For example, an individual admitted to a hospital with a cardiac condition on December 10, 1975, and continuously hospitalized through February 19, 1976, would not, in the absence of the carryover provision meet the hospital-day deductible unless he were to be hospitalized for at least another 10 days in 1976. With a carryover provision, however, the individual described above would meet the hospital deductible on January 30, 1976. Similarly, if a family's first eligible medical expenses in 1975 amount to $1,200 and were incurred during the months of November and December, and an additional $3,000 in eligible medical expenses are incurred in 1976, the family would, in the absence of a carryover provision, be eligible for payment towards only $1,000 of their expenses in 1976. With a carryover provision, however, the family described above would be eligible for payment toward $2,200 of their expenses in 1976.

ADMINISTRATION

Payments made to patients, providers, and practitioners under this program would be subject to the same reimbursement, quality, health and safety standards, and utilization controls as exist in the Medicare program. Reimbursement controls would include the payment of audited "reasonable costs" to participating institutions and agencies, and "reasonable charges" to practitioners and other suppliers. However, appropriate modifications will be made to take into account the special features of this program, including a modification to exclude "bad debts" from those costs eligible in computing reasonable cost payments to institutions.

The utilization of services would be subjected to review by present utilization review committees established in hospitals and extended care facilities and by the professional standards review organizations established under P.L. 92-603.

The proposal contemplates using the same administrative mechanisms used for the administration of Medicare, including, where appropriate, Medicare's carriers and intermediaries. Using the same administrative mechanisms as Medicare will greatly facilitate the operation of this program. The proposal also would encompass use of Medicare's statutory quality standards, in that the same conditions of participation which apply to institutions participating in Medicare would apply to those institutions participatng in CHIP. These standards serve to upgrade the quality of medical care and their application under this program should have a similar salutary effect.

The Social Security Administration, utilizing its network of district offices, would determine the insured status of individuals and relationships within families which are necessary to establish entitlement to CHIP benefits. The determination of whether the deductible expenses had been met would also be handled by the Social Security Administration in cooperation with carriers and intermediaries. The proposed administrative plan envisions establishing a $2,000 minimum expense amount before individual bills would be accepted. This would protect the administrative agencies from being inundated with paperwork.

FINANCING

The amendment would finance the plan with the following contribution schedule: 1975–1977, 0.3 of one percent of taxable payroll on employees and 0.3 on employers; 1978–1981, 0.35; 1982 and after, 0.4. Rates for the self employed would also be 0.3, 0.35 and 0.4 respectively.

The contributions would be placed in a separate Federal Catastrophic Health Insurance Trust Fund from which benefits and administrative expenses related to this program would be paid. The complete separation of catastrophic health insurance financing and benefit payments is intended to assure that the catastrophic health insurance program will in no way impinge upon the financial soundness of the retirement, survivors, or disability insurance trust funds or Medicare's hospital and supplementary medical insurance trust funds. Such separation will also focus public and congressional attention closely on the cost and the adequacy of the financing of the program.

To provide an operating fund at the beginning of the program (in recognition of the lag in time between the date on which the taxes are payable and their collection), and to establish a contingency reserve, a Government appropriation would be available (on a repayable basis without interest) during the first 3 calendar years of the program. The amount which could be drawn in any such calendar year could not exceed the estimated amount of 6 months of benefit payments during that year.

RELATIONSHIP WITH MEDICAID

The catastrophic illness insurance program would be supplemental to the Medicaid program with regard to public assistance recipients and the medically indigent in the same way in which it will be supplemental to private insurance for other citizens Thus, Medicaid will continue to be the program that is intended to cover the basic health needs of categorical assistance recipients and the medically indigent.

In addition, Medicaid will continue to play a substantial role in financing the cost of nursing home care, which represents a catastrophic cost to many people, especially the aged. The catastrophic health insurance program will, of course, lessen the burden on the Medicaid program to some degree, since those covered by Medicaid who are eligible would have a large proportion of their catastrophic expenses covered by this program, leaving only the deductible and coinsurance amounts for the Medicaid program to pay.

CONCLUSION

More than one million families of the approximately 49 million families in the United States annually incur medical expenses which will qualify them to receive benefits under the program. Of course, nearly all American families will receive the benefit of insurance protection against the costs of catastrophic illnesses. The program is not intended to meet the health costs which the population incurs for short-term hospitalization and acute illness. This program is intended to insure against those highly expensive illnesses or conditions which, although a potential threat to every family, actually strike only a relatively few. Individuals should, during their working years, be able to obtain protection against the devastating and demoralizing effects of such costs.

These provisions and the taxes to pay for them would become effective January 1, 1975.

By Mr. HATFIELD (for himself, Mr. BEALL, Mr. BENNETT, Mr. BIBLE, Mr. BROCK, Mr. CLARK, Mr. CRANSTON, Mr. CURTIS, Mr. FANNIN, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HANSEN, Mr. HOLLINGS, Mr. HUGHES, Mr. JAVITS, Mr. MANSFIELD, Mr. MCINTYRE, Mr. PACKWOOD, Mr. SCOTT of Pennsylvania, and Mr. TUNNEY):

S. 1418. A bill to recognize the 50 years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as 31st President of the United States, and in commemoration of the 100th anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace. Referred to the Committee on Labor and Public Welfare.

Mr. HATFIELD. Mr. President, I rise this morning to introduce a bill to commemorate the 50 years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as 31st President of the United States, and in commemoration of the 100th anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace.

Mr. President, I propose today that the Government may be authorized to contribute $5 million as an appropriate memorial to President Hoover for the Hoover Institution on War, Revolution, and Peace that exists at Stanford University.

I have discussed this matter with the Hoover family. They feel that this would be a very appropriate memorial. We recognize that today the Hoover Institution on War, Revolution, and Peace is the largest such institution existing in the world for the study of war, revolution, and peace. I am very proud to have as cosponsors of my bill the senior Senator from Iowa (Mr. HUGHES), the junior Senator from Iowa (Mr. CLARK), the senior Senator from California (Mr. CRANSTON), the junior Senator from California (Mr. TUNNEY), the senior Senator from New York (Mr. JAVITS), the junior Senator from New York (Mr. BUCKLEY), the senior Senator from Montana (Mr. MANSFIELD), and the senior Senator from Pennsylvania (Mr. SCOTT), and other distinguished Senators.

Mr. President, at this time I send the bill to the desk for introduction.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. HATFIELD. Mr. President, on August 10, 1974, our country will mark the 100th anniversary of the birth of its 31st President, Herbert Clark Hoover. More than any other American leader of this century, President Hoover exemplifies for us a humanitarian commit-

ment to the needs of people not only in our Nation but throughout the world.

The religious convictions of President Hoover and a request from President Wilson caused him to relinquish a successful, worldwide business career to devote his tireless energies before, during, and after World War I to easing through European relief activities the suffering weighed upon millions of victims of that conflict.

President Hoover continued his efforts in the domestic sphere as Secretary of Commerce for Presidents Harding and Coolidge, and committed those convictions to the improvement of conditions in the fields of child labor and collective bargaining.

President Hoover began this modern success story as an orphaned boy in West Branch, Iowa, was raised by relatives in Newburg, Oreg., and worked his way through high school in Salem, Oreg., as well as through Stanford University in California.

Turned from office by worldwide economic conditions which no man could control, President Hoover offered us not bitterness but continued service to shape our Nation and the world into a better place in which to live.

Among those contributions he gave us were reform proposals written for President Truman increasing governmental efficiency and accountability, including the first all-encompassing general reorganization plan for national Government which continues to benefit us today. Through his efforts to make the organization of Government responsive to the people, President Hoover's name has become synonymous with modern management practices both in Government and in business.

Throughout his life President Hoover sought only a chance to serve his fellow man, and was granted a life and a career as a Presidential counselor and adviser for which all Americans can be thankful. He has truly earned a special niche in our history as a man of achievement and compassion, deserving the respect of his fellow men.

Mr. President, early in the 92d Congress, I introduced legislation, cosponsored by 53 Senators, establishing a commission to formulate plans for a permanent memorial to Herbert Hoover. However, as the anniversary of Mr. Hoover's birth drew nearer and Congress failed to act, it became apparent that insufficient time remained for a commission to be formulated and carry out its work. At that time I introduced the legislation which I am bringing to your attention again today.

This measure provides that a national memorial take the form of a special building at the Hoover Institution on War, Revolution, and Peace at Stanford University. The establishment of such a memorial, to directly further the impulses of humanitarianism and international justice that characterized his life, is a most fitting and appropriate national tribute to Herbert Clark Hoover.

HERBERT HOOVER MEMORIAL TO COMMEMORATE THE 100TH ANNIVERSARY OF HIS BIRTH ON AUGUST 10, 1974

The life and achievements of the 31st U.S. President have been told and retold many times. Orphaned at age 9, he nevertheless became a great engineer, humanitarian, author, public servant, and world statesman. Herbert Hoover was also a warm and compassionate individual who championed the cause of peace both in Government and as a private citizen. His rare executive ability and talent for the ordering of institutional finance, his genius for organization and leadership found their outlets in these many and variegated pursuits.

HUMANITARIAN ACTIVITIES

Human suffering always stirred him to action. Herbert Hoover's compassion for the victims of civil strife had already led him to administer food relief during the Boxer Rebellion in China, where he arrived to work as a mining engineer from western Australia. His 50 years of public service did not begin, however, until the outbreak of World War I. August 1914 found Mr. Hoover organizing the American Relief Committee in London which financially helped 120,000 stranded U.S. citizens to return home from Europe. He subsequently coordinated the delivery of food supplies to that war-torn continent.

Of particular concern to Mr. Hoover was the plight of starving children. The Commission for Relief in Belgium was perhaps the best example of these activities. Organized by Mr. Hoover in response to urgent pleas by the Belgian people, it created a whole new pattern for humanitarian work. Its only real power was that of the spirit, of integrity, and of unselfish service.

President Woodrow Wilson called upon Mr. Hoover to become U.S. Food Administrator in April 1917. In this capacity, he established three boards and introduced pioneering methods for mobilizing food resources in time of war. When that conflict ended, Mr. Hoover returned to Europe with the American delegation to the Paris Peace Conference on which he served as alternate chairman of the Supreme Economic Council. Appointed Director-General of Relief and Reconstruction for Europe in 1918, he also headed the volunteer American Relief Administration which functioned in 33 countries and saved 17 millions of lives during the famine in Russia alone. Whenever war, famine, or flood brought disaster to multitudes of people, the first name that came to mind was that of Herbert Hoover.

At the request of President Harry S. Truman this relief activity was renewed in 1945 by Mr. Hoover, who coordinated the food supply for 800 million people and personally visited 37 countries. Again, starvation would have afflicted millions of people, especially in smaller democracies, had this program not been put into effect. During this period, Mr. Hoover also established Care, Inc., which still operates today and sends food packages from private American citizens to the needy overseas. He directed these humanitarian enterprises on a scale never before attempted, and he never accepted payment for his services.

GOVERNMENT CAREER

Apart from the special humanitarian missions enumerated above, Mr. Hoover served as Secretary of Commerce, 1921 to 1928. He developed the U.S. Census Bureau statistical services to assist agriculture, business, and labor; began regulation of radio and aviation; introduced safety inspection by the Bureau of Mines; sponsored conferences on unemployment; and negotiated the seven-State compact for a Colorado River Commission as one of the measures for better utilization of water resources. In 1927, he directed relief for 1,500,000 people endangered by the Mississippi flood.

As 31st President of the United States, 1928 to 1932, Mr. Hoover urged the 1930 Conference on Limitation of Naval Armaments, which resulted in a treaty; initiated Federal Reserve Board restrictions on credit for speculation; reorganized the air-mail service; developed various conservation programs; and held White House conferences on child health as well as homebuilding and homeownership, which laid the ground for subsequent Federal policy. Mr. Hoover recommended extensive public work programs; organized Federal credit agencies—Reconstruction Finance Corporation and Home Loan Banks—expanded resources of the Federal Land Banks; organized relief to victims of the 1930 drought; and secured the Standstill Agreement that enabled European banks to function. While in the White House he never accepted any salary.

President Truman in 1947 again turned to Mr. Hoover who undertook a mission to Germany, which led to recommendations contributing to the economic recovery of that country. That same year, he was selected as Chairman of the bipartisan Commission on Reorganization of the Executive Branch of the Government. After the greatest 2-year inquiry ever undertaken into the workings of the U.S. Government, a substantial percentage of the Commission's recommendations for policy changes and reorganization were implemented. Mr. Hoover also chaired the second such Commission—1953 to 1955. The two Commissions published the results of their studies in 80 volumes. Congress three times adopted Joint Resolutions of Appreciation for Mr. Hoover's services, a unique distinction.

INTEREST IN SCHOLARSHIP

Less well known are Mr. Hoover's activities in support of universities. Residual funds from World War I relief operations went to various Belgian academic institutions, such as Brussels, Ghent, Liege, and Louvain, each of which received over $3,800,000 from the Commission for Relief in Belgium.

The bill to establish the U.S. National Archives was introduced during Mr. Hoover's Presidency, and he later gave impetus to the concept of Presidential libraries. A trustee of various educational and scientific institutions, he authored 32 books and numerous articles.

Very close to his heart was a research center which he founded with personal funds in 1919 at his alma mater, Stanford University. It bears his name today as the Hoover Institution on War, Revolution, and Peace. Through its collections, research programs, and publications, it has become known as a

major national center for documentation and advanced research on the problems of political, social, and economic change in the 20th century.

President Hoover himself gathered the institution's first documents during the Paris Peace Conference. Since that time six principal area collections have been established on Africa, the Americas, East Asia, Eastern Europe, the Middle East, and Western Europe. The Hoover Institution is now the largest private archive in the United States; its holdings include more than 3,500 individual collections that comprise manuscript memoirs, diaries, and personal papers of men and women important in public affairs, publications of ephemeral societies and of international bodies, both official and unofficial, as well as books and pamphlets, many of them rare and irreplaceable.

The library, which now contains some 1,250,000 volumes, provides research material for advanced scholarship on virtually every aspect of economic, social and political change in this century. It offers students and scholars from the United States and the rest of the world the opportunity to concentrate on one area, to undertake comparative studies, and at the same time to analyze important problems in the perspective of the world as a whole. Each year from 1,200 to 1,500 scholars spend weeks or months of intensive study at the institution. Typically, they represent 25 to 30 different countries and almost every State in the United States.

Hoover Institution collections have received praise from many sources. Prof. David Thomson at Cambridge University stated in the Journal of Contemporary History that

> France has, for thirty years, had its *Institut d'histoire des relations internationales contemporaines*, but neither Britain nor France has any institution in the field that is comparable in importance with the Hoover Institute and Library at Stanford.

G. A. Belov, Director of the U.S.S.R. State Archives Administration, who visited the Hoover Institution as well as the National Archives, Columbia, Harvard, the University of California at Berkeley, and the Library of Congress, wrote in Novaia i Noveishaia Istoriia:

> The largest collection of materials in the United States on the revolutionary movement in Russia and also on the Soviet Union is to be found in the library of the Hoover Institution on War, Revolution and Peace at Stanford University (Stanford, California).

Finally, the Library of Congress in its bulletin has said of the Hoover Institution's East Asian collection:

> It is generally agreed among specialists on the Far East that Hoover, through extensive expenditures of funds and effort, and the application of outstanding administrative flexibility in acquisitions procedures, has developed the strongest collection on modern China in the Western world.

The foregoing comments pertain in large part to the Hoover Archives, which comprise one of the largest and most significant documentation centers in the United States and indeed the world. Over 50 percent of the materials are in languages other than English.

THE HOOVER INSTITUTION

In a statement prepared for the Board of Trustees of Stanford University, Mr. Hoover wrote the following:

> During this century there have developed forces and events which, as never before in our national life, have had so profound an effect on our independence, our form of government, our social and economic system, and the setting of the American people in the international world.
>
> Here in this Institution [Hoover] is the greatest amassing of the records of these forces and events, which exist in the world. Its upbuilding and preservation have become doubly precious to the world because of the wholesale destruction of libraries and historical material during the Second World War. Over fifty organizations and sixty nations have contributed to the building up of this two score millions of documents, books, and items covering the two great wars and their aftermaths....
>
> And finally, among the many other materials in the Hoover Archives is the record of the compassion of the American people, who, by self-denial and long hours of labor, provided the margins of food, medicines, and clothing which, in the wars of the present century, have enabled over one billion four hundred million human beings to survive who otherwise would have perished.

Since President Hoover's death in 1964 at the age of 90, the Hoover Institution has continued to honor the vision and devotion of the founder as well as the many friends and associates who helped to develop it into a world-famous center for advanced research. The documents and papers preserved in the Hoover Institution represent a precious heritage, accessible without charge to citizens of the United States and all foreign countries. As they provide the sources for scholarly research, so does the carillon of 35 bells on the Hoover Tower exemplify the purpose of the work done there. On the largest bell appears the inscription, pro pace sono—I ring for peace.

Over the several decades since the end of World War II, the efforts of five U.S. Presidents to achieve and maintain peace throughout the world have assumed more importance than ever before. The work of private citizens and public servants, researchers and scholars, as they have utilized the Hoover Institution archives, represents an uninterrupted effort to continue the work of Mr. Hoover and those following him, to analyze the causes of war, and to contribute "to freedom and peace." Herbert Hoover's dedication to public service for more than 50 years and his lifelong support of the institution that bears his name attest to the high value he placed on the preservation and use of the materials documenting the progress of peace in the 20th century.

When dedicating the Tower Building in June of 1941, Mr. Hoover stated:

> The purpose of this institution is to promote peace. Its records stand as a challenge to those who promote war. They should attract those who search for peace.

It would be most appropriate, therefore, to memorialize Herbert Hoover's 50 years of devoted and selfless public service by providing grants to the institution which he founded at Stanford University. These funds will honor the memory of a great American on the 110th anniversary of his birth and enable the work he began to continue. On one occasion, when describing the Institution, Mr. Hoover stated:

> Here are the documents which record the suffering, the self-denial, the devotion, the heroic deeds of men. Surely from these records there can be help to mankind in its confusion and perplexities, and its yearnings for peace.

Mr. President, in closing let me demonstrate the timely relevance of Herbert Hoover's thoughts and life by reading the four following selected quotations from Mr. Hoover's speeches and writings:

MEMORIAL DAY ADDRESS—MAY 30, 1929

> Today, as never before in peace, new life-destroying instrumentalities and new systems of warfare are being added to those that even so recently spread death and desolation over the whole continent of Europe. Despite those lessons every government continues to increase and perfect its armament. And while this progress is being made in the development of the science of warfare, the serious question arisis—are we making equal progress in devising ways and means to avoid those frightful fruits of men's failures that have blotted with blood so many chapters of the world's history?

GRIDIRON CLUB—DECEMBER 14, 1929

> There are discordant notes and discordant nations. The old fallacy has been again produced that making war more terrible will frighten nations to peace. War has become more terrible every year since the invention of gunpowder, and every half century has seen more and more men sacrificed upon the battle field. Human courage rises far above any terror yet invented. I have been told that one cannot furnish food to civilians without furnishing it to armies, but no body of armed men ever did starve when food existed. There was no army in the World War that did not feed in full up to the last hour of the armistice, no matter when rows of pinched faces and emaciated children stood by the roadsides and ransacked their offal for wasted bread.
>
> . . . I have seen it stated that public opinion of neutrals had no effect in the last war. On the contrary, when the final verdict of history is given, it will be found that the loser lost, not for lack of efficiency , or valor, or courage, or starvation, but failure to heed the public opinion of what were originally neutral nations.

THE CHALLENGE TO LIBERTY—
HERBERT HOOVER, 1934

> Modern despotism, in every case, has achieved its purpose by fanning the fires of Nationalism. To inflame hate, and to stir the sacred emotion of patriotism as a drug to liberty, is a favorite device of those who seek power. Their effect is to increase enormously the dangers of conflict.

NEW YORK CAMPAIGN SPEECH—
OCTOBER 22, 1928

> It is a false liberalism that interprets itself into the government operation of commercial business. Every step of bureau criticizing of the business of our country poisons the very roots of liberalism—that is, political equality, free speech, free assembly, free press, and equality of opportunity. It is the road not to more liberty, but to less liberty. Liberalism should be found not striving to spread bureaucracy but striving to set bounds to it. True liberalism seeks all legitimate freedom first in the confident belief that without such freedom the pursuit of all other blessings and benefits is in vain. That belief is the foundation of all American progress, political as well as economic.

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

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

S. 1418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized to make grants to the Hoover Institution on War, Revolution, and Peace at Stanford University, Stanford, California. Such grants shall be made on condition that the funds so granted will be used for the construction of a new building, for the equipment of such building, and for the establishment of a capital fund administered by the Hoover Institution, the income from which shall be used for the purchase and processing of books and other documents for the library of the Hoover Institution.

SEC. 2. There is hereby authorized to be appropriated to the Secretary of the Treasury for making grants under this Act amounts in which the aggregate will not exceed gifts, bequests, and devises of money, securities, and other property, made to the Hoover Institution on War, Revolution, and Peace after the date of enactment of this Act, except that the aggregate amount so appropriated shall not exceed $5,000,000. Funds appropriated under this Act shall remain available until expended.

Mr. CRANSTON. Mr. President, I am today cosponsoring—with Senator HATFIELD and others—a bill to commemorate the 100th anniversary of the birth of Herbert Hoover, the 31st President of the United States, by expanding the singularly important work of the Hoover Institution on War, Revolution, and Peace.

The bill provides grants to the Institution, located at Stanford University, for construction of a new building, for equipment, and for services. The total contribution, in Federal moneys shall not exceed $5 million, with funds to remain available until expended.

Mr. President, Herbert Hoover was one of the most fascinating and complex of American Presidents. He was controversial; but controversy is synonymous with determined leadership in the turbulent years that preceded World War II and left our society forever changed. His role in shaping and responding to those forces of change will be debated for years to come, as we sort through the events of American history that led to this particular society at this particular time.

But the social controversy of Herbert Hoover ends where his international humanitarianism begins. His complete dedication to the cause of world justice and world peace is unique in our time. When he founded the Hoover Institution he characteristically wasted few words in describing the mission he envisioned:

The purpose of this Institution is to promote peace.

Since 1919, its founding year, the Hoover Institution has emerged as a comprehensive center for research and documentation on the currents of political, social, and economic change in the 20th century. As an alumnus of Stanford, I know from personal experience that the institution is a well-catalogued repository for important documents that are relevant to a myriad of issues in public and international affairs. There are some 1.25 million books on virtually every aspect of economic, social, and political change in this century. The institution is the largest private archive in the United States.

Mr. President, I have long been deeply impressed by the work of the institution. I believe, along with Senator HATFIELD, that our support of this measure to expand the facilities and services of the Hoover Institution on War, Revolution and Peace is not only an appropriate memorial to a former President who has received little such attention, but an important contribution by the Congress to the promoting of international peace and understanding.

Mr. BROCK. Mr. President, I am pleased to cosponsor the bill to honor President Herbert Hoover, which has been introduced by the Senator from Oregon (Mr. HATFIELD).

At one time, it was popular to say that history had been cruel to Herbert Hoover. It had blamed him for a great depression which was not of his making, and overlooked the immense contributions which he had made to his country, both before and since his Presidency.

Such sentiments, expressed over a period of time, have a tendency to be self-refuting, and this process has occurred with regard to Hoover. In the years since his death in 1964, Americans have increasingly come to understand that he was a man of remarkable achievements, and one whose selfless activities on behalf of his country and his fellow man deserve our highest admiration.

Thus it is fitting that we act now to establish a fitting memorial to his life and works.

Senator HATFIELD's bill would do just that, it would authorize the Secretary of the Treasury to grant funds to the Hoover Institution on War, Revolution, and Peace, at Stanford University for the purpose of constructing and equipping a new building there in President Hoover's memory.

It is particularly appropriate that the bill seeks to honor Hoover by improving and strengthening his institution, which is one of the very finest centers in America for scholarship on public affairs.

Founded by Hoover himself in 1919, the institution today is the largest private archive in the United States and has made an enormous contribution to the spread of knowledge vital to achieving and maintaining peace in the world.

Indeed, Hoover said in 1941—

The purpose of this Institution is to promote peace.

A similar statement might be applied to Hoover's own life. For his relief work in Europe during World War I, he became known as "The Great Humanitarian." He was a leading force at the Paris Peace Conference following the war, and was described as "the only man who emerged from the ordeal of Paris with an enhanced reputation."

The foreign affairs policies of his administration included many notable achievements in promoting peace among nations. He visited Latin America, and changed the old "dollar diplomacy" attitude with regard to that area of the world. He cooperated with the League of Nations, supported disarmament, and the treaties of the London Naval Conference limiting naval arms.

He was a man of peace and a great humanitarian. He was motivated by the finest instincts of which man is capable.

In honoring his memory as Senator HATFIELD has proposed, we are indeed performing a public service.

By Mr. DOMENICI (by request):

S. 1419. A bill to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex. Referred to the Committee on Interior and Insular Affairs.

Mr DOMENICI. Mr. President, I am pleased today, in response to requests by the New Mexico Wilderness Study Committee and other concerned environmental and conservation groups, to introduce a bill to create a new wilderness area—the Aldo Leopold Wilderness.

This area would comprise 231,737 acres to be incorporated into the Gila National Forest in New Mexico for addition to the National Wilderness Preservation System.

Much of the 231,737 acres which this legislation asks be set aside, would also be designated as wilderness under S. 601. That bill, introduced by Senator HENRY JACKSON, would set aside 188,095 of this Black Range Primitive Area as wilderness.

Mr. President, I am at this time expressing no opinion as to which piece of legislation I prefer. But I do believe it is important that those groups who would have the larger area designated as wilderness be given the opportunity to present their views and have their opinions brought forth at committee hearings.

I am introducing this measure so that the appropriate Senate committee will have the opportunity to investigate the request that 44,000 acres on the periphery of the core area also be designated as wilderness area.

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

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

S. 1419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132(b)), the area classified as the Black Range Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Proposed Aldo Leopold Wilderness", dated May 1972, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, is hereby designated as the "Aldo Leopold Wilderness" within and as part of the Gila National Forest, and shall comprise an area of approximately two hundred thirty-one thousand and seven hundred thirty-seven acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Aldo Leopold Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Aldo Leopold Wilderness shall

be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Black Range Primitive Area is hereby abolished.

By Mr. KENNEDY:

S. 1421. A bill to amend the administrative procedure provisions of title 5 of the United States Code to make the rulemaking provisions applicable to matters relating to public property, loans, grants, benefits, and contracts; to provide for payment of expenses incurred in connection with proceedings before agencies; to provide for waiver of sovereign immunity; to provide for the enforcement of standards in grant programs, and for other purposes. Referred to the Committee on the Judiciary.

BUREAUCRATIC ACCOUNTABILITY ACT

Mr. KENNEDY. Mr. President, today I take pleasure in introducing the Bureaucratic Accountability Act, providing for various amendments to the Administrative Procedure Act which are designed to increase public participation in Federal agency decisionmaking and to make government officials more responsive to the American people. Congressman DELLUMS, along with a group of cosponsors in the House, introduced identical legislation yesterday.

It has been generally observed that government agencies seldom respond to interests not represented directly in their proceedings; likewise, however, the majority of citizens do not have a sufficient economic stake in the results of a particular proceeding to render practicable the full expenses of direct participation. Thus, the interests of the public which do not coincide with those of trade associations, large corporations, and other Washington pressure groups remain unrepresented for the most part.

This has led to a dissatisfaction from various perspectives with the workings of the day to day processes of government. Consumer advocate Ralph Nader claims that:

Most Americans are shut out of the Federal administration and regulatory system.

John Gardner writes that:

Most parts of the system have grown so rigid that they cannot respond to impending disaster.

Paul Tillich states:

There is a tendency in the average citizen, even if he has a high standing in his profession, to consider the decisions relating to the life of the society to which he belongs as a matter of fate on which he has no influence.

Even President Nixon has observed that:

Most Americans today are simply fed up with government at all levels.

Certainly no single factor can explain this attack on our basic system of government, but there does seem to be broad agreement that the individual's feeling of helplessness to affect those governmental decisions which in turn will affect him may account in large part for this attitude.

The President's Advisory Council on Executive Organization 2 years ago came down with its own verdict after intensively studying the Federal regulatory agencies: those agencies are insufficiently accountable—to Congress, to the President, and ultimately to the public. The traditional theory on which many agencies were founded assumes that the agency itself can effectively represent the public's interests. Speaking in the context of reviewing an FCC license renewal proceeding, however, Chief Justice Burger, as a member of the District of Columbia Circuit Court, wrote that this:

Is no longer a valid assumption which stands up under the realities of actual experience.

The Bureaucratic Accountability Act is intended to strengthen the ability of the ordinary citizen to enforce his rights and voice his interests in administrative proceedings. Title I of the bill extends the procedural safeguards and requirements established by the Administrative Procedure Act relating to rulemaking proceedings to areas previously exempted by the act. This is similar to legislation I have introduced in the previous Congress and coincides in part with recommendations of the Administrative Conference of the United States.

Title II of my bill adds a new section to the APA that would authorize agencies to reimburse indigent participants in administrative proceedings reasonable costs of participation if the agency determines that the person has contributed substantially to promoting agency implementation of its legislated mission.

Title III is identical to a bill I introduced in two previous Congresses to narrow application of the doctrine of sovereign immunity and to implement other related recommendations of the American Bar Association and Administrative Conference.

Finally, title IV requires establishment of a complaint procedure by agencies authorized to make grants by their grantees. This requirement grows out of a desire to facilitate enforcement of standards in Federal grant-in-aid programs, a necessary predicate to which is a workable complaint-handling procedure on the part of grantor and grantee alike.

Let me explain these provisions a little more fully.

PROPRIETARY AND OTHER EXEMPTIONS TO APA RULEMAKING REQUIREMENTS REMOVED

The rulemaking provisions of the Administrative Procedure Act—section 553 of title 5, United States Code—afford an avenue for interested persons to participate in the process by which the policies of Federal agencies are formulated. The requirements for public notice and comment on proposed agency rules is not simply a palliative offered the public for letting off steam. To the contrary, these provisions impose upon the Government a duty to be responsive to commonly felt public needs by offering a genuine opportunity for interested persons—who are often in the best position to furnish needed information to administrative officials—to participate in the rulemaking process. Prof. Kenneth Culp Davis, one of the leading authorities on administrative law, has suggested that the APA rulemaking procedure "is probably one of the greatest inventions of modern Government." The opportunity accorded persons affected by agency rules to present their views enhances the quality of decisionmaking by Government officials and represents an element of our system of participatory democracy.

Exempted from the APA requirements, however, is all rulemaking related to public property, loans, grants, benefits, or contracts. These exemptions were based originally on the uncritical assmuption that the activities excluded were "proprietary matters" wherein the Government is in the position of an individual citizen and is concerned with its own property, funds, or contracts. If that assumption was uncritical and unwarranted when the act was passed in 1946, it is even more so today.

The distinction between proprietary and nonproprietary functions of Government has been discredited both in law and in the public mind. The irrelevancy of the label "proprietary matters" is particularly apparent when we recognize that matters relating to public property, loans, grants, benefits, or contracts represent those very mechanisms most commonly employed by Federal agencies to accomplish their statutory missions. Burgeoning agency programs, involving billions of dollars and affecting millions of citizens, are effectuated through such mechanisms. Obviously these programs have a substantial impact on the public. Similarly, the rules and regulations themselves, developed by the agencies to achieve program objectives, have an enormous effect. Rules prescribing eligibility standards for, or imposing mandatory requirements upon, recipients of loans, grants, or contracts significantly affect substantive private interests and often have an impact beyond the public's choosing.

I have been pleased to see, over the past few years, that a number of agencies and departments have responded to the problems in this area—and to the recommendations of the Administrative Conference—adopting by regulation the APA requirements. HUD and HEW, the largest grant-making agencies, and Interior, with jurisdiction over public lands, led the way with commendable speed. Unfortunately, the major contracting agencies, including GSA and the Defense Department, have yet to recognize the benefit of adopting voluntarily a notice-and-comment rulemaking process. So the need for a general approach on this subject remains.

Title I will thus contribute substantially to achieving the objective, enunciated by the President a few years ago, of giving every American a chance "to participate in a system of government where he knows not only his votes but his ideas count."

REIMBURSEMENT OF EXPENSES INCURRED BEFORE AGENCIES

The Administrative Procedure Act guarantees public participation in agency proceedings, and the right of public par-

ticipation has been firmly established by the courts. This right of participation, however, is hollow and illusory without support from the agencies themselves. Title II recognizes this and provides that in appropriate cases the agencies may reimburse interested persons participating in administrative proceedings.

One of the early recommendations of the Administrative Conference recognized the financial barriers to full participation by the poor in Federal administrative proceedings. The conference suggested a series of procedures useful for insuring that agencies are informed concerning the relevant interests of the poor, and formally recommended:

Federal agencies should engage more extensively in affirmative, self-initiated efforts to ascertain directly from the poor their views with respect to rulemaking that may affect them substantially.

Certainly agencies, to some extent, are already expending funds to provide special representation for the public's interest in various proceedings. In every case in which agency attorneys call witnesses to support the Government's position, the Government pays witness fees and transportation. And the Government position is supposed to be the public-interest position. Thus it would appear desirable that agencies be given the authority to experiment with other methods of getting public inputs by directly supporting participation efforts on the part of those unable to absorb the costs of participation directly, where the participant has made what the agency determines to be "discernible contribution to promoting agency implementation of a purpose of the act of Congress pursuant to which" the proceeding has been conducted.

I personally believe that Government agencies already have both the statutory and inherent powers to allow public intervenors and litigants in administrative proceedings to participate in forma pauperis in agency proceedings, and to use governmental funds to effectuate this participation.

In fact, it would appear that many agencies have direct obligations in this regard. Since legislative authority may not be sufficiently clear, and some further indication of congressional intent desirable, title II is designed to provide adequate and flexible authority for agency support of public involvement. I am presently developing a more comprehensive approach on the question of recovery of attorney's fees in administrative proceedings, and I hope to introduce legislation on this subject during this session.

It should be noted that last year, pursuant to a request from the Federal Trade Commission and after over a year of deliberation, the Comptroller General informed the chairman of the FCC that, as to indigent respondents in adjudicative proceedings, the Commission has full authority to reimburse these parties for expenses incurred in the preparation of their defense. The Comptroller General wrote that:

The use of Commission appropriations to assure such full preparation of cases by impecunious litigants would constitute a proper exercise of administrative discretion regarding the expenditure of appropriated funds.

As to intervenors, the opinion observed that the FTC is specifically authorized by law to grant intervention "upon good cause shown." The opinion concluded:

Thus, if the Commission determines it necessary to allow a person to intervene in order to properly dispose of a matter before it, the Commission has the authority to do so. As in the case of an indigent respondent, and for the same reasons, appropriated funds of the Commission would be available to assure proper case preparation.

This opinion, of course, related to but a single agency and a well-defined set of facts. The need to develop a general approach to this issue of agency reimbursement of expenses—and waiver of certain fees—is evident. Title II provides one approach; I am confident that hearings can further refine and develop this approach, as well as provide alternatives to effectuating full public involvement in administrative proceedings.

NARROWING OF SOVEREIGN IMMUNITY DOCTRINE

The doctrine that "the King can do no wrong" may have gone unquestioned in medieval England. I believe that we would all agree, however, that it has no place in 20th-century America. Yet this seems to be precisely the basis of the judicial doctrine of "sovereign immunity," developed during the past two centuries in this country. To the extent that this immunity doctrine prevents the orderly, rational review of actions of Federal officers, it is inconsistent with the principles of accountable and responsible government.

Under the law as it presently stands—and I emphasize that this judge-made law, since Congress has never spoken directly on this issue—an officer of the U.S. Government can act arbitrarily, capriciously, discriminatorily, illegally, and yet the aggrieved or threatened citizen may have no recourse to the courts. For if he should bring suit against the officer, Justice Department lawyers will surely cry "sovereign immunity" and judges across the land may, with no further analysis or investigation, respond "case dismissed."

The immunity doctrine, as presently applied, is illogical, artificial, erratic, and confusing. In some cases where there may have been strong arguments against judicial intervention, astute lawyers and judges have had little difficulty sidestepping the sovereign immunity doctrine. In other cases, where the Government may have had no substantive interest at stake, summary application of the doctrine has been a source of frustration, uncertainty, and injustice.

Basically, this bill would do two things:

First, eliminate the defense of sovereign immunity in suits for specific relief against the Federal Government.

Second, simplify and clarify the law relating to naming the United States, its agencies, or officers as parties defendant.

Sovereign immunity has never been an absolute bar to judicial intervention in cases of nonstatutory review of administrative action. Courts have in case after case prohibited enforcement of Federal laws or regulation, halted official action, and required official action. But a review of the cases—as confused as they are—reveals one certain conclusion: Where sovereign immunity has been held to be a bar to suit, and where no other defenses retained by the bill would have been applicable, unjust or irrational decisions have resulted.

Hearings were held in the Subcommittee on Administrative Practice and Procedure on an earlier version of this bill in the 91st Congress. Support was forthcoming from the Administrative Conference, the Judicial Conference, and the ABA. In the 92d Congress the subcommittee reported the legislation to the full committee, from which it unfortunately did not emerge. I am hopeful that this provision, as title III of the present bill, will be favorably acted on during the present session.

ENFORCEMENT OF STANDARDS FOR GRANTS

Title IV of the Bureaucratic Accountability Act is directed at ensuring the maintenance of Federal standards of performance and policy in the State and local programs that depend on Federal funds. Under title I of this bill, grant decisions are made subject to the formal notice-and-comment requirements of the APA, allowing many views to be heard before implementation of a grant program at the Federal level begins. This title requires procedures to be established for hearing complaints concerning the administration of a grant program, both at the Federal and at the State or local level. Minimum standards for complaint procedures are outlined.

This provision is based upon the recommendation of the Administrative Conference, which I would like to quote here:

RECOMMENDATION

A. The Federal Administrative Complaint Procedure.

The federal grantor agency should have an administrative procedure for the receipt and impartial consideration of complaints by persons affected by the grant-in-aid program that a plan, project application or other data submitted by a grant applicant or grantee as a basis for federal funding does not meet one or more federal standards. This procedure should afford the complainant an opportunity to submit to the grantor agency for its consideration data and argument in support of the complaint, and should afford the grant applicant or grantee involved a fair opportunity to respond. If the agency determines that the complaint is apparently ill-founded or is insubstantial, it should notify the complainant of its determination and should state in writing the reasons therefor. If the agency determines that the complaint appears to be substantial and supported by the information at hand, it should so notify both the complainant and the grant applicant or grantee of its present determination in this respect and should state in writing the reasons therefor. If the agency exercises discretion not to make a determination on one or more issues raised by a complaint, it should so notify the complainant in writing. The agency should pass upon all complaints within a prescribed period of time.

The complaint procedure administered by the federal grant or agency should also provide for the receipt and impartial consideration of complaints that a grantee has in its administration of the funded program failed to comply with one or more federal standards. It is anticipated that many grantor agencies will find it necessary to

limit their consideration of such complaints to situations in which the complainant raises issues which affect a substantial number of persons or which are particularly important to the effectuation of federal policy and will, therefore, dispose of most individual complaints concerning grantee administration by referring the complainant to such complaint procedures as are required to be established by the grantee. The grantor agency should seek by regulation to define the classes of cases that it will consider sufficiently substantial to warrant processing through the federal complaint procedure and those classes of cases wherein complainants will be required to pursue a remedy through available complaint procedures administered by the grantee.

B. The Grantee's Administrative Complaint Procedures.

The federal grantor agency should require as a grant condition the establishment by the grantee of procedures to handle complaints concerning the grantee's operation of the federally assisted program. These procedures should afford any person affected by an action of the grantee in the operation of the program a fair opportunity to contest that action. The "fair opportunity" to contest will necessarily vary with the nature of the issues involved and the identity and interests of the complainant. In all cases, however, the complainant should have the right to submit to the grantee for its consideration data and argument in support of the complainant's position.

It is acknowledged that Government agencies should attempt to achieve compliance with Federal standards in grant programs by using the full arsenal of enforcement techniques provided by Congress, as well as by trying to keep grantees informed of their obligations under the program. But title IV specifically proposes that Federal agencies develop administrative procedures for handling complaints that a grantee has not complied with Federal standards, and requires that grantees shall also maintain a procedure for the receipt, consideration, and disposition of complaints. It also allows the Attorney General to go to court to enjoin grantees from violating Federal standards, so that fund cutoffs will not be the only alternative to allowing violation by a grantee of Federal regulations.

CONCLUSION

Mr. President, as Federal activities expand to affect more and more elements of our everyday lives, the need for greater public involvement in Government decisionmaking at all levels and the need for increased responsiveness of Government agencies to the needs and wishes of the public becomes more critical. The various provisions in the Bureaucratic Accountability Act are designed to build into administrative procedure further vehicles for insuring this citizen involvement and Government responsiveness.

By Mr. HUMPHREY (for himself, Mr. RANDOLPH, Mr. STEVENSON, Mr. MONDALE, Mr. PERCY, Mr. BIBLE, Mr. MOSS, Mr. BAKER, Mr. PASTORE, Mr. PELL, Mr. NUNN, Mr. INOUYE, and Mr. BAYH):

S. 1422. A bill to establish a National Institute of Justice, in order to provide a national and coordinated effort for reform of the system of justice in the United States, and for other purposes. Referred to the Committee on the Judiciary.

Mr. HUMPHREY. Mr. President, there is no more central issue in American society today than that of justice.

Since World War II, there have been vast social and economic changes in America. These changes have sharpened the need for a new look at our system of justice.

As the power of private and public organizations has increased, the need to assure that their economic or statutory powers are used in a just and equitable way has increased.

As the power and use of technology has increased, the need to prevent that technology from being misused has increased.

As the Nation has become freed from the constraints of tradition and the past, individuals act on their personal convictions. Thus the need to balance private freedom against public rights has increased.

Above all, as the Nation has become more urbanized and interdependent, the need to protect a small number of criminals from paralyzing the functioning of large sections of society, through the power of criminal acts, has become critical.

Justice is based on the rights of human beings to be protected from the arbitrary use of such powers.

But some of these rights are being eroded. The right to freedom of movement—I mean in our own neighborhoods—is being lost due to criminal power. The right to freedom of speech is being eroded due to State power. Both of those declines of freedom are a sign of increasing injustice.

As an abstraction, we have a system of justice to protect these rights. It is a relatively unified, neat system. We have lawyers. We have police. We have civil courts and criminal courts. We have jails and prisons. In theory, they all have their place in our system of justice.

As a reality, the historical changes since World War II have made each of these institutions increasingly unable to deal with the overall problem of criminal and civil justice in our Nation.

Essentially, each of these components tries to deal with its own particular problems in its own particular way. But there is no one focal point in the Nation for viewing each in relation to the other. Nor is there one place in the Nation where each is viewed as a system at the Federal, State, and local level.

The result of all this is that justice in this Nation increasingly falls short of any reasonable ideal. The ideal is that those committing crimes are found, arrested, given a fair trial, with a thoughtful verdict; the ideal is that the sentence is designed to rehabilitate the person as well as to protect society. These ideals are increasingly so removed from reality as to make a mockery of much of our present system.

We have never provided the means whereby our system of justice can be examined in all its parts and improvements made accordingly. Yet legislatures continue to enact new laws on the ashes of the old—some 10,000 new laws each year—without, in most cases, the full examinations which would tell us of their potential impact. Our courts are seriously overburdened. Our law enforcement mechanism ever lessening in prestige, and our jails and prisons, institutions of higher education in crime.

We spend but a single dollar on justice research and development for every several hundred dollars on defense research and development. Justice has been too low, too long, on our priority scale.

Therefore, I propose the establishment of the National Institute of Justice, a nonprofit Institute to be comprised of the finest legal minds in our Nation, to undertake on a national scale the refinement and reform of our judicial and related processes.

Research would be an important function of the National Institute of Justice, as would information gathering and dissemination. But the Institute would go farther. Their review would culminate in the developments of objectives, and advice and assistance to accomplish these objectives. The Institute of Justice would not supplant existing State, local, or Federal entities, but it would both call upon them and be available to assist them, when requested. One of its prime functions would be to coordinate existing data, contracting from professionals in the field for research and evaluation expertise.

The five major functions of the Institute would be:

First, to survey, collect, analyze, and disseminate information about the operation of all levels of our judicial system, with emphasis on improvements and innovations.

Second, to conduct a study of the causes of delay in the administration of justice, identify the problems, and recommend solutions.

Third, to establish priorities, objectives, and continuing evaluation of the judicial system at all levels.

Fourth, to conduct research, either directly or through arrangements with institutions of higher education, law schools, bar associations, or other appropriate professional groups, on neglected aspects of the functioning of the judicial system; and

Fifth, to advise, upon request, Federal State, or local public agencies, professional legal societies, and/or members of the bar.

The National Institute of Justice would report periodically on progress and recommendations, including legislative changes, if indicated. It would be independent of partisan political activity, with its Director serving a 6-year term.

Mr. President, the administration has opposed the idea of a National Institute because it feels it would replace the Law Enforcement Assistance Administration. They are wrong. The Institute would replace nothing. The LEAA is a block grant program directed at criminal justice. It does not include civil justice. Moreover, it does very little in the way of trying to develop broad, systematic guidelines for the overall system of justice in this

Nation. For the most part, LEAA simply hands out block grants to states.

The Institute does, however, command the support of the American Bar Association. In fact, it was Mr. Bert Early, executive director of the ABA, who originally called for the creation of an Institute, in an article in the West Virginia Law Review in April 1972.

A conference was held by the American Bar Association, to discuss the idea of an Institute, on December 6–8, 1972. Following are excerpts from a report on this conference, by Charles Rhyne, chairman of the ABA Commission on a National Institute of Justice. The report shows that there was general agreement that the Institute might be the mechanism to deal with the serious problems of the reform of our system of justice.

I ask unanimous consent that excerpts from the report of the ABA conference be printed at this point in my remarks.

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

EXCERPTS FROM ABA REPORT

The conference was convened with a reception and dinner on the evening of December 6. The Chief Justice of the United States extended his greetings to the conferees, at which time he stated:

"Although there are many questions to be resolved about the organization, scope and functions of a National Institute of Justice before final decisions of support can be made, we should not be confused or deterred by 'doom criers' who conjure up parades of horribles, but even as I say that, I would remind you that objections and opposition will sharpen the debate. This distinguished gathering was not convened to adopt any plan but to debate a wide range of alternatives."

On Thursday, December 7, and Friday, December 8, the conferees conducted their deliberations. They used, as a guideline, five questions, although the questions were not approached as a rigid agenda but rather as a broad framework for discussion:

(1) What are the most important problems of justice today?

(2) What institutions are most in need of improvements in the way of doing justice?

(3) What kinds of improvements are most needed?

(4) What contribution could a National Institute of Justice make towards these improvements?

(5) What considerations should be kept in mind in the organization of a National Institute of Justice so as to permit it to maximize the contribution it might serve?

As had been anticipated, a plethora of ideas were articulated in response to each of the issues raised by these questions. Similarly, a number of alternative structures were sketched in an effort to mold the proposed Institute into a framework that was flexible and adaptable to the needs of the justice system as perceived by the various conferees. No consensus was sought nor achieved, except for what Professor Hazard summarized at the conclusion of the conference as " . . . a strongly shared sense that there should be a National Institute of Justice . . . "

Despite the diversity and occasional disparity in opinions expressed, some common threads did emerge from the conference work sessions. The conferees almost unanimously agreed that public authority at all levels of government is suffering from a severe problem of "credibility". The public perceives the government agencies in all three branches which "dispense" justice as usually being less than truthful about their functions and performance. Furthermore, the public is critical about the agencies' discharge of their responsibilities and, at times, these agencies fail to comprehend the consequences of what they are attempting to achieve. The view was therefore expressed that a National Institute of Justice could and should aim to be the conscience of a national community regarding the provision of equal justice through legally constituted processes and institutions.

Another widely shared recognition was that many of the institutions of justice had become fearful, defensive, and introverted. A qualified belief persisted that a National Institute of Justice could reduce fearfulness by putting the problems of administering justice in larger perspectives of place and time, reduce defensiveness by helping develop new methods and concepts in the administration of justice, and reduce the introversion and isolation of agencies of justice by establishing open and more general bases of communication among them and with the "consumers" of justice and the public at large.

Although no agreement was achieved on the specific questions of role, function, and structure for the proposed National Institute of Justice, the conference did provide invaluable input for the Commission. Professor Hazard summarized the composite perspective achieved in the work sessions as follows:

"Underlying the deliberations of the conference, from which these views emerged, there seemed to be certain fundamental beliefs shared by all who participated: That there is such a thing as objective reality, which may be discerned by careful examination and consideration; that every individual in the national community has a worth and dignity that must be made secure with the aim of law; that renewal of efforts is now necessary to enhance that security through inquiry and public discourse; and that a National Institute of Justice might be an appropriate agency through which to make the effort."

At this writing, the Commission is preparing for the publication of a conference report which will be widely circulated to organizations and groups to solicit a broad range of opinion and comment which will contribute to the further development of the Institute concept.

Respectfully submitted,

CHARLES S. RHYNE,
Chairman.

Mr. HUMPHREY. Mr. President, as these excerpts make clear, the Institute is an idea which is commanding increasing national attention and debate.

However, while it is of the greatest value to have the ABA developing this proposal, I am convinced the time has come for the Congress to take action.

I, therefore, ask unanimous consent that the text of the bill to create a National Institute of Justice be printed in the RECORD.

I also ask unanimous consent to have printed in the RECORD the excellent article I have referred to, written by Bert Early.

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

S. 1422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Institute of Justice Act".

POLICY AND PURPOSE

SEC. 2. In order to provide national direction and leadership that is responsible and responsive and in order to furnish advice to all levels of the judicial system in the United States, it is the purpose of this Act to establish a National Institute of Justice.

ESTABLISHMENT

SEC. 3. (a) There is hereby established an agency to be known as the National Institute of Justice.

(b) The Institute shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who have distinguished careers in the field of law, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The term of the Director shall be six years. The Director shall be responsible for carrying out the functions of the Institute and shall have authority and control over all personnel and activities of the Institute.

(c) A Deputy Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who have distinguished careers in the field of law, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The term of the Deputy Director shall be six years. The Deputy Director shall perform such duties and exercise such powers as the Director may prescribe, and shall act for, and exercise the powers of, the Director during his absence or disability.

FUNCTIONS OF THE INSTITUTE

SEC. 4. (a) In order to carry out the policy of this Act the Institute shall—

(1) undertake surveys, and collect, analyze, and disseminate information relating to the operation of the judicial system in the United States at all levels, with particular emphasis upon information with respect to improvements and innovations in the operation of that system;

(2) conduct, either directly or through contracts, grants, or other arrangements, an evaluation of the principal sources of delay in the administration of justice, criminal and civil, designed to identify existing problems and to provide a diagnosis of new anticipated problems in the timely and efficient disposition of civil and criminal cases;

(3) establish priorities, develop objectives, and provide for the continuing evaluation of administrative actions by Federal and State courts and research programs conducted by or for such courts, concerning any aspect of the effective and timely operation of the judicial system in the United States;

(4) conduct, either directly or by way of grants, contracts, or other arrangements with institutions of higher education, law schools, bar associations, and other appropriate legal and professional associations, research and an evaluation of research in the operation of the judicial system in the United States with particular emphasis upon areas of that operation in which research has been neglected and areas of that operation where judicial reform is an important consideration;

(5) provide advice, upon request, to Federal, State, and local public agencies, to professional legal societies and to members of the bar;

(6) prepare at least annually, and at such other times as the Director may deem appropriate, a report concerning its activities together with such recommendations (including recommendations for additional legislation) as the Director deems advisable.

(b) In carrying out the functions of the Institute under this section, the Director may establish such laboratories and facilities as he deems necessary to be operated by the personnel of the Institute. With a view to obtaining additional scientific and intellectual resources available, the Director shall, whenever feasible, enter contracts with public or private educational or research institutions for the purpose of undertaking any

particular study or research project authorized by this Act.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) In addition to any authority vested in it by other provisions of this Act, the Institute, 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) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) in the discretion of the Institute, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Institute with a condition or restriction, including a condition that the Institute use other funds of the Institute for the purposes of the gift;

(4) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as it deems desirable to advise the Institute with respect to its functions under this Act;

(5) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no more than three individuals so appointed shall receive compensation in excess of the rate prescribed for GS–18 in the General Schedule under section 5332 of title 5, United States Code;

(6) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate prescribed for GS–18 in the General Schedule under section 5332 of title 5, United States Code;

(7) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) enter into contracts, grants, or other arrangements, or modifications thereof to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(9) provide for the making of such reports (including fund accounting reports) and the filing of such applications in such form and containing such information as the Director may reasonably require;

(10) make advances, progress, and other payments which the Director deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(11) make other necessary expenditures.

(b) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

PROHIBITION AGAINST POLITICAL ACTIVITY

SEC. 6. No officer or employee of the Institute shall take any active part in political management or in political campaigns and no such officer or employee shall use his official position or influence for the purpose of interfering with any election or affecting the result of any election.

COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR

SEC. 7. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Director, the National Institute of Justice.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(130) Deputy Director, National Institute of Justice.".

DEFINITIONS

SEC. 8. As used in this Act—

(1) the term "Institute" means the National Institute of Justice; and

(2) the term "Director" means the Director of the National Institute of Justice.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[From the West Virginia Law Review, April 1972]

NATIONAL INSTITUTE OF JUSTICE—A PROPOSAL

(By Bert H. Early*)

FOREWORD BY WARREN E. BURGER †

From his long experience and the vantage point of his unique position in the organized bar, Mr. Early has given voice to a great need—a great void—in our system. He correctly and carefully disclaims any thought of "homogenizing" the systems of justice, but rather presses for some central means to energize the valuable programs for improved justice now in being and to probe for new solutions. We spend more than two billion dollars annually through the National Institutes of Health and the country is better for it. But the social, economic and political health of the country must be fostered by a comparable facility to revitalize the faltering machinery of justice—and happily that can be done for a mere fraction of the NIH budget. Whether it is financed by private as well as public funds is not central to the proposal—the key is the *function* of such an institute.

Mr. Early's provocative article is advanced by him to stimulate debate. It deserves a wide audience and I sincerely hope it will be challenged and debated—vigorously—by the bar and the public.

I. THE PROPOSAL

The intent of this article is to advance a proposal for the creation of a new type of organization, national in scope and purpose, to marshal our resources and energies for an accelerated program of modernization of our system of law and justice to serve better the needs of over 200 million Americans.

Such an organization might be called *The National Institute of Justice*. At the outset, it should be clearly understood that the Institute would not conflict with or duplicate the Federal Judicial Center, the National Center for State Courts or other existing organizations. It would, rather, complement their activities and encourage a broader base of support. In broad perspective the concept may be stated simply: the establishment of a national public agency, governed by the most eminently qualified individuals available, and dedicated to the mission of giving national cohesion and increased public and private support to the now inadequate and piecemeal efforts directed toward improving the justice system at all levels. The National Institute must deal with the system of justice as a whole. That system consists of interlocking and interdependent components—substantive laws; procedures; legislative bodies; institutions for dispute settlement, such as courts and administrative agencies; law enforcement offices and agencies and corrections and rehabilitation facilities and services; and a host of individuals who work within the legal profession. The ultimate aim is to achieve a structure of civil and criminal justice that is more effective, expeditious and accessible to the present day needs of all our people.

The goal is unassailable. It was the dream of our founding fathers and it has been the aspiration of our nation's foremost leaders for nearly two centuries. And yet it has eluded us.

No less a figure in American jurisprudence than Roscoe Pound spoke prophetically of its elusiveness as early as 1906. In his historic paper, entitled *The Causes of Popular Dissatisfaction with the Administration of Justice*,[1] Dean Pound addressed the Annual Meeting of the American Bar Association with these words:

"I venture to say that our system of courts is archaic and our procedure behind the times.

"Uncertainty, delay and expense, and above all the injustice of deciding cases upon points of practice, which are the mere etiquette of justice, direct results of the organization of our courts and the backwardness of our procedure, have created a deep-seated desire to keep out of court, right or wrong, on the part of every sensible business man in the community. . . .

"But too much of the current dissatisfaction has a just origin in our judicial organization and procedure. The causes that lie here must be heeded. Our administration of justice is not decadent. It is simply behind the times. . . .[2]"

Again in 1937, more than thirty years later, in *Law: A Century of Progress*,[3] Dean Pound tolled the same ominous bell:

"Looked at superficially, many features of the legal order of today may well give us pause. . . . The multitude of regulations required by an urban, industrial society encountering the pioneer habits of self-reliance and private judgment which have come down from the past make the time seem one of disrespect for law. . . . The inadequacy of the judicial organization and legal procedure of the past century to deal with the mass of litigation arising in our great urban centers leads to widespread complaint and popular dissatisfaction with the administration of justice. . . .

"Questions of law have ceased to be local. We are so unified economically that no question is limited by jurisdiction and venue as questions used to be. Questions of law today are likely to be questions of business as well. Creative work cannot be done under limitations of party and jurisdiction and venue.

"Even less may the work of reshaping the law be left to occasional legislative commissions or to the intermittent and hurried action of judiciary committees. In such matters as procedure the judicial councils which have been set up so generally in the past decade will do much. *But the ministry of justice, which will take the functioning of the legal order as a whole for its province and give to the problems of peace the continuous study which is so generally given by governments to preparations for war, seems to be a long way off in the English-speaking world.*[4]"

Progress in the administration of justice has been painfully slow. It has failed to keep pace with a burgeoning, automated, electronic society that is increasingly urban, impatient and demanding. Indeed, the situation has taken on crisis dimensions.

This is not to say or to imply that there

Footnotes at end of article.

has been no progress. Indeed, there has been much. However, its hallmarks too frequently have been a patchwork of effort lacking focus, continuity and adequate funding. Notwithstanding accelerating efforts to improve the administration of justice, Chief Justice Burger, in his address on the State of the Judiciary in July, 1971, was compelled to observe that:

"Essentially the problems of the federal courts, in common with state courts and indeed much of the entire fabric of our national life, are suffering from an accumulated neglect. This disrepair became an acute problem as the load increased, and we cannot ignore it any longer."

It is not the purpose of this article to dwell on the obvious and profound inadequacies of our present system of justice. It is rather to suggest that the evolution of our legal system makes it clear that vital elements still are missing. Those elements are focus, continuity, innovation, experimentation, and research, all melded under capable direction and with adequate funding. The catalytic agency to synthesize these elements can, in this writer's judgment, be a National Institute of Justice.

This article is then a document of advocacy. The historical details of our failure to attain the noblest purposes of our founding fathers are left to the legal philosophers and historians. It is sufficient to accept the fact of that failure as a point of reference and to move on to more promising methods that offer brighter hope for future progress.

II. A NATIONAL INSTITUTE OF JUSTICE

It is proposed that the National Institute of Justice take the form of an independent, not-for-profit, federally chartered corporation designed to coordinate and support the machinery of justice. It would be governed by a board composed of the most eminently qualified and widely representative individuals available. Its mission would be to make the administration of justice more fully responsive to the needs of our contemporary society.

Purposes of the institute

The primary purposes of the Institute would be as follows:

First, to provide direction and leadership that would be both responsible and responsive. The Institute would serve as consultant and advisor to all components of the machinery of justice at both federal and state levels.

Second, the Institute would provide a permanent body charged with the development of an overview of the law, with the establishment of priorities, with responsibility for the coordination of educational resources, research activities and projects of the organized bar.

Third, the Institute would serve as a fiscal agent to receive and disburse public and private funds for research, evaluation and action.

There is today no single body or individual in the federal or state governments charged with these ongoing overall responsibilities. Cooperation has improved between states and the federal government, but cooperation is not enough. Although each government has certain officers in each branch responsible for specific areas of the administration of justice, each is limited by constitution or statute to only a part of the law's sweep. It seems clear that the three branches of government should have the benefit of the research, counsel, advice and recommendations of an agency that has the primary mission for and a continuing commitment to the improvement of the quality of the legal system as a whole.

Footnotes at end of article.

Functions of the Institute

It is envisioned that the proposed Institute would perform the following functions:

1. Survey, Appraisal and Information Collection and Dissemination Function

It would be essential that the Institute undertake and maintain an ongoing survey and appraisal of the functioning of the legal system and of the principal efforts to modernize, reform and reconstitute legal processes and the administration of justice. The task of determining what has been and is being done by the federal, state and local governments, private foundations, law schools, interest groups, professional organizations and other educational institutions is a task of great magnitude, but is essential to any coordinated effort directed toward modernization and reform.

The collection and dissemination of information about the operation of our society—*a law society*—is presently conducted by a variety of federal, state and local government agencies, private foundations, the organized bar and private institutions. The present efforts are uncoordinated, frequently incomplete, redundant and permeated with frustrating, circular reference systems. The creation of a National Institute of Justice would, for the first time, provide a single source from which comprehensive and complete information might flow. The Institute could provide an invaluable national link among governmental, private and professional interest groups directly or tangentially concerned with the same or closely related problem areas. The use of modern computer technology makes the goal achievable within a reasonable time and within our economic means.

2. Diagnostic function

The diagnostic function would have as its goal the discovery and evaluation of the principal bottlenecks in the flow of civil and criminal justice and the recognition of new problem areas as they arise. This function has never been assumed by any agency or organization in the country on a continuing and permanent basis. So little attention and money have been devoted historically to this function that the legal profession is constantly in the posture of reacting to certain issues only after they have developed to crisis proportions. With an effective diagnostic function, problem areas can be dealt with more expeditiously and effectively.

3. Coordination function

Coordination would be one of the Institute's foremost roles. This necessarily includes the establishment of priorities, the development of long range goals and a continuing evaluation of the results of action and research programs of the various components of the law society, both public and private.

4. Research catalyst function

The disorganized and proportionately insignificant allocation of resources for legal research is evidence of the crucial need for a catalytic function of the Institute in this area. Although lack of sufficient funding is certainly one of the most crippling aspects of the anemic state of legal research in the nation today, a solution does not involve solely the infusion of more dollars. Continual inquiry must be made as to the value and relevance of research undertakings. The Institute could perform a highly valuable service as a catalyst in the development of areas in which research has been long neglected.

Most legal research of the past has been doctrinal research *in law*. However, studies have begun to appear which shed new light on the operation of the processes of law in society—research *about law*.[5]

5. Advisory function

The Institute could play a significant and effective role as an advisor to all branches of government and to the profession. Its recommendation, based upon research and analysis, would certainly tend to carry great weight.

6. Continuity function

Perhaps one of the critical roles which the Institute would assume is to provide functional continuity for the modernization effort. History demonstrates clearly that continuity of direction and operation has been a principal weakness in the functioning of law and in the quest for more effective administration of justice.

7. Neutrality function

A seventh function of the Institute would be its mandate to insure neutrality. It should remain, as much as possible, free from political control of its decision making. While the rule of law in theory knows no party, the nature of our representative government inevitably brings political influences into the operation of the system of justice. An Institute governed impartially is both possible and essential.

Funding

It is contemplated that the Institute would be funded from both public and private sources. It would be both a grantor and a grantee of funds.

In its role as grantee, the Institute would be authorized to receive funds for its general administration, under contract for specific projects and programs and under grants for either specified or unspecified uses. As grantor, the Institute might serve as a funding agency for investment of public or private funds in research or action programs.

It is this writer's view that the creation by Congress of this Institute would not eliminate the continuing need for funding from numerous other sources including individuals, organizations, foundations and state and local governments. On the other hand, it is perfectly apparent to all who have examined the problem that the costs involved in modernizing the justice system—after generations of neglect—will be so large that additional responsibility for making funds available must necessarily rest with the federal government. As the Institute progresses in its survey function, it will only then be able to project accurately financial needs in a realistic way.

It should also be understood clearly that the Institute is not intended to supplant or put out of business existing agencies performing valuable work in the various areas of law and justice. Its aim will be to do more, not less. The Institute will be in posture to provide a common rallying point for concerned individuals and organizational efforts to obtain congressional and executive response for projected needs.

Staff

It is contemplated that the Institute would have an interdisciplinary, broadly experienced professional staff of modest size. The staff, as directed by the governing authority, would not assume the functions presently performed by other organizations; rather, it would undertake functions not now being performed or being performed on a very limited basis.

It is not anticipated, for example that the Institute would itself be a large research organization. It would contract with universities, law schools, bar associations, legal associations, bar foundations, other professional organizations, private corporations and governments to carry out evaluation and research projects.

The staff would be responsible to and serve under the direction of a governing body

which might be constituted as a Board of Directors.

Governing Authority

It does not seem desirable at this juncture to suggest the specific type, size, or constituency of a governing board. Suffice it to say that the governing body should be appointed for a term of years by the President with the advice and consent of the Senate. Ex officio members might include the Chief Justice of the United States and other high government officers. In all events, members of the governing body should be selected with due regard to their experience, knowledge and proven dedication to the mission of justice.

What the Institute Should Not Be

In any attempt to define what the National Institute of Justice should be, it is critical to inquire as to what it should not be.

The Institute should not usurp functions of existing entities. On the scene today are a number of public and private organizations dedicated to the modernization and efficient functioning of the law society. These include the Federal Judicial Center, the National Center for State Courts, the Law Enforcement Assistance Administration, the American Judicature Society, the American Bar Foundation and other private foundations of research and action in the field of justice, bar-related organizations and research centers. In its coordination role, the Institute would utilize existing organizations, and indeed nurture their further development and usefulness.

The role of the Institute would most certainly not include any attempt to federalize the state courts. Such a statement hardly seems necessary except for the extreme fear of some that action at a national level that involves funding by the federal government may be so motivated. It is contemplated that the Institute would be as much the servant of the states as it would of the federal government. If the Institute were to be successful, its reputation would depend upon its even-handed administration, its thoroughness and its understanding of the broad spectrum of problems in the administration of justice on the local, state and national levels.

It was said long ago and repeated many times since that the law is too important to be left to lawyers. The work of the Institute would be much too pervasive and too important to be other than interdisciplinary in its governing body, its staff and its concept.

The institute is envisioned as a cooperating, coordinating, and consulting organization that would make its resources available for the investigation, analysis and solution of legal and law-related problems. Thus, its staff would primarily perform consulting services, as opposed to having direct responsibility for the implementation of reform movements. In short, the staff would provide insight into ways that modernization resources might be utilized most efficiently.

Because the Institute would not be possessed with coercive power, its effectiveness could only develop as a result of its creativity and its applied expertise in fulfilling its functions. Only if the Institute proves capable of performing that function would its services be in demand or its recommendations be heeded.

III. STRUCTURES OF RESPONSE IN OTHER DISCIPLINES

The concept proposed in this article is not entirely new. Almost precisely fifty years ago Mr. Justice Benjamin Cardozo urged the creation of a ministry of justice.[6] He envisioned that a ministry consisting of five members might observe the law in action, develop recommendations for reform in the civil law and report to Congress and the state legislatures where change was needed. In making his recommendations, Mr. Justice Cardozo observed that his thought was not novel, pointing to the prior proposals of Roscoe Pond, Lord Westbury, Lord Haldane and others.[7]

Other proposals have been made in Congress in more recent years. The late Senator Dirksen and Congressman Emanuel Celler proposed the creation of a national foundation of law in bills submitted in 1967.[8] These bills were offered in full cooperation with the American Bar Association, the Association of American Law Schools and the American Association of Law Libraries. In both the 90th and 91st Congresses Senator Fred Harris submitted proposals for the creation of a National Foundation of the Social Sciences.[9] Senator Harris' proposal envisioned a foundation designed to support academic research, education and training in the fields of political science, economics, psychology, sociology, anthropology, history, law, social statistics, demography, geography, linguistics, communications, international relations, education and other social sciences. In presenting his bill, Senator Harris called particular attention to the fact that his proposed foundation would perform no in-house research, but would, in keeping with the precedents set by the National Science Foundation and the National Foundation for the Arts and Humanities, underwrite, fund and support academic research, education and training in the social science field.

Appropriate inquiry might be made as to whether a National Foundation for the Social Sciences could adequately perform the functions of the proposed National Institute of Justice. The argument can be made quite forcefully that the interdisciplinary atmosphere of an organization devoted to the social sciences might indeed have a statutory effect.

This proposition has been thoughtfully analyzed by Robert B. McKay, Dean of New York University Law School, when he made the following observation: [10]

"[S]ocial scientists do not regard law as a kindred discipline. Accordingly it seems likely that in a social sciences foundation the law would always be the poor relation and that the important tasks we believe should be undertaken would not be supported except where there was an interdisciplinary study to be made in which law could play a complementary, but secondary, role."

With respect to the Dirksen-Celler proposals of 1967, it should be made clear that the leadership of the American Bar Association played a very significant role. Indeed, the leadership of the ABA, the Association of American Law Schools and the American Association of Law Libraries actively solicited the support of Senator Dirksen, Congressman Celler and their colleagues in both the House and Senate in support of that proposal. Why then, it may be asked, after four years has the proposal not been more actively pursued by the associations to the point that it might even today already be a reality. Such legislation commonly requires a germination period. At the time the Dirksen-Celler proposals were introduced it was assumed that it would take a number of years to bring about the adoption of them or similar legislation. Indeed, the history of the several models described above indicates that this has been the pattern in each case.

The present proposal is thus not reflective of any abandonment of the broad principles contained in the original Dirksen and Celler bills, but is rather reflective of the refinements in thought that have evolved during the past four years. Indeed, it is recognized that there may be other refinements of the concept suggested from many sources before any proposal becomes a reality.

Both the Dirksen and Cellar bills and the Harris bills envisioned the creation of their proposed foundations as independent administrative agencies of the federal government—one of four general types of independent government or government funded entities. These are the independent administrative agency, the government owned corporation, the federally chartered not-for-profit corporation, and federally chartered profit making corporation. The National Institute of Justice is envisioned as a federally chartered not-for-profit corporation.

Existing models of independent administrative agencies are the National Science Foundation and the National Foundation of the Arts and Humanities. An example of a federally chartered not-for-profit corporation is the Corporation for Public Broadcasting.

The National Science Foundation was created to strengthen both research and education in the natural sciences. It was brought into existence as the result of a report prepared at the request of the President describing how best to develop a national science policy and to support basic research and education in the natural sciences. The report was submitted in 1945 by Dr. Vannevar Bush, Director of the Office of Scientific Research and Development. It recommended the establishment of an independent federal agency composed of members to be selected by the President. The establishment of the National Science Foundation took some five years after submission of the Bush report. The Foundation is authorized to make grants to institutions and provide fellowship programs for individuals; it now receives about a half-billion dollars annually for its work.

The National Foundation of the Arts and Humanities was created to encourage and support the humanities and the arts through studies and grants. It was many years aborning. In 1951 President Truman requested a report on the status of the arts with respect to government. Two years later a report was submitted to President Eisenhower and in 1962 President Kennedy urged approval of a measure establishing a federal advisory council on the arts. Proposals were made in the next two years for a national council on the arts and a national arts foundation. In 1964 the National Council on the Arts was created and in the following year the National Commission on the Humanities joined forces with the Council to bring about the creation of the National Foundation of the Arts and Humanities. The Foundation has certain unique qualities of organization that are not here relevant. Its importance lies in the fact that responable individuals in the field envisioned an independent agency modeled along the lines of the National Science Foundation, which would provide general support for research and education in the humanities. There appeared to be no other logical place within the federal establishment to provide a home for the arts and humanities.

The Corporation for Public Broadcasting was created in 1967 following a study by the Carnegie Commission on Educational Television. While acknowledging the free speech dangers implicit in government participation in the communications media, the Commission recommended extensive federal funding for television program production. In terms of structure, it is significant that the Commission proposed the establishment of a federally chartered not-for-profit corporation which would be neither an agency nor an establishment of the United States Government. Under the enabling legislation the President of the United States, operating under certain guidelines, appoints the fifteen members of the Corporation's Board of Di-

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rectors. The Corporation may receive funding from federal and other sources.

It was thought that the federally chartered not-for-profit corporate structure would most effectively provide the independence, continuity, funding and political insulation vitally needed for operation in this controversial and sensitive area.

Each of the foundations and corporations described above bears some similarities of purpose and function to the proposed National Institute of Justice. Each is designed to provide a home for a discipline or a profession with great public service commitment that will make possible a continuity of direction and leadership, will encourage development, research and education, will provide responsible funding grants and will insure competent, independent and neutral direction. Each of these provides an analogy and insight for considering the creation of a National Institute of Justice.

IV. THE MANY PRESSURES OF MULTIPLE CHANGE

An overview of developments within the profession emphasizes the need for the creation of a National Institute of Justice.

In addition, inquiry is justified as to whether any existing institution, or a combination of institutions, including the organized bar, are presently capable of performing along the functions deemed necessary for effective and comprehensive modernization.

Accordingly, some of the major areas of evolution in the modernization process are considered, followed by an analysis of the role of the organized bar in this process.

During the Twentieth Century the components of our machinery of justice—the courts, the practicing profession, legal education, the methods of practice, law related research—have too frequently lagged in their response to the problems and challenges of our rapidly changing society. Indeed, the practice of law in this country has been described as the last cottage industry. It should be observed that this has not been for want of concern on the part of dedicated lawyers, judges and numerous organizations of the profession. Rather, problems concerning the administration of justice and the practice of law have for too long been considered primarily the provincial concern of judges, lawyers and their constituent organizations. As has been described, in areas such as medicine, the natural sciences, and the arts and humanities, it was deemed in the national interest to create national organizations to foster development, research and innovation.

In contrast, the failure of this nation, until recently, to view problems concerning the effective administration of justice with sufficient seriousness to warrant a commitment of substantial resources from the federal government, has meant that those struggling to modernize the legal profession, legal education, and our justice machinery, have had to work with minimal funding wholly inadequate to meet the magnitude of the problems. We have too often gone in separate ways without carefully evaluating the merits and effectiveness of our efforts and without resources to interrelate results with the overall problems of judicial administration. The inescapable conclusion one draws from most of these past efforts is that the approach has been comparable to trying to construct a space vehicle by assigning a thousand engineers, each left in isolation, to design one specific component with little comprehension as to how the components would function together when assembled. It may, therefore, be helpful to look briefly at certain components of the justice system in terms of the recognized needs of an urban society.

How law is practiced

In comparison with other vital aspects of society, the practice of law today and the basic methodology of the courts have changed relatively little from the days of Thomas Jefferson and John Marshall.

For many early nineteenth century lawyers the primary and often sole source of legal research and knowledge * * * and Blackstone's *Commentaries*. And between 1790 and 1840 our courts produced only about 50,000 reported decisions. The next fifty years produced about nine times as many—450,000. From 1890 to the present the courts have added almost two million published decisions to our legal storehouses of knowledge. And this does not include the hundreds of thousands of new regulations which have been issued by administrative agencies or the approximately 10,000 new statutes adopted by legislatures each year.

New tasks and new demands have been placed on today's lawyer. The call for equal access to the machinery of justice and to professional legal counselling for the poor and for members of minority groups has created new demands to which the bar has responded. Increasingly, questions are being raised as to the adequacy of available legal services to middle income American families.

Inherent in the increased recognition and utilization of the courts as effective vehicles for social and political change has been the mounting pressure on the lawyers and his profession to promote and protect equally due process, and the "public interest" for those who could not individually afford a lawyer's services. New opportunities for public service by younger attorneys have developed. Law firms and bar associations have been challenged to attain an even higher level of public service activity.

Unlike industry and government, lawyers have not been able to reduce appreciably the number of expensive man-hours they devote to routine legal tasks. With certain exceptions, which will be discussed later, the ideal of the profession has long been to provide custom-tailored services to each client. The sources of essential legal research—court decisions, statutes, and administrative regulations—have skyrocketed quantitatively. Lawyers' research has become increasingly costly, and it is the client who must pay for the straining shelves of law books and the expensive manpower necessary to extract needed materials in them.

Yet young associates and solo practitioners, still pore through indices, digests, cases, commentaries and looseleaf services in the same manner as their great-grandfathers. These laborious methods remain the primary information retrieval system of the profession.

To this day routine legal research remains largely untouched by computer technology. The reasons are probably less the limitations of the computer than the high capital cost of better legal indices for computer use and for programming millions of bits of information. This high initial cost has certainly been a major deterrent to extensive utilization of automated information retrieval.

Another characteristic of the legal profession today is its increasing specialization. The lawyers image of himself as a generalist, fully proficient in the law as a whole, bears little relation to reality. New areas of legal practice and inquiry have been added steadily during this century, *e.g.*, labor relations law, federal tax law, civil rights law, antitrust law, and securities regulation law. Numerous other examples could be cited. The practicing lawyer today is constantly confronted with the problem of how little of the "seamless web of the law" he can hope to practice with proficiency.

The growing national uniformity of laws harbors profound implications for the profession and its admission procedures. This century has been particular witness to the growing influence of federal laws and agencies regulating both man and his industry, labor and finance. The portion of a lawyer's time spent on matters regulated solely by state law has declined steadily. Suffice it to say that many practitioners today devote most of their practice to federal matters which were unknown 75 years ago.

The move toward modernization: An unfinished saga

The American Bar Association and the legal profession as a whole have in recent years devoted increased time and resources to consideration of methods for modernization. There exists a growing awareness in the Bar that the profession as traditionally structured has not met many of the legal needs of individual citizens. Changes in society as a whole have exerted certain but incalculable pressure on the profession to change. They have been affected by the emphasis upon research and innovation and by the increasing demands first of the poor and now of the middle class to share in the benefits of an affluent society, including quality professional services of the doctor and lawyer.

Issues with respect to the modernization of the profession have arisen in two broadly defined areas. First, issues concerned with the internal organization of the legal profession, including specialization, use of paraprofessionals and computer technology are increasingly being considered. Second, issues related to the delivery of legal services to individuals are undergoing intensive scrutiny. These include, *inter alia*, prepaid legal cost programs, group legal practice, legal aid and judicare, and lawyer referral services.

Specialization

Specialization in the legal profession is a fact of life. A proportionately smaller number of lawyers today practice alone or with one partner—the standard form in rural small town America—the America of the Nineteenth Century. Industrialization and urbanization brought the growth of large industrial, financial and governmental organizations. As these institutions grew, so did the law firms which provided them with legal services. As large law firms developed, the lawyers within them often began to specialize and to organize into departments in order to provide better services to the client. Large corporations promoted specialization in the legal profession by employing lawyers as corporate counsel to serve the highly specialized legal needs of the corporation. The growth of widely diversified and specialized government agencies resulted in the need for large numbers of attorneys to work in the agency's specialized area. Government has become a vast training ground for specialized legal practice. As a result of these changes in the structure of the profession, over twenty percent of the lawyers who practice in the United States today are "one client"—government or corporation—lawyers. The move toward specialization also has affected the single practitioner and small firm. Specialities such as personal injury litigation, criminal law, domestic relations, and labor law are increasingly areas of specialization for the single practitioner or small firm lawyer.

While the de facto growth of specialization has been recognized both within the profession and by its clients, the bar has only began to cope with the implication, opportunities, and problems of the formal recognition of specialization. Much experimentation will be necessary concerning certification requirements, e.g., the roles of law school curriculum, "internship" or apprenticeship, continuing legal education and graduate law study in training for a speciality. The area of examinations in speciality certification is still largely unexplored. No state as yet has developed a comprehensive specialist certification procedure, although California presently is experimenting with a certification system for specialists in workmen's compensation, tax law and criminal law.

The implications of specialization also remain largely unexplored. Careful study and

thought must be given to the role of the general practitioner in an era of increasing specialization. A determination must be made as to the appropriate mix of formal education and practice for training in various fields of specialization. For example, it may be reasonable to require a litigation specialist to have more courtroom experience than classroom experience. The mix of the practical and the formal education for a tax expert may be quite different. Heretofore, the resources for exploring these questions have been woefully lacking.

Paraprofessionals

The case for greater utilization of paraprofessional legal assistants was well stated by the ABA Special Committee on Availability of Legal Services, which observed that: "freeing a lawyer from tedious and routine detail, thus conserving his time and energy for truly legal problems, will enable him to render his professional service to more people, thereby making legal services more fully available to the public."

Traditionally lawyers have used clerks and secretaries as assistants for handling administrative aspects of the practice of law such as filing papers, searching court records, preparing forms, and other routine tasks. As the profession strives to extend legal services to more and more individuals in lower and middle income groups, the occasions in which routine operations may be performed by trained lay assistants will be multiplied.

The ABA Special Committee on Lay Assistants for Lawyers recently conducted a pilot training program for legal assistants and is developing model curricula for training law office personnel. The future for the development of educational programs for such training in colleges and law schools and of certification standards and procedures for this new vocation are virtually unlimited.

New systems for delivering legal services to individuals

The profession is in a state of ferment with respect to the development of new systems for the delivery of legal services to persons of moderate means and to the disadvantaged. There are genuine considerations of professional standards concerned with independence of the attorney and with conflicts of interest. Serious questions have been raised as to whether the present pattern of providing legal services to individuals is adequate to enable the average person to know when a problem confronting him is one in which a lawyer can help, to know whether the lawyer's service is worth its cost; and to locate a lawyer he is confident can and will provide the expert legal assistance he needs, at a cost he can afford. The conclusion is unavoidable that the profession, as presently structured, does not adequately meet these criteria, to serve low and middle income people.

Pressures of change have come from several sources. In the 1960s the Legal Services Program of the Office of Economic Opportunity was created, as a result of the widespread recognition of the inadequacy of the then existing legal services delivery system for low income Americans. Today about 2,000 legal services attorneys are handling approximately two million cases each year for the poor. The same questions are being raised now of the adequacy of legal services available to individuals above the poverty line—those in the middle and lower-middle income groups.

Probably the greatest force today behind the development of new systems to make legal services more readily available to middle income groups is the trade union movement. Labor organizations have obtained, through collective bargaining, substantial medical coverage benefits for their members in the form of insurance and group practice programs. It was predictable that they would also turn their attention to legal services available to their members.

Group legal services

The term "group legal services" as discussed here connotes a plan in which a group or organization designates one or more lawyers to represent individual members of a group. Numerous group legal service plans are operating today, frequently under the sponsorship of unions.

These plans have created continuing controversy within the legal profession. However, the issue no longer primarily revolves around whether such plans may be allowed to exist. The United States Supreme Court, in a series of decisions, the most far-reaching of which was *United Mine Workers* v. *Illinois State Bar Association*,[11] has shielded such arrangements against charges of unauthorized practice. One commentator has stated that the holding in the *Mine Workers case* makes it "difficult to conceive a practical and attractive group legal arrangement that would not be protected by the rule it announces."[12]

Group legal services have been around for some time. Certain forms of group practice have been accepted by the profession. Probably the most common group legal service arrangement is in the automobile insurance industry. Individuals protected by automobile casualty insurers must, in the event of a claim, accept counsel of the company's choice. In addition, the legal needs to the poor served through the OEO-funded Legal Services Program are primarily met by a group legal services structure. A substantial amount of additional study and analysis must be performed to determine the effectiveness of group legal services plans. But the need for new methods to better meet the legal services requirements of large numbers of people can be said to constitute one of the most pressing problems facing the profession today. The Bar can ill-afford to ignore the reality of group legal service programs; a brochure published by the ABA Standing Committee on Lawyer Referral Service has observed that "the time may well come when a majority of the general public will receive all needed legal services from lawyers provided by lay organizations."

Prepaid Legal Cost Insurance

Another change in the structure, primarily in the funding of legal services for the middle class, has been embryonic development of prepaid legal cost programs. Examples of the growth and success of hospital and medical insurance plans have raised the question of the feasibility of financing legal services generally through pre-payment plans. The funding of "routine" legal services under this concept is, strictly speaking, a pre-payment or financing mechanism rather than a spreading of the risk. The automobile insurance industry has long had experience in calculating the cost of legal services as part of the insurance premium; but this has been primarily coverage for legal catastrophe. As yet we have had little experience with prepayment mechanisms for routine legal services.

The American Bar Association Special Committee on Prepaid Legal Services is sponsoring a pilot program in Shreveport, Louisiana, in cooperation with the Shreveport and Louisiana State Bar Associations, which has been in operation since January, 1971, with Ford Foundation funding. The Committee is undertaking sponsorship of a pilot program in Los Angeles, California, which has not yet begun operation. Prepaid legal service programs are attractive to trade unions, and other consumer groups, including teachers and municipal, state and federal employee associations. However, problems concerning such sponsorship are myriad. For example, employer contributions to such plans are presently not authorized under the Taft Hartley Act. Unlike health and medical service benefits, contributions to these plans are not tax deductible. Whether state insurance departments will consider prepayment plans as insurance for the purpose of state regulation is not presently known. These and other questions require further exploration.

Many members of the organized bar see prepaid legal cost programs as a vehicle for providing more effective legal services for individuals without placing a lay intermediary between the attorney and his client. Indeed, due in large part to efforts of the Association, twenty-three state bar committees have been established to explore the establishment of prepaid plans.

Lawyer Referral Services

Although lawyer referral systems have been in operation in the United States since 1937, there are today only 267 lawyer referral offices in operation, dealing with approximately 250,000 clients each year.

The present system bears some similarities to the legal aid system as it was constituted prior to the introduction of the OEO Legal Services Program. It is typically under-financed, inadequately advertised, and underutilized. To be sure, the present system is making a substantial day-to-day contribution to the availability of legal services to the public, but those who have given the most penetrating consideration and study to the problem are generally dissatisfied with the capacity of the present system to meet the much wider unfilled needs of middle-income families. The ABA Standing Committee on Lawyer Referrel Service has indicated that a major problem is to provide some assurance to the public that the quality of service which an individual will receive would be significantly better than could be accomplished by selecting a lawyer at random from the yellow pages of the telphone book.

Judicare

The OEO Legal Services Program has almost exclusively utilized the approach of funding offices staffed by attorneys employed to perform legal services for the poor. Only a few OEO-funded programs permit the client to select a private practitioner who is then reimbursed by the funded agency. This system is known in the profession as "Judicare," and its supporters argue with considerable logic that it is the only practical method of providing legal services in rural and sparsely settled areas.

The need for evaluation of methods

Thus, there is a pressing need to intensify the study of the effectiveness and relative cost of new and old systems for the delivery of legal services. The basic obligation of the profession is to provide legal services to the public, to make such services available to all members of society, and, in so doing, to insure that they are performed by qualified persons who have been adequately educated.

Legal education—Law schools in lockstep

Law schools are today in a period of profound soul searching and re-evaluation. With striking uniformity they have followed curriculum and teaching methods developed in the late Nineteeth Century. Most are now revising their curricula to introduce more effective methods of educating and training lawyers to deal with the problems of the late Twentieth Century.

Traditionally, the source of most law school teaching materials has been appellate court opinions. Of course, any practicing lawyer knows that the world of the appellate court opinion is often a considerable distance from the real world of most legal practice. Until recently there was little innovation in law school teaching methods and content. The case method of teaching long reigned supreme.

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It has been suggested that the complete lawyer should receive three types of education which may or may not be subject to combination. He should be taught to analyze the legal significance of issues. He should be taught techniques of practice. He should learn the social, political and economic dynamics of our society inasmuch as the law is the basic regulator of these dynamics. Traditionally too, law schools have seen themselves as educating prospective lawyers to *think* like lawyers, leaving to others education in the technique of practice. Clinical teaching was relatively rare, with legal writing reserved, in the main, for the law review editor.

Until recently little concern was evidenced over the failure of legal education to familiarize prospective lawyers with how society works. But today, law schools are profoundly involved in a re-evaluation of their role and responsibility to themselves and to society as a whole. Law schools are increasingly concerned with the relevance of their curriculums. This concern has produced new courses and orientation. There has been increasing concern with interdisciplinary aspects of legal education. Clinical training is increasingly supplementing the traditional classroom curriculum.

In the past a major limitation of experimentation with curricula and teaching methods was the view perhaps accurate, that most law students were headed in the same direction, i.e., toward traditional private practice. Law schools today are faced with a far greater diversity of student interest. This is due in part to expanded opportunities for legal practice in government, legal aid, and other full-time public service activities, and to the increasing specialization of private practice. Teaching has been oriented to training legal generalists on the theory that even a specialist needs to know something about other areas of the law. However, the reality of specialization has raised questions about whether there is a role for law schools in the training of specialists. Moreover, continuing controversy revolves around the relevance and use of the third year of law school. Clinical training, interdisciplinary studies and specialization are all increasingly vying for that last year of the law student's education.

Increasingly, law schools are asking whether they should break the uniformity of past patterns and begin to develop specialties and particular emphasis, i.e., should urban law schools emphasize urban legal studies with perhaps a greater research and behavioral orientation.

Three major barriers have served to retard experimentation with new curricula; the conservation inspired by the success of the case method in its time: bar examinations; and funding. The so-called "national" law schools are perhaps most affected by the first factor, because they have been most successful by traditional standards of legal education. On the other hand, although the national law schools have not oriented their course primarily toward bar examination, the majority of schools have been sensitive to that practicality. Undoubtedly, tradition-bound bar examinations have discouraged innovation in law schools. Some experimentation with a national bar examination is now going forward under the auspices of the Association of American Law Schools and the National Conference of Bar Examiners. This effort is being widely applauded and carefully observed.

Formal education in the law is still a remarkably young idea in this country. In fact, it has only been in the last half century that the majority of practicing lawyers have been trained by law schools. Historically, young aspirants to a legal career "read law" in the office of a licensed practitioner, and the requirement of formal legal education as a prerequisite to taking a bar examination is a comparatively recent development.

Many law schools had their beginning in the basement of a YMCA and as night schools catering to the part-time student. A large number of schools were started as proprietary institutions and there remain a surprising number of such institutions, especially in the State of California. Among the law-budget proprietary operations large classes are the normal mode of operation. It is also true that even the law schools forming a part of universities are expected to produce a profit. The notion of a university law school receiving research and educational grants from its parent organization generally has been a foreign thought. As an inevitable result, curricular innovation, including greater clinical and research programs, which would require significant increases in law faculties, facilities and funding, have been slow to develop.

Research by law school faculties and students has, over the years, been minimal, especially as compared with other disciplines. That which has been undertaken has largely been of a doctrinal nature.

The history of the funding of legal education and research from private sources suggests that significant change in the foreseeable future is unlikely, unless new and substantial sources of income are made available.

Continuing legal education

Continuing legal education has in recent years become a significantly more important component of the lawyer's training.

This, too, reflects a recognition of the incompleteness of law school education as preparation for legal practice.

The early efforts of the Practising Law Institute and the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association paved the way for rapid growth of programs of continuing legal education. Such programs are now widespread. Today most state and some local bar associations, as well as many law schools, sponsor continuing legal education programs.

Increasingly, the profession sees continuing legal education as at least a partial answer to a number of its problems. It is seen as a way of minimizing the learning which a new attorney might otherwise experience at a client's expense. It is looked upon as a method by which specialists can increase their proficiency and general practitioners develop specialties. It is an avenue for bridging the knowledge gap created every time major new legislation is enacted.

Funding is and will continue to be a major problem in continuing legal education. It restricts the types of programs which can be offered; programs must appeal to significant numbers of attorneys in order to pay for themselves. To a limited extent profitable programs can support the unprofitable ones, but this places serious limitations on developing programs for less profitable specialties or in areas of public service. The result is that these areas are likely to be neglected.

Two illustrations of education in the area of court administration are worthy of note. Until 1964 there did not exist in this country a school for state trial court judges. It was only with the inspired leadership of Tom C. Clark, then Associate Justice of the U.S. Supreme Court, and the infusion of substantial funding by the Kellogg and Fleischmann Foundations that the American Bar Association's National College of the State Judiciary became a reality. More than 30 percent of the state trial judges of courts of general jurisdiction have since attended the college.

Until last year there was no institution in the United States for the education of court administrators and executives. Under the leadership of the Chief Justice, Warren Burger, and with a large grant from The Ford Foundation, the Institute for Court Management was created. It already has graduated two classes and has inspired some law schools to undertake the development of programs leading to a master's degree in Court Administration. It was a large factor in persuading Congress to enact the Court Executives Act creating "business managers" for each of the Federal Circuits.

Regulating professional qualifications

The state has conferred on the lawyer the exclusive right to provide legal services. Yet neither the profession nor the state has developed a procedure for admitting attorneys to the bar which assures the public that those who are licensed to practice have achieved a reasonable level of competency or possess the necessary moral qualifications. It is fair to say that there is near consensus within the legal profession that state bar examinations do not truly test whether an applicant to competent to practice law. Indeed, no law firm would base its decision to employ an admittee on the strength of his passage of such a written examination. The plain fact is that no written test can measure the ability of an applicant to perform many of the facets of practice. Furthermore, while specialization is a growing reality in the legal profession, bar examinations do not reflect this fact, and at the present time there is no later certification procedure regulating such specialization.

Many are of the view that the regulation of professional qualifications is not the concern of the law school. Some suggest that it is the responsibility of the organized bar. Others lay the responsibility on the judicial branch of the state government. In any event, it is certainly the responsibility of some group within the profession, and the plain fact is that professional competency is not now receiving sufficient constructive attention.

Research in and about law

One of the hallmarks of today's society is its reliance upon research as an instrument of development and progress and for the solution of problems. One need look no further than his television set to observe the constant emphasis on research in the advertisements of program sponsors. Typically, one hears such slogan as "progress through research;" "Ford has a better idea;" "progress is our business;" etc.

Insofar as research in the law is concerned, it may be divided into two types: doctrinal and empirical. They have been described by Professor David Cavers of the Harvard Law School as research in law and research about law. In the field of doctrinal research, or research in law, the legal profession has historically made important contributions. This kind of research required little money and could be traditionally performed in the library. This was pointed out by Dean Robert B. McKay of New York University Law School in his testimony before the Senate Subcommittee on Government Research [13] in which he observed that lawyers have made great progress in systematizing and unifying the law through their doctrinal research. This has been true despite the obstacles presented by a diverse federal system comprising more than fifty separate jurisdictions. By way of illustration, Dean McKay pointed to the substantial contributions of the American Law Institute and the Commissioners on Uniform State Laws as examples of what lawyers could do with modest sums of money.

However, it has been only in very recent years that the profession has come to realize the importance of empirical research and the responsibility of the profession for its conduct. This awakening concern for research about the law led to the establishment of the American Bar Foundation, the research arm of the American Bar Association. The work of the Foundation has been

primarily limited by the funds available to it. Law schools evidence a growing commitment to research about the law, but here, too, financial resources are limited.

As Chairman of a Special Committee on Financial Resources of the Association of American Law Schools, Dean McKay conducted a study financed by the Walter E. Meyer Research Institute of Law, the purpose of which was to ascertain the level of private philanthropic contribution to legal education and legal research. The results of that study indicated that private foundation support has not been large. During the twelve-year period of the study most of the funds were granted for construction, fellowships and individual research. Only a modest amount was made available for empirical research.

Of the funds granted to law schools, more than 60 percent was concentrated among five schools and nearly 80 percent was concentrated among ten. The Ford Foundation was the principal grantor, accounting for more than two-thirds of all foundation support. Grant money went primarily to international legal studies, graduate fellowships for law teachers and the administration of justice, particularly in the criminal field. In the final year of the period studied, only a little over one percent of all foundation grants allocated to the sciences and social sciences was directed to law.

In the same period, the government was providing only neglible support for legal research. At the time of Dean McKay's study, the National Science Foundation had made no grants for legal education or legal research. Likewise the National Endowment for the Humanities made no research grants to lawyers. Proposals introduced in Congress for a National Foundation for Social Sciences and a National Foundation of Law and Justice have not yet received wide support.

In contrast, research in support of the physicial sciences has fared very well at the hands of both private and public agencies. Admittedly, the legal profession has been slow to awaken to its responsibilities and opportunities to improve the function of our law society through research about the law. But it has been demonstrated that lawyers working together and working in conjunction with other discipline are quite capable of making the system work better. The obvious need today is to provide adequate funding, continuity and direction.

The crisis in the administration of justice

The inadequacy of our nation's judicial machinery, which was designed to meet the needs of an agrarian society in the late Eighteenth Century, has produced a crisis in our judicial system. This crisis is the result of a multitude of long-neglected problems which, because of increasing demands being placed upon our court system, now threaten much of the system with virtual collapse. There is hardly an urban court which is not touched by the crisis. Interminable delays threaten to destroy the usefulness of our civil courts for the peaceful and orderly resolution of conflicts. Delays in the criminal courts too often mock both the concept of deterrence or the rights of accused. Many judges now must devote an inordinate amount of time to administrative details which could be better handled by others. At the same time, assembly line justice often prevails. Appellate courts are equally affected. In many state systems the average time required to process an appeal can consume in excess of eighteen months.

The task of resolving the problems which contribute to this crisis is not easy, for resort to simplistic solutions usually creates a high risk of destroying the very system which such solutions are intended to save. What is needed is reform within the context of our legal traditions.

The focal point of the machinery of justice in our country is, of course, the judge himself. Too frequently judges, especially in the minor courts that process the bulk of the civil and criminal litigation, receive little or no judicial training or orientation. There remain substantial problems with respect to insuring that judicial officers are competent and have the requisite temperament to adjudicate disputes in a courtroom setting.

On the positive side of the ledger, this is an area which is receiving substantial direction and attention from Chief Justice Burger. He, for example, has been instrumental in the creation of the new National Center for State Courts. His predecessor, Chief Justice Warren, was the moving force in the establishment by Congress of the Federal Judicial Center. Under the broad mandate of Congress, one of the primary functions of the Federal Judicial Center is "to conduct research and study of the operation of the courts of the United States, and to stimulate and coordinate such research and study on the part of other public and private persons and agencies."

The new National Center for State Courts, together with the Federal Judicial Center, the National College of the State Judiciary under the sponsorship of the Section of Judicial Administration of the ABA, and the Institute for Court Management, all are recent examples of advances in strengthening judicial training and support.

V. TRANSLATING DESIRE INTO REALITY

Inherent in the efforts of most legal reformers, voluntary and professional, has been the assumption that if enough human energy were applied by enough dedicated groups existing machinery could be improved and the crisis in justice could be met. The piecemeal, uncoordinated nature of the various efforts seems not to have been regarded as a deterrent. At least they have been accepted as an inevitable fact of judicial life. But with it all, comprehensive, coordinated national planning is lacking and effective modernization of the system appears still to be an elusive and urgently needed element.

From the time of the creation of our constitutional government, the condition of justice has suffered almost directly in proportion to the increasing population and the increasing complexity of our society. The responsibility, although often the subject of partisan political debate, has fallen on the lawyer and ultimately the organized bar. Lawyers are educated to understand and deal with the application of the rule of law. Moreover, they are virtually the only professional group having complete access to the machinery of the administration of justice; the enforcement of societal mandates through law. In short, they are intermediaries between the theory of the law and its application to society.

Yet the very nature of the practice of law can be contradictory in terms of the interests of society and the interests of particular individuals, or organizational and governmental entities. They are paid advocates, ethically bound to consider the client's interest as paramount to virtually all other considerations. This obligation is to be juxtaposed with a commensurate obligation—also a matter of ethics—to work for the public good.

Efforts to accommodate these co-equal obligations have been pursued, in the past, mainly through the organized bar or through government. One has only to consider the makeup of the executive, judicial and legislative branches of government to note the intricate and pervasive involvement of the lawyer in the administration of justice. Chief Justice Burger aptly articulated this in his State of the Judiciary address at the 1971 ABA Annual Meeting several months ago:

"A strong, independent, competent legal profession is imperative to any free people. We live in a society that is diverse, mobile and dynamic, but its very pluralism and creativeness make it capable of both enormous progress or debilitating conflicts that can blunt all semblance of order. One role of the lawyer in a common law system is to be a balance wheel, a harmonizer, a reconciler. He must be more than simply a skilled legal mechanic. He must be that, but in a larger sense he must also be a legal architect, engineer, builder and, from time to time, inventor as well. This is the history of the lawyer in America, and in this respect he is unique among the lawyers of all societies."

While it cannot be said that kinship among lawyers is so great that one may find them huddled together under one roof, they are gregarious enough that the vast majority of them belong to state and local bar associations. More than half of them voluntarily belong to the American Bar Association, the national organization of the profession.

The movement to organize lawyers into bar associations on a national, state and local level is a little over a hundred years old. The organization started in metropolitan areas and the more populated states. The early associations were voluntary in nature and had modest budgets. Permanent staffs did not exist; association projects were carried on by volunteers. The Bar was not seen in those days as responsible for the discipline of members and certainly not as the harbinger of reform.

The passage of time brought many changes. As bar associations assumed larger roles in profesional standards of conduct and practice, and a larger share of responsibility for the machinery of justice, the so-called integrated bar began to develop among the states. This concept, requiring every practicing lawyer to belong to the profesional organization of lawyers in a state, took place largely during the middle third of this century. Today, half of the States have inegrated bars and the trend in that direction is continuing. Even with this movement, inadequate funding has in most states prevented the mounting of effective programs of discipline, education and improvement of judicial machinery.

It may surprise some to realize that the American Bar Association had no permanent staff for the first half of its nearly one hundred years. Indeed, not until the middle of the 1950's did it have sufficient funds to staff a limited number of projects and activities. Membership in the American Bar Association has trebled in the past fifteen years, while its income has grown by more than 600 percent. In the last decade an even more significant development has taken place—the funding of public service and educational projects through foundation and government funds. About half of the Association's annual income now comes from such sources. It is this writer's belief that that percentage will grow in the decade ahead to between 65 percent and 75 percent of the Association's entire income.

Indeed, the progress of the organized bar in the past decade has been so marked that some believe that the crisis in the administration of justice can be met by the organized bar under the direction and leadership of the American Bar Association. While the forward strides of the last decade are a source of encouragement and even some pride, and while the leadership of the American Bar Association is dedicated to the proposition that this organization has the potential for even greater and more significant contributions to the cause of justice, it must be recognized that there are some inherent qualities of a voluntary organization that militate against its completely effective fulfillment of this lofty role.

On the one hand, the ABA House of Delegates includes the widest posible range of

representation from all groups who constitute the legal profession today. The Association's present day structure is its strength when called upon to pass upon the conclusions or proposals of others.—Nevertheless, because it is a voluntary organization and represents so many diverse and often irreconcilable views, it should not surprise or discourage us to note that the contribution of the organized bar to the solution of today's social problems has been, of necessity, confined largely to the realm of ideas. Time freely contributed by voluteers, projects financed by volunteers, machinery tuned to decision by consensus, cannot produce the kind of massive, venturesome, sustained and coordinated attack which is required in the field of justice today. Volunteer bar associations, the American Bar in particular, perform at their maximum efficiency in unfolding and debating a wide range of views. By their very nature, however, voluntary bar associations cannot, at the same time, be fearless in research, forceful in exposition and confident in criticism.

Even if the organized bar could, through reorganization or otherwise, build a sufficient structure from which to conduct far-reaching research programs and substantial pilot programs in our quest for a better society, an argument can well be made against proceeding in that direction. As long as bar associations remain voluntary, their ability to represent all lawyers is impeded. Should the day come when all lawyers speak with one voice, the rest of society may nonetheless readily question both our method and our motive.

The very size of life and society today minimizes the effectiveness which any voluntary group can now offer. Individual contractors alone cannot produce coordinated space programs. Individual railroads cannot serve a sprawling nation. Society today requires a National Institute of Justice.

VI. CONCLUSION

The late Reginald Heber Smith once observed that men can learn, if they must to put up with physical imparity and economic inadequacy; but that a brooding sense of injustice makes them want to tear things down. We who bear the primary responsibility for the machinery of justice in this nation, if we are to be faithful to our oath, must be vigilant in our search to find new and better ways to make equal justice under the law a living reality. It is incumbent upon us to move forward with common purpose and high aspiration that is worthy of our heritage. The National Institute of Justice is a concept whose time has come.

FOOTNOTES

* Executive Director, American Bar Association, Chicago, Illinois; A.B., Duke University, 1944 ('46); J.D., Harvard University, 1949. Mr. Early wishes to thank his associates, John W. Atwood and David C. Long, for their invaluable assistance in the preparation of this article. Mr. Early practiced law in Huntington, West Virginia from 1949 to 1962.

† The Chief Justice of the United States.

[1] Pound, *The Causes of Popular Dissatisfaction with the Administration of Justice*, 40 AM. L. REV. 729 (1906).

[2] *Id.* at 742, 749.

[3] Pound, *A Hundred Years of American Law*, in LAW: A CENTURY OF PROGRESS 8 (A. Reppy, ed. 1937).

[4] *Id.* at 20, 23, 24.

[5] *E.g.* Laswell and McDougal, *Criteria for a Theory About Law*, 44 S. CAL. L. REV. 362 (1971).

[6] Cardozo, *A Ministry of Justice*, 35 HARV. L. REV. 113 (1921).

[7] *Id.* at 114.

[8] S. 2627 and H.R. 13584, 90th Cong., 1st Sess. (1967).

[9] S. 836, 90th Cong., 1st Sess. (1967), and S. 508, 91st Cong., 1st Sess. (1969).

[10] *Hearings on S. 836 Before the Senate Subcomm. on Government Research*, 90th Cong., 1st Sess. (1967).

[11] 389 U.S. 217 (1967).

[12] Schwartz, *Changing Patterns of Legal Services, in* LAW IN A CHANGING AMERICA 117, (G. Hazard, Jr., ed. 1968).

[13] *Hearings on S. 836 Before the Senate Subcomm. on Government Research*, 90th Cong., 1st Sess. (1967).

By Mr. WILLIAMS (for himself and Mr. JAVITS):

S. 1423. A bill to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services. Referred to the Committee on Labor and Public Welfare.

PREPAID LEGAL SERVICES LEGISLATION

Mr. WILLIAMS. Mr. President, in a recent article entitled "Our Forgotten Client: The Average American," Robert W. Meserve, the president of the American Bar Association noted:

> The rich and well-to-do are aware of their need for legal services and have no trouble obtaining them. The poor are being increasingly assured of services. But there is a large segment of the population between these extremes.
>
> This [is a] vast, middle economic-group-the people of moderate means [who are] our forgotten clientele.

Mr. President, one of the glaring injustices in America is that Americans of moderate means neither know when they need legal services, how to obtain them, nor how to finance those services.

With the recognition of these major obstacles, several nongovernmental groups, primarily in the past decade, have begun to experiment with programs designed to insure the availability of legal services. Bar associations across the Nation are experimenting with insurance programs to provide these services. Labor organizations, on their own and jointly with local bar associations have begun establishing legal service programs. Even the U.S. Postal Service is now studying the possibility of establishing a private legal service program. My own State of New Jersey is experimenting with a Blue Cross-type prepaid insurance program.

One major obstacle to the experimentation with and creation of such programs is section 302(c) of the Labor-Management Relations Act which prohibits labor and management from jointly administering trust funds established to provide such legal services to employees, their families and their dependents. Today, management can establish such funds and labor can establish such funds but they are barred from jointly administering such funds.

Today, I offer legislation to remove this obstacle. The bill is a proposed amendment to section 302(c) of the Labor-Management Relations Act of 1947, which presently sets out the fringe benefits of which may be established through joint labor-management administration. These fringe benefits are presently limited to such subjects as pensions, health and welfare plans, life and accident insurance and such matters as education, training, and child day-care centers. This bill would add legal service programs to this list.

The legislation has been made necessary because of the growing recognition that existing methods of delivery of legal services to middle- and working-class citizens are inadequate, and that the establishment of legal service programs through collective bargaining, in a manner similar to the way health benefit programs were established, would be an important step forward toward alleviating this problem.

This bill will not mandate the establishment of such programs, it will not dictate the terms and conditions of such programs, it will not interfere in any way whatsoever with the operations of such programs. And it will not finance such programs. Rather, it will merely remove an unwarranted and unintended Federal roadblock to the establishment of such programs by the private sector, with private funding.

This measure will not replace bar association procedures with Federal procedures, it will not subvert State control over the practice of law with Federal control. It will neither require nor prohibit open panels or closed panels, it will neither require nor prohibit the establishment of such programs, and it will neither require nor prohibit bargaining between labor and management over such programs.

Mr. President, I can conceive of no reason other than an accident of history and unintentional legislative drafting for the Federal Government to be the major obstacle to private arrangements to insure the availability of legal services to the millions of moderate income Americans. This bill will remove that obstacle.

I ask unanimous consent that the 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. 1423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302 (c) of the Labor Management Relations Act, 1947, is amended by striking out "or (7)" and inserting in lieu thereof "(7)" and by adding immediately before the period at the end thereof the following: "; or (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents: *Provided,* That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds."

Mr. JAVITS. Mr. President, I am pleased to cosponsor the bill to permit jointly administered funds to be utilized for prepaid legal services programs under section 302 of the Taft-Hartley Act. The interest of the trade union movement in obtaining for union members legal services under prepaid plans of the type this bill would authorize is one which we in Congress ought to encourage. We are all aware of the problems which lower- and middle-income Americans have in obtaining adequate legal services. Just as prepaid medical plans now permit the

majority of all workers to have access to decent medical care, prepaid legal services may prove to be the mechanism to accomplish the same result for legal services.

At the time the Taft-Hartley Act was enacted, Congress did not foresee the growing trade union interest in securing various kinds of social benefits to their members through the mechanism of collective bargaining. As a result, section 302 was drafted in such a way as to permit only specified kinds of jointly administered funds. In recent years we have amended section 302 to permit the establishment of jointly administered funds to provide day-care facilities and educational scholarships when the Amalgamated Clothing Workers commenced such a program.

The time for prepaid legal services has clearly arrived. The basic idea of prepaid legal services, as well as this particular bill, have been endorsed by the house of delegates of the American Bar Association. Clearly we ought to act with dispatch to pass this bill in order to remove the present legal obstacles to the creation of jointly administered funds to provide prepaid legal services.

By Mr. SCHWEIKER:

S. 1424. A bill to provide certain benefits for members of the Armed Forces and civilian employees of the United States who were in a missing status for any period of time during the Vietnam conflict. Referred to the Committee on Armed Services.

POW BENEFITS LEGISLATION

Mr. SCHWEIKER. Mr. President, with the return of our prisoners of war and, hopefully, many of those men currently in a missing status, I believe our Government has an obligation to assist them in their transition to freedom.

The bill I introduce today is relatively simple. It contains only two provisions, but they will provide for a smooth transition to normalcy and extended medical care.

The first section provides that each day spent in a captured or missing status, by either civilian or military personnel, will count 2 days toward retirement, if the individual so desires. This two for one program will enable these men to retire from active duty earlier than usual. They can then begin a second career or try to make up the years of family life and enjoyment lost in captivity. This elective program will remain open for 2 years following the individual's repatriation. A man choosing to retire early under this program will do so with all retirement benefits entitled him, had he remained in service for his full obligation.

The second section of my bill provides that any member who elects not to remain in the service, will receive health care as long as it is needed to meet his psychological and physical needs. This assistance will be available also to any civilian Government employee, who was captured or missing during the Vietnam conflict.

We learned, following the Korean conflict, that most of the problems faced by former prisoners of war did not manifest themselves until many years later. These psychological and physical problems frequently went undetected and unsuspected and then were not properly diagnosed and treated later.

The Department of Defense currently has a program—the Armed Forces Center for POW Studies—which will follow up on all former prisoners of war for 5 years following repartriation. I believe, however, that the health care program should continue for as long as it is needed by the POW's. Further, the benefits of this program should be available to dependents, who may also incur problems as a result of the prisoner's return, as well as to former POW's who elect to remain in service and their dependents.

These brave men have endured suffering and deprivation that most of us can only guess at. We owe them the opportunity to begin their lives anew. I believe my bill offers such an opportunity and I am hopeful that my Senate colleagues will concur.

By Mr. HRUSKA (by request):

S. 1426. A bill to amend sections 101 and 902 of the Federal Aviation Act of 1958 and chapter 2, title 18, United States Code, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and for other purposes. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I introduce, by request, a bill to implement the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aircrafts and ask for its appropriate reference. The Convention was signed in Montreal on September 23, 1971, and was forwarded to the Senate for advice and consent in the fall of last year. On October 3, 1972, the Senate agreed unanimously to a resolution of ratification. Before the Convention can be given full effect, however, it will be necessary for the Congress to enact implementing legislation.

The Montreal Convention is a necessary and desirable sequel to the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which, as my colleagues will recall, was ratified in the fall of 1971. The Hague Hijacking Convention was very significant in that it established a rule of law governing conduct by signatories for assuring the apprehension and punishment of hijackers. Each party to the Convention is required to prosecute hijackers found within its territory, regardless of where the piracy occurred, unless it extradites them. Legislation which in part implements that treaty—S. 39—was passed by this body on February 21.

As I mentioned, the Montreal Convention is a companion to the Hague Convention. Whereas the latter deals with aircraft hijackers, the former deals with individuals who commit related acts of terrorism against or on board aircraft, such as damaging or destroying an aircraft or performing an act of violence against a passenger. Also, like the Hague Convention, the treaty signed in Montreal is designed to impose the same strict requirements upon contracting states. That is, each contracting state is required to take into custody and either extradite or prosecute the saboteurs and terrorists who attack aircraft and passengers, regardless of where these terrible acts take place. The clear purpose is to eliminate safe havens for these international outlaws.

Because of the great importance of the Montreal Convention in our efforts to curb terrorism against international civil aviation, and because of the necessity to pass implementing legislation to give full effect to the treaty, I strongly urge my colleagues to devote their early attention to the bill I introduce today.

I ask unanimous consent that the bill, the Attorney General's March 29, 1973, letter of transmittal to the Vice President as well as the Attorney General's analysis of the bill, be printed in the CONGRESSIONAL RECORD at this point.

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

S. 1426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 31 of Title 18, United States Code, is amended by striking out the words "Civil Aeronautics Act of 1958" and inserting in lieu thereof the words "Federal Aviation Act of 1958," and by adding at the end thereof the following two paragraphs:

"In flight" means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property aboard.

"In service" means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.

SEC. 2. Section 32, Title 18, United States Code is amended to read as follows:

"Whoever willfully sets fire to, damages, destroys, disables, or interferes with the operation of, or makes unsuitable for use any civil aircraft used, operated or, employed in interstate, overseas, or foreign air commerce; or willfully places a destructive substance in, upon, or in proximity to any such aircraft which is likely to damage, destroy or disable any such aircraft, or any part or other material used, or intended to be used in connection with the operation of such aircraft; or willfully sets fire to, damages, destroys or disables any air navigation facility or interferes with the operation of such air navigation facility, if any such act is likely to endanger the safety of any such aircraft in flight; or

"Whoever with intent to damage, destroy, or disable any such aircraft, willfully sets fire to, damages, destroys, or disables or places a destructive substance in, upon, or in the proximity of any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility, or other material used, or intended to be used in connection with the operation, maintenance or loading or unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft; or

"Whoever willfully performs an act of violence against or incapacitates any passenger or member of the crew of any such aircraft if

such act of violence or incapacitation is likely to endanger the safety of such aircraft in service; or

"Whoever communicates information, which he knows to be false, thereby endangering the safety of any such aircraft while in flight; or

"Whoever willfully attempts to do any of the aforesaid acts,

Shall be fined not more than $10,000 or imprisoned not more than twenty years, or both."

SEC. 3. Chapter 32, title 18, United States Code is amended by adding a new section to read as follows:

"32A. Offenses in Violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

(a) Whoever commits an offense as defined in subsection (b) against or on board an aircraft registered in a state other than the United States and is afterward found in this country—

shall be fined not more than $10,000 or imprisoned not more than twenty years, or both."

(b) For purposes of this section, a person commits an "offense" when he willfully—

(1) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

(2) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

(3) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(4) attempts to commit, or is an accomplice of a person who commits or attempts to commit, an offense enumerated in this subsection.

(c) The provisions of this section shall become effective one day after fulfillment of the following conditions:

(1) the entry into force for the United States of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal, Canada, on 23 September 1971; and

(2) the publication in the Federal Register by or on behalf of the Secretary of State of a notice referring to this Act and stating that the Convention has entered, or will enter, into force for the United States on a date specified in that notice.

SEC. 4. Section 101(32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 (32)), is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes the following aircraft while in flight—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense' as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offenders still aboard; or

"(iii) regarding which an offense as defined in subsections (d) and (e) of Article I, section I of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation is committed, provided the aircraft lands in the United States with an alleged offender still on board; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States.

For the purposes of this section, an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when any such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard."

SEC. 5. Section 902(k) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (k)), is amended by adding subsection (3) to the end thereof, to read as follows:

(k)(3) Whoever while aboard an aircraft in the special aircraft jurisdiction of the United States commits an act which would be an offense under 18 U.S.C. 32 shall be punished as provided therein.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 29, 1973.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation signed in Montreal, September 23, 1971, and for other purposes.

The proposal would amend existing Federal legislation dealing with offenses related to air piracy and the destruction of aircraft and aircraft facilities in order to bring our law into conformity with the requirements of the Convention.

The Convention requires, in Article 5, that each contracting state take such measures as may be necessary to establish jurisdiction over the offenses enumerated in Article 1 in specified instances. Article 1 proscribes certain acts, such as damaging or destroying aircraft or air navigation facilities, or committing violence against persons aboard aircraft, if the acts are likely to endanger the safety of the aircraft. In those cases where the signatories are required to establish jurisdiction, it is incumbent upon them to provide "severe penalties" for violations. (Article 3).

Section 1(a) of Article 5 requires that each contracting state establish jurisdiction "when the ofiense is committed in the territory of that state". To a great extent, our existing law already makes unlawful the offenses of Article 1, and the penalties are appropriately severe in most cases. Because of certain significant gaps, however, it is necessary to amend our law to achieve complete conformity. Therefore, the relevant statute—18 U.S.C. § 32, "Destruction of aircraft or aircraft facilities"—has been rewritten in section 2 of the legislation to reflect the changes necessitated by the Convention. Section 2 would also broaden the scope of 18 U.S.C. § 32, as well as make the language of the current statute more concise and clear.

Section 1(b) of Article 5 requires that each contracting state establish jurisdiction over the offenses when they are "committed against or on board an aircraft registered in that state". This is accomplished by the present definition of "special aircraft jurisdiction of the United States" which includes "civil aircraft of the United States". (Section 101(32)(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1301(32)(a)).

Each signatory is also obligated to establish jurisdiction "when the aircraft on board which the offense is committed lands in its territory with the alleged offender still on board". (Article 5 section 1(c)). This is accomplished in part in section 3 of the legislation which creates a new section 32A of title 18, United States Code. The new section prohibits the commission of an offense "against or on board an aircraft registered in a state other than the United States and [the alleged offender] is afterwards found in this country". An amendment to the definition of "special aircraft jurisdiction of the United States" found in section 4 of the legislation, brings our law into complete compliance with this requirement when viewed in conjunction with the new section 32A.

Section 1(d) of Article 5 requires each contracting state to establish jurisdiction over the offenses when committed "against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State". A further amendment to the definition of "special aircraft jurisdiction" has been added in section (4) to meet this obligation.

Lastly, Article 5, section 2, requires that each signatory establish its jurisdiction when "the alleged offender is present in its territory and it does not extradite him . . ." The new section 32A, mentioned above, is also designed to cover this situation to the extent required by the Convention.

The proposed legislation is necessary to fully implement the Montreal Convention, which is very important in the international community's efforts to curb air piracy and related offenses. I therefore urge the early consideration and adoption of this proposed legislation.

The Office of Management and Budget has advised that enactment of this legislation is in accord with the Program of the President.

Sincerely,

———— ————,
Attorney General.

ANALYSIS OF THE PROPOSED LEGISLATION TO IMPLEMENT THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION

Section 1 of the proposed legislation adds to 18 U.S.C. § 31 the definitions of "in flight" and "in service". These definitions are necessary because the terms are used in 18 U.S.C. § 32 as amended herein.

Section 2 amends 18 U.S.C. § 32, "Destruction of aircraft or aircraft facilities", in order to fully comply with Article 5, section 1(a) of the Convention which requires that each signatory establish jurisdiction over the Article 1 offenses when they are committed in the territory of that state. To a large extent domestic law already covers the offenses of Article 1, but several significant gaps exist which require amendments to section 32. (It should also be noted that the opportunity was taken to make the section more clear and concise. In this regard, it was not intended in any way to limit or lessen the scope of the proposed statute as compared to that of the current law.)

The first paragraph of section 2 of the proposed legislation essentially incorporates the first paragraph of current 18 U.S.C. § 32 as well as portions of the third and fourth paragraphs of the current statute insofar as the latter two paragraphs relate respectively to willfully placing a destructive substance in, upon, or in the proximity of any aircraft, or willfully setting fire to, damaging, destroying, disabling or interfering with the operation of an air navigation facility. However, it should be noted that the provisions which are being substituted for portions of the third and fourth paragraphs of the current law do not contain the requirement that the proscribed acts be committed with the intent to damage or disable the aircraft. Rather, the substituted provisions only require that the placing of the destructive substance be likely to damage or destroy any such aircraft, or any part, etc., or that the setting fire to, damaging, destroying or disabling of any air navigation facility be of such a nature that it is likely to endanger the safety of any such aircraft in flight. The

omission of the above-mentioned element of proof in the substituted provisions was necessary to avoid a requirement of proof for those offenses which would be greater than that required by the Montreal Convention. The phrase "any part or other material used or intended to be used in connection with the operation of such aircraft" is meant to include the various parts of an aircraft and any material including liquids and lubricants which might be damaged by a destructive substance. These materials are individually listed in the current statute.

Section 2's second paragraph essentially incorporates the second, third and fourth paragraphs of the current section 32 except for the provisions mentioned in the first paragraph of section 2. The phrase listing all of the various types of property including "other material used, or intended to be used in connection with the operation, maintenance or loading or unloading or storage of any such aircraft . . ." is meant to include all of the various types of property and material which are individually listed in the current statute.

Section 2's third paragraph replaces paragraph 2 of the current section 32 by adding passengers to the protected category of persons as required by Article 1, section 1(a) of the Montreal Convention. Since the conduct proscribed by this paragraph could likely endanger the safety of the aircraft at times prior to and after the time that such aircraft is in flight, the jurisdictional base has been extended to cover not only those times when the aircraft is in flight but also the period of time while the aircraft is in service. Although paragraph 5 of the current 18 U.S.C. § 32 requires that the conduct be accompanied with an intent to damage, destroy, disable, or wreck any such aircraft, the substituted paragraph omits this element of proof because it would establish an offense requiring proof exceeding the requirements of the offense established by the Convention.

The fourth paragraph of proposed section 2 of this bill has been added to meet the requirements of Article 1, section 1(e) of the Convention. Currently, the only statutory provisions covering false information are 18 U.S.C. § 35(a) and (b) with regard to bomb hoaxes and 49 U.S.C. § 1472(m) with regard to hijacking hoaxes. However, neither of these provisions has a requirement of endangering the safety of an aircraft while in flight as does Article 1, section 1(e) of the Convention. That is, our current statutory language is broader than that of the Convention and could stand on its own in meeting the Convention's requirements. However, it was felt that to fully implement the Convention this Government should establish more severe sanctions for imparting false information when such imparting endangers the safety of the aircraft. Currently, 18 U.S.C. § 35(b) and 49 U.S.C. § 1472(m)(2) carry maximum jail terms of five years and fines of $5000, but do not require a showing of endangering the safety of the aircraft. Where this additional element is present, we believe it necessary to make the penalty associated with the activity more severe, which has been done by increasing the sanctions for such activities to a maximum of twenty years' imprisonment and a $10,000 fine.

The fifth paragraph of section 2 of this legislation is taken directly from the sixth paragraph of current 18 U.S.C. § 32.

The penalties for violations of the amended statute are the same as those provided in the current law.

Section 3 of the proposed legislation adds a new section 32A to Title 18 of the United States Code, and is designed to implement Article 5, section 1(c), in part, and Article 5, section 2. Article 5, section 1(c) requires each contracting state to establish jurisdiction over the offenses of Article 1 "when the aircraft on board which the offense is committed lands in its territory with the alleged offender still on board." Article 5, section 2 requires each contracting state to establish jurisdiction over the offenses listed in Article 1, sections 1(a), (b) and (c), and in Article 1, section 2 insofar as that section relates to offenses listed in sections 1(a), (b) and (c), "when the alleged offender is present in [the state's] territory and [the state] does not extradite . . ." Normally, of course, the United States would lack jurisdiction to try such individuals.

Jurisdiction is established in subsection (a) of section 32A over anyone who commits one of the offenses listed in subsection (b) on or against an aircraft registered outside of the United States and is afterwards found in this country.

Subsections (b)(1), (2) and (3) of section 32A enumerate the offenses of Article 1, section 1(a), (b) and (c) as required by Article 5, section 2. (It should be noted that Article 5, section 2 of the Convention does not require that the offense of sections 1(d) and 1(e) of Article 1 be covered, so the obligations of Article 5, section 1(c) are met in the new section only to the extent of covering the offenses of Article 1, sections 1(a), (b) and (c). The offenses of Article 1, sections 1(d) and (e) are covered for the purposes of Article 5, section 1(c) in section 4 of the bill, which amends the special aircraft jurisdiction of the United States.) Subsection (b)(4) covering attempts to commit the proscribed acts, and also covering accomplices of those who attempt to commit these acts, is also required by Article 5, paragraph 2 of the Convention.

Section 4 of the legislation implements Article 5, sections 1(b), (c), in part, and (d) of the Convention. The former section requires each contracting state to establish jurisdiction over the offenses "when the offense is committed against or on board an aircraft registered in that state". This is accomplished by section 101(32) of the Federal Aviation Act of 1958 which defines the term "special aircraft jurisdiction of the United States" to include civil aircraft of the United States.

Concerning Article 5, section 1(c), to the extent that it is not implemented in the new section 32A discussed above, it is covered by subsection d(iii) of the amended definition of "special aircraft jurisdiction".

Likewise, the requirements of Article 5, section 1(d) are implemented in subsection (e) of the amended definition.

Section 5 of the legislation adds a new subsection to section 902(k) of the Federal Aviation Act of 1958, 49 U.S.C. § 1472(k). It makes punishable the offenses of 18 U.S.C. § 32 in situations where they are committed aboard an aircraft in the special aircraft jurisdiction of the United States.

By Mr. HRUSKA (by request):

S. 1427. A bill to prohibit the unauthorized possession within any Federal penal or correctional institution, any substance or thing designed to damage the institution or to injure any persons within or part of the institution, and for other purposes. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I am introducing today at the request of the Department of Justice a bill which would prohibit the unauthorized possession of weapons, or other dangerous things or substances in Federal penal or correctional institutions.

The purpose of this bill is to eliminate a loophole in existing law. Section 1792 of title 18 presently prohibits the conveyance of such weapons, things or substances into or within an institution, but strangely enough does not proscribe the mere possession of these items by Federal prisoners. Thus, unless the evidence is sufficient to prove that a weapon was actually brought into or moved from one location to another inside of a prison, it is not possible to obtain a conviction.

This unfortunate result was reached in a case last year from the 10th Circuit Court of Appeals. In that case—*U.S.* v. *Bedwell* 456 F. 2d 448—the evidence showed that the defendant was found grinding a knife on a belt sander in the prison shoe factory, and that he dropped the knife when approached by the shop foreman. The defendant testified that he had discovered the knife on a nearby bench. While the court recognized that proof of possession under some circumstances could permit an inference of conveyance, it held that the evidence was insufficient in this case. The court concluded:

> Perhaps the statute should make it unlawful for a prison inmate to possess a knife, but the simple fact of the matter is that it doesn't—*Bedwell,* supra, at 451.

I do not believe that the Government should be put to this additional burden when a convict is found with a weapon. The mere fact of possession should be enough to constitute a Federal offense.

I urge my colleagues to join with me in supporting this legislation.

I ask unanimous consent that the Attorney General's letter of transmittal and the text of the bill be printed in the RECORD at this point.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 29, 1973.

The VICE PRESIDENT,
U.S. Senate,
Washignton, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for your consideration and appropriate reference a legislative proposal to amend Section 1792 of Title 18, United States Code, to prohibit the unauthorized possession within any Federal penal or correctional institution of any substance or thing designed to damage the institution or to injure any persons within or part of the institution, and for other purposes.

Under section 1792, it is an offense to convey such substances or things, including firearms and other weapons, from place to place within an institution, but mere possession is not explicitly prohibited. The bill is designed to insure that possesson of such articles would also be covered. The present statute provides a penalty of imprisonment for not more than 10 years, and this would be made applicable to possession offenses.

A recent case from the Tenth Circuit Court of Appeals highlights the need for this amendment. In *United States* v. *Bedwell,* 456 F.2d 448 (1972), section 1792 was successfully challenged on the grounds that the defendant had not actually conveyed the weapon (a knife) within the meaning of the statute, even though he clearly had possession of it. The defendant argued that the statute required a substantial change in the situs of the weapon.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

Sincerely,

——— ———,
Attorney General.

S. 1427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1792 of Title 18 is amended by inserting in the first paragraph thereof, after the word "therein" and before the words "any tool," and by inserting in the second paragraph thereof, after the word "therein" and before the words "any firearm," the following: "or possesses therein".

By Mr. HRUSKA (by request):

S. 1428. A bill to amend section 215, title 18, United States Code, Receipt of Commissions or Gifts for Procuring Loans, to expand the institutions covered; to encompass indirect payments to bank officials; to make violation of the section a felony; and to specifically include offerors and givers of the proscribed payments; and for other related purposes. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, today I introduce a bill at the request of the Department of Justice which would amend section 215 of title 18 of the United States Code dealing with the receipt of commissions or gifts for procuring loans and ask for its appropriate reference. By amending section 215, the proposal would incorporate the present provisions of section 216, which would be repealed.

Section 215 presently prohibits any officer, director, employee, agent or attorney of a Federal intermediate credit bank, a National Agricultural Credit Corporation, or any bank the deposits of which are insured by the FDIC from receiving or agreeing to receive any thing of value for the purpose of procuring a loan from the bank or corporation. Violations are punishable by a fine of $5,000 or 1 year imprisonment, or both.

Section 216 deals with similar matters, but has a different scope. It prohibits any officer, director, attorney or employee of a Federal land bank or land bank association, a joint stock land bank organized or acting under authority of any law of the United States, or any small business investment company from receiving, directly or indirectly, any fee or gift in connection with any transaction of the bank or association. The same punishment is provided for violations of this section. Section 216 further prohibits anyone from causing any of the aforementioned banks or associations to charge or receive any fee or commission on pain, again, of a $5,000 fine or 1 year imprisonment, or both.

The Department of Justice believes that these two statutes are obsolete and inadequate; they do not cover all of the institutions or individuals that should be included, nor do they prohibit all of the activities that should be illegal. In addition, the present penalty structure has proved ineffective to prevent violations.

The proposed legislation would make several major changes in the existing law. First, certain institutions would be added to the list of those covered by the statute, such as federally insured savings and loan associations or credit unions, member banks of the Federal Home Loan Bank System, and certain institutions governed by the Farm Credit Administration. The Department has reported that cases have arisen involving these institutions which otherwise would have been appropriate for prosecution.

The legislation would also include bank holding companies and savings and loan holding companies. The employees of a holding company are in a position of influence personnel of the held institution and, therefore, should not be insulated from criminal liability.

Additionally, section 215 would be amended to include those institutions now covered in section 216. This will provide useful uniformity by combining all appropriate banking and financial institutions into one statute.

The bill would also expand the types of bank transactions that are covered. Receiving a gift in connection with any bank transaction would be prohibited. This would conform with the coverage of section 216.

Another significant change would be the revision of the penalty structure. Violations would be made a felony and would carry a penalty of $5,000, or three times the amount of the thing of value which had been offered or received, or 5 years in prison, or both. In cases where the thing of value did not exceed $100, the violation would be a misdemeanor.

Finally, those individuals who make the offer or payment in connection with a banking transaction would be included in the statute. These people are often the instigators, and there is no reason why they should not be covered.

The Department of Justice believes that this legislation would be a significant improvement over the present laws, especially in light of the infiltration of organized crime into legitimate banking activities. I, therefore, commend this bill to my colleagues' attention.

Mr. President, I ask unanimous consent that the Attorney General's letter of transmittal and his section-by-section analysis of the bill, be printed in the RECORD at this point together with the text of the bill.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 29, 1973.

THE VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend Chapter 11, Title 18, United States Code, to enhance the integrity and security of federally financed or insured financial institutions.

At the present time, the law governing the receipt of commissions or gifts for procuring loans is inadequate unduly complex, and obsolete. This proposal would improve our ability to maintain the integrity of federally financed or insured financial institutions by expanding the institutions covered and the type of activity prohibited, and by revising the penalty structure to more appropriately reflect the seriousness of the offense covered.

This proposal would effect seven major changes in existing law.

First, federally insured savings and loan associations, federally insured credit unions, member banks of the Federal Home Loan Bank System and certain banking institutions governed by the Farm Credit Administration would be added to the list of institutions covered by Section 215. It is desirable to include these institutions within the coverage of Section 215 because several situations factually appropriate for prosecution under Section 215 have arisen involving these institutions.

Second, the proposal would repeal Section 216 and incorporate into Section 215 those institutions now covered by Section 216. Worthwhile uniformity will be achieved by inserting within one statute all banking institutions which are organized, insured or regulated by the various federal agencies.

Third, the proposal would extend coverage to bank holding companies, and savings and loan holding companies. The additional coverage is warranted because holding company personnel are in a position to directly influence the operations of the held concern and, therefore, to manipulate its operations for their own purposes.

Fourth, the proposal would delete from the list of institutions covered by present Sections 215 and 216 National Agricultural Credit Corporations and joint stock land banks, neither of which are now in existence.

Fifth, the proposal would amend Section 215 by adopting the language of the bribery laws covering Federal officials in defining the solicitation and receipt of payment. The kinds of bank transactions covered would also be expanded to include any transaction or business. This would be in accord with the present coverage of Section 216.

Sixth, violation of Section 215 would be made a felony, except for minor cases involving less than $100. Losses to the bank from bad loans and other transactions resulting from a bank official's activities proscribed by Section 215 can be as great as from his embezzlement, and the bank official's motive in receiving remuneration in connection with the performance of his duties can be as morally corrupt as in his making a false entry in the bank's records with the intent to injure or defraud the bank. Consequently, there is no reason to apply lesser sanctions against such activities. Moreover, an increase in the penalty is necessary in order to deal effectively with the problems created by the infiltration of organized crime into the banking business.

Finally, the proposal would incorporate into Section 215 a prohibition against the offer or payment of a thing of value in connection with a banking transaction. The offeror-payer is often the moving party in existing violations of Section 215, especially in cases involving organized crime. The proposal would eliminate the necessity of charging these persons as aiders and abettors and/or co-conspirators.

The need for enactment of this proposal is underscored by the difficulties in maintaining prosecutions under the present Section 215, the ineffectiveness of the punishment for its violation, and the inappropriateness of having to bring many prosecutions in this area under 18 U.S.C. 656 or 1005. Moreover, increasing involvement of organized crime in legitimate business activities, and especially in the field of banking, demonstrates the need for this amendment.

I urge the early consideration and adoption of this proposed legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

SECTION-BY-SECTION ANALYSIS

SECTION 1

(a) This subsection makes liable any officer, director, employee, agent or attorney of any covered institution who, directly or indirectly, seeks, exacts, accepts, receives or agrees to receive from any person or entity, any thing of value for himself or any other person or entity, other than the financial institution with which he is connected, in connection with any business or transaction of the institution. The language is taken from the Federal bribery statute, 18 U.S.C. § 201, and like that statute, covers both the direct and indirect seeking and receiving of

payments by the employee of the financial institution. It also covers payments to third parties pursuant to an agreement between the giver and the employee other than those payments provided by law or those to the financial institution itself. Any payments "for or in connection with any transaction or business" of the financial institution are encompassed. This expands present law, which is limited to certain specific transactions. The intent of the Section is that the business of financial institutions which are regulated, organized or insured by the Federal Government should be conducted at arm's length.

(b) This subsection parallels subsection (a) in that it directly makes liable the giver or offeror of the proscribed payments to the financial institution employee. It is intended to correct a weakness in the present law which fails to directly provide sanction against the giver or offeror.

The penalty for violations of subsection (a) and (b) is a fine of not more than $5,000 or three times the value of the thing asked, offered, received, given or agreed to be received or given, or imprisonment of not more than five years, or both, if the value of the thing exceeds $100. However, if the value of the thing does not exceed $100, the proposal calls for a fine of not more than $1,000 or imprisonment of not more than one year, or both. Present law in this area provides for a misdemeanor penalty. This proposal makes violations a felony, except in minor cases. The upgrading of penalty reflects the belief that losses to the financial institution can be as great from these offenses as from embezzlement, and that the degree of moral turpitude is often as great. Moreover, the increased penalty is necessary to effectively deal with the infiltration of organized criminal elements into the banking business.

(c) This subsection defines the terms 'financial institution', 'bank holding company' and 'savings and loan holding company'. 'Financial institution' is broken into six categories. The first includes all banks the deposits of which are insured by the Federal Deposit Insurance Corporation. This includes all national banks, 12 U.S.C. § 222, all banks in the Federal Reserve System, 12 U.S.C. § 1814(b), and all state banks insured by the Corporation.

The second category is composed of any member of the Federal Home Loan Bank System, 12 U.S.C. § 1422(4), and any Federal Home Loan Bank. Members of the System can include building and loan associations, savings and loan associations, cooperative banks, homestead associations, savings banks and insurance companies which satisfy the statutory criteria of 12 U.S.C. § 1424(a).

The third category includes institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. The Corporation must insure the accounts of all Federal savings and loan associations established pursuant to 12 U.S.C. § 1464, and it may insure the accounts of building and loan, savings and loan, and homestead associations and cooperative banks chartered or organized under the laws of any state, territory or district of the United States. 12 U.S.C. § 1726(a).

The fourth category is comprised of institutions the accounts of which are insured by the Administrator of the National Credit Union Administration. The Administrator must insure the accounts of all Federal credit unions established under 12 U.S.C. § 1751, et. seq., and he may insure the accounts of credit unions organized and operating under the laws of any state, territory or district of the United States. 12 U.S.C. § 1781 (a).

The fifth category is composed of financial institutions organized or regulated by the Farm Credit Administration. Federal land banks are established and regulated by the Farm Credit Administration. 12 U.S.C. § 672, et. seq. Federal land bank associations are chartered by the Farm Credit Administration, 12 U.S.C. § 719, as are Federal Intermediate credit banks. 12 U.S.C. § 1021. Production credit associations are organized and chatered by the Farm Credit Administration, 12 U.S.C. §1131(d), and banks for cooperatives are established by the same Administration. 12 U.S.C. § 1134.

The last category includes small business investment companies. Small business investment companies are licensed by the Small Business Administration, 15 U.S.C. § 681(c), and operate pursuant to the provisions of Subchapter III, Title 15, United States Code.

Necessarily, there exists some overlapping between the categories; a savings and loan association can be both a subscriber to the stock of a Federal Home Loan Bank and have its accounts insured by the Federal Savings and Loan Insurance Corporation. However, overlap does not occur in all instances and broad provisions are necessary. The coverage is coextensive with that contained in 18 U.S.C. § 2113, the Federal bank robbery statute, and 18 U.S.C. § 1014, which proscribes the making of false statements in order to influence the action of various Federal agencies.

The terms "banking holding company" and "savings and loan holding company" are defined to include any person or entity which controls a financial institution in such a manner as to be a bank holding company or savings and loan holding company under the Bank Holding Company Act of 1956 or the National Housing Act, codified in 12 U.S.C. § 1841, et. seq., and 12 U.S.C. § 1730, respectively.

SECTION 2

This Section repeals Section 216. The provisions of Section 216 are incorporated into proposed Section 215.

S. 1428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 21[illegible], title 18, United States Code, be amended to read:

"(a) Whoever, being an officer, director, employee, agent, or attorney of any financial institution, bank holding company, or savings and loan holding company, except as provided by law, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive any thing of value, for himself or for any other person or entity, other than such financial institution, from any person or entity for or in connection with any transaction or business of such financial institution; or

"(b) Whoever, except as provided by law, directly or indirectly, gives, offers, or promises any thing of value to any officer, director, employee, agent, or attorney of any financial institution, bank holding company, or savings and loan holding company, or offers or promises any such officer, director, employee, agent, or attorney to give any thing of value to any person or entity, other than such financial institution, for or in connection with any transaction or business of such financial institution—

"Shall be fined not more than $5,000 or three times the value of any thing offered, asked, given, received, or agreed to be given or received, whichever is greater, or imprisoned not more than five years, or both; but if the value of any thing offered, asked, given, received, or agreed to be given or received does not exceed $100, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) As used in this section the term 'financial institution' means (1) any bank the deposits of which are insured by the Federal Deposit Insurance Corporation; (2) any member, as defined in section 2 of the Federal Home Loan Bank Act, as amended, of the Federal Home Loan Bank System, and any Federal Home Loan Bank; (3) any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation; (4) any credit union the accounts of which are insured by the Administrator of the National Credit Union Administration under the Federal Credit Union Act of 1934, as amended; (5) any Federal land bank, Federal land bank association, Federal intermediate credit bank, production credit association, bank for cooperatives; and (6) any small business investment company.

"As used in this section the term 'bank holding company' or 'savings and loan holding company' means any person, corporation, partnership, business trust, association or similar organization which controls a financial institution in such a manner as to be a bank holding company or a savings and loan holding company under the Bank Holding Company Act of 1956 or the National Housing Act.

"(d) This section shall not apply to the payment by a financial institution of the usual salary or director's fee paid to an officer, director, employee, agent, or attorney thereof, or to a reasonable fee paid by such financial institution to such officer, director, employee, agent, or attorney for services rendered to such financial institution."

SEC. 2. Section 216 of title 18 is repealed.

By Mr. STEVENSON:

S. 1429. A bill to amend the Federal Aviation Act of 1958 to authorize free or reduced rate transportation for severely handicapped persons and persons with sight attending such handicapped persons. Referred to the Committee on Commerce.

Mr. STEVENSON. Mr. President, I am today introducing a bill which would allow airlines the option under law to offer reduced rates on a reserved-seat basis to severely handicapped persons and persons with sight attending such handicapped persons.

The entire question of airfares is in a state of flux. The Civil Aeronautics Board last December found that youth standby, youth reservation, and family fares are discriminatory. This decision affects promotional fare policy generally. Consumers are now concerned about the maze of airfare costs and promotional fares.

It is my understanding that the Aviation Subcommittee of the Commerce Committee will hold hearings in the near future to determine whether present law—notably, the Federal Aviation Act of 1958—is adequate, and if not, what changes are needed to rationalize the fare structure. I believe that a general rationalization of the fare structure could benefit both the airlines and the air passengers.

In anticipation of these hearings I am introducing this bill. In any airfare system there is a place for reduced fares on a reserved-seat basis for the blind and the other severely handicapped—those who out of virtual necessity must travel with an attendant.

This legislation is permissive. It only permits commercial airlines to grant free or reduced fares. It does not mandate them to do so.

This legislation merely grants the airlines the same authority which is presently available to bus companies and railroads under the Interstate Commerce

Act and Amtrak's authorizing legislation. Before Amtrak was formed, virtually every railroad granted such reduced fares to the blind. Amtrak has continued the preexisting policies of the railroads in regard to the blind.

The situation is different with the airlines. Because of the controversy over youth fares, group fares, and other promotional fares, the airlines have been wary of moving without specific statutory authority. This has been compounded by the December CAB decision, and the CAB was and still is in the process of deciding whether any such reduced fares are allowable under present law.

This legislation would make clear in the law that the airlines can offer a reduced fare to a group which is disadvantaged under present law. The bill is designed to enable people to travel who have difficulty traveling alone and are discouraged by the high cost of traveling with a companion. From the airlines point of view, there is potentially a greater demand for travel and a smaller demand upon airlines personnel. If a handicapped person is to travel by airline, it is in the interest of the airline to encourage an attendant to travel with the handicapped person. In many cases the attendant makes it possible for the handicapped person to travel at all—and in all cases the attendant relieves stewardesses and other personnel of the attentions required by the severely handicapped.

This bill does not attempt to define "severely handicapped persons" other than in a general way, that is, to define them as "the blind, and other persons with physical or mental handicaps so severe or of such a nature as to make their travel by air possible only if accompanied by an attendant." It is possible to write in a stricter definition of blindness, as has been done in certain other pieces of legislation, but I believe this should be done by CAB regulation. There is no need for Congress to struggle over a more complete definition of other severe handicaps. The question—is a person so handicapped that in traveling he would be much aided by personal attention in the person of an attendant—lends itself to regulation and the administrative process.

This legislation contemplates that the potential reduced fares would apply on a reserved-seat basis. Simply offering the reductions on a space-available basis would not be in the interests of the handicapped. Indeed, it would be cruel and counterproductive to lure the handicapped and an attendant to the airport, perhaps for hours, never to get a ticket.

I reemphasize that this legislation is entirely permissive. Filling empty seats on an airplane is the name of the game. If those empty seats can be filled with a severely handicapped person and an attendant—even if filled at less than two full fares—then the airlines cannot but gain. Whether such gains from the offering of these reduced fares to the handicapped and their attendants if offset by the loss of revenue from full-fare passengers who would be displaced is a competitive economic decision that the airlines will have to make. This legislation would merely provide the option to the airlines to institute such a reduced fare program.

This legislation would encourage the handicapped to travel. Travel has of course many purposes—to visit friends and relatives, to engage in business, to vacation, to just get away from it all. But travel is too often denied to the severely handicapped because they need an attendant—either on the plane or after they get to the destination—and the cost of two fares is prohibitive.

The Senate passed such a bill as this last year as an amendment to S. 2280, the antihijacking bill which later became entangled in conference and was never enacted. I am, therefore, hopeful the Aviation Subcommittee, and then the full Commerce Committee and the Senate, will act favorably on this proposal to offer reduced airfare rates to the severely handicapped.

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. 1429

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

(a) Section 403(b) of the Federal Aviation Act of 1958 be amended by inserting after "persons in connection with such accident;" the following: "severely handicapped persons and persons with sight attending such handicapped persons, when the handicapped person is traveling with such a person in attendance;"

(b) Section 403(b) be further amended by adding at the end thereof the following new sentence: "As used in this subsection, the term 'severely handicapped persons' means the blind, and other persons with physical or mental handicaps so severe or of such a nature as to make their travel by air possible only if accompanied by an attendant."

By Mr. PELL (for himself, Mr. CASE, Mr. MUSKIE, Mr. HOLLINGS, Mr. MAGNUSON, Mr. MOSS, and Mr. WILLIAMS):

S. 1430. A bill to establish within the Department of State a Bureau of Oceans and International Environmental Affairs to be headed by an Assistant Secretary of State. Referred to the Committee on Foreign Relations.

Mr. PELL. Mr. President, during the last decade, the community of nations has begun to realize that this planet represents a closed ecological system, wherein seemingly local events may have a widely distributed international effect. We have become increasingly aware that the dense populations of this Earth are crowded onto relatively small continental islands embedded in the vast expanses of the ocean, and that man's activities are intimately linked to the sea. As a result, there has been a surge of international negotiations and activities designed to preserve and protect our oceans and global environment.

Mr. President, my capacity as congressional adviser to the United Nations Seabed Committee and to the U.N. Conference on the Human Environment has made me acutely aware of the international developments in oceans and environmental affairs, and has alerted me to the fact that our present governmental structure is inadequate to deal with the growing problems in this area.

This is particularly true of the Department of State. At the present time, there is no functional bureau responsible for the formulation and implementation of a comprehensive policy necessary to weld the separate elements of the Department into an effective instrument to deal with the emerging issues of this area.

It seems to me, Mr. President, that the creation of such a bureau is long overdue and that the national interest will be best served by enacting legislation which establishes within the Department of State a Bureau of Oceans and International Environment Affairs.

Therefore, I introduce for appropriate reference a bill which will accomplish this objective. I hope that my colleagues will recognize the importance of this issue and will give this measure their full support.

Joining me in sponsoring this bill are Mr. CASE, Mr. MUSKIE, Mr. HOLLINGS, Mr. MAGNUSON, Mr. MOSS, and Mr. WILLIAMS.

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

S.J. Res. 86. Joint resolution to suspend, for 2 years, Federal support of projects involving psychosurgery. Referred to the Committee on Labor and Public Welfare.

A 2-YEAR SUSPENSION OF FEDERAL SUPPORT OF PROJECTS INVOLVING PSYCHOSURGERY

Mr. BEALL. Mr. President, I am sending to the desk a joint resolution that would, if enacted, declare a 2-year moratorium on the use of Federal funds and Federal facilities in projects involving the medical procedures known collectively as psychosurgery or psychiatric surgery. This resolution would further direct the Secretary of Health, Education, and Welfare to undertake a comprehensive study of psychosurgery designed to determine the number and type of cases performed during the last 5 years in all public and private hospitals in the United States. I am further asking, Mr. President, that the Secretary compile and analyze data on a sufficient number of cases to provide the basis for an objective scientific evaluation of this surgical technique. This study, which will include followup information on an appropriate number of selected cases, is to be compiled within 1 year from the date of the enactment of this resolution and the Secretary is directed to present to the Congress his views and recommendations as to the circumstances, if any, when it is appropriate to perform psychosurgery. The Congress will then have a full year, before the expiration of the moratorium to determine what the public policy should be with regard to this surgical technique.

Mr. President, my interest in this issue was aroused last year when I read an article entitled "Eerie Brain Surgery—A Curse, or a Blessing?" which appeared in the March 25, 1972, issue of the National Observer. This article reflected the heated debate that took place at a psychiatric symposium conducted last spring in Houston, Tex. During the sym-

posium, one of my constituents, Dr. Peter R. Breggin, a practicing psychiatrist in the District of Columbia, vigorously raised the ethical issue of psychosurgery with several of its practitioners. The ensuing debate was ably reported in the National Observer, and I ask unanimous consent that the complete text of this article be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BEALL. Mr. President, last fall, Dr. Breggin visited my office to discuss language which appeared in Senate report 92–894 which accompanied the Labor-HEW appropriation bill. The language in the Senate report directs the National Institute of Neurological Diseases and Stroke to allocate $1 million for continued work in this field. I promptly wrote to Senator MAGNUSON, the distinguished chairman of the Appropriation Subcommittee on Labor, Health, Education, and Welfare and Related Agencies, requesting a clarification of this language. I placed special emphasis on the need to fully implement the NIH peer review procedures which should carefully review any and all such projects. It should be pointed out, Mr. President, that Dr. Robert M. Vaetch, associate for medical ethics of the Institute of Society, Ethics, and the Life Sciences drew our attention to a serious shortcoming of the peer review procedure when he said:

Even when it is used in a serious way (which happens all too rarely) it is the peers of the researchers and not the peers of the subjects who are asked to evaluate the ethical acceptability of the proposed research. It is simply too much to ask individuals uniquely committed to the importance of medical research to judge the ethical acceptability of their colleague's work . . .

As a result to my inquiry, the distinguished Senator from the State of Washington (Mr. MAGNUSON) joined the ranking minority member on this subcommittee, (Mr. COTTON, and myself in a colloquy on the floor of the Senate during the debate on final passage of the Labor-HEW bill last October. This discussion sought to clarify the intent of Congress regarding this report language and I ask unanimous consent, Mr. President, that the text of this colloquy be printed in its entirety at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BEALL. Mr. President, several weeks ago, the Health Subcommittee of the Labor and Public Welfare Committee held 6 days of hearings on the topic of human experimentation. During these hearings, it was clearly established that few, if any, meaningful controls exist to regulate the use of experimental drugs, new and untested medical devices, or experimental surgical techniques. For instance, DES—diethylstilbestrol—is a drug whose carcinogenic characteristics have caused the Food and Drug Administration to severely restrict its use in humans, while banning its use in cattle, but it continues to be widely used as a morning after contraceptive in college infirmaries, clinics, and so forth. It became obvious to the members of the subcommittee that once a drug has been approved, even on a very restrictive basis, it is virtually impossible to prevent it from being prescribed for other unrelated uses. The testimony went on to clearly indicate that the Department of Health, Education, and Welfare has no effective authority to control experimental medical devices, such as the "super coil" which is used to induce midterm abortions, or surgical techniques such as the ones we are discussing today.

These hearings made it increasingly obvious that the Federal Government would have to play a larger role in regulating medical research on humans. My resolution is designed to assert a responsible Federal role in one such area of medical experimentation.

During the 20 years between 1935 and 1955, a surgical technique known as lobotomy was widely practiced in this country and throughout the world. It is estimated that approximately 50,000 Americans underwent this radical surgical technique which produced extreme changes in personality, emotional disturbances, impairment of judgment, and a frequent lack of control of basic impulses. During his testimony before the Health Subcommittee, Dr. Bertram S. Brown, the Director of the National Institute of Mental Health, stated:

Unequivocally, that no responsible scientist today would condone a classical lobotomy operation.

Mr. President, I do not wish to simplistically equate the more sophisticated psychosurgical techniques with the classical lobotomy, but I do believe that we should take reasonable and responsible steps designed to protect our citizens from these new and essentially experimental surgical procedures. The classical lobotomy, which permanently disabled tens of thousands of our fellow citizens, fell into disuse only after the American public became aware of its dire consequences. The Congress, the American Medical Association, and the American Psychiatric Association all failed to take decisive action to bring this practice to an end.

In the context of the current situation, it is estimated that between 500 and 700 psychosurgical operations are performed each year in this country. Many psychosurgeons, including Dr. O. J. Andy, who testified before our Health Subcommittee, no longer consider this technique to be experimental. Thus, the potential exists for rapid expansion in the number of operations taking place each year, and I believe that the time has come for the Federal Government to assert itself in such a way as to insure that our citizens are not once again victimized by the specious promise of a quick and lasting surgical cure for mental illness.

Mr. President, during the remainder of my remarks, I will attempt to raise, for the consideration of my colleagues, some of the complex and largely unanswered questions that surround the practice of psychosurgery. In his testimony, Dr. Brown stated that:

We need to know the answers to such questions as: What chemicals are responsible for transmission of nerve impulses within the brain and how do these chemicals control different forms of behavior? What chemical or physical changes occur when learning takes place or when a memory is recovered from the brain? What anatomical systems and what chemicals are responsible for aggressive behavior, sexual behavior, eating behavior, drinking behavior, and the common state of sleep and dreaming? How is the brain and central nervous system related to the autonomic nervous system which controls many life processes such as heart rate, blood pressure, and a wide variety of visceral functions? What happens to the behavior and cognitive processes of men when portions of the brain are damaged through accident, birth injury, malnutrition or disease? Can functions that have been lost through such disruption of the brain be recovered or taken over by other portions of the brain?

In response to a question, Dr. Brown stated that we know much more about the functioning of the human brain today than we did 30 years ago—"but we know very little of what we need to know." I believe that this observation succintly sums up the reasons for suspending Federal support to psychosurgical projects until such time as we have, at our disposal, the type of comprehensive information needed to make a valid policy decision. Dr. Brown reinforced this point when he stated:

We have no reliable data on the extent of the practice or psychosurgery in this country, the types of patients subjected to this technique, or the after effects on patient behavior. The most systematic attempt (in this country) to assess the effects of psychosurgery on patient behavior and intellectual capacities was the Columbia-Greystone project which was conducted in 1954. Since then, many changes in psychiatric and medical practice have taken place: chemotherapy has dramatically changed the nature of the patient population in mental hospitals, and new surgical procedures have been introduced which are quite different from those studied by the Columbia-Greystone project. In order to make any specific recommendations for overseeing or controlling the clinical practice of psychosurgery a systematic survey of the field must be conducted—perhaps by one of the many professional societies and private foundations that have recently begun to focus on ethical issues in life sciences. We need to gather existing data available from patient histories and other sources which never come to our attention because they are not federally funded. In order to answer the "hard" questions, we must first find out what's going on.

Later on in his testimony, Dr. Brown sought to explain some of the problems confronting the Department of Health, Education, and Welfare with regard to human experimentation for medical purposes. He outlined the HEW regulations related to "informed consent" which cover only those cases involving Federal funds. It became clear during the course of these hearings that these guidelines are most often observed in the breach. I ask unanimous consent, Mr. President, that the portion of Dr. Brown's testimony dealing with the Department of Health, Education, and Welfare's policies on human experimentation and the initial NIH response to the current controversy regarding psychosurgery be

printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. BEALL. Mr. President, the observations of Doctor Brown were reinforced in a recent article entitled "Psychosurgery—Myriad Touch Questions" which appeared in the New York Times on March 18, 1973. In this article it was pointed out that psychosurgery—

. . . Raises some difficult questions. Is enough known about how the brain works to be sure the surgery will have the desired beneficial effect and not interfere with otherwise normal responses and feelings? Or will those subjected to the refined techniques of modern surgery be "semi-vegetables" as were some patients who underwent the gross lobotomies of the decade past? How can it be demonstrated with certainty that the patient is unresponsive to more conservative treatment, especially if the patient is in a State institution where treatment is notoriously inadequate?

I might add, Mr. President, that a similar question might be directed to those cases involving small children. Many of the psychosurgeons, including one who testified before our subcommittee, perform surgery on children as young as 5 or 6 or 7 years of age. In fact, many of these children undergo multiple operations—sometimes numbering as high as five or six—until the desired effect is achieved. How can we be sure that the traditional forms of drug and psychiatric treatment have been exhausted when children this young are involved?

Mr. President, I ask unanimous consent that this New York Times article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 4.)

Mr. BEALL. The ultimate question is probably what types of patients are considered to be acceptable candidates for psychosurgery.

. . . Targets are supposed to be depressed women, hyperactive children, drug addicts, alcoholics, epileptics, neurotics, psychotics, convicts. Targets are often blacks.

Typical patients include those who display what psychosurgeons refer to as "symptoms of abnormal behavior," such as emotional tension, anxiety, aggressiveness, destrictiveness, agitation, distractability, suicidal tendencies, nervousness, mood changes, rage, stealing and explosive emotions. (*Current Magazine*—reprinted in the *Baltimore Sunday Sun*, March 25, 1973.

The vastness of the range of potential psychosurgery patients is, in itself, a compelling reason for the Senate to give prompt and favorable consideration to the joint resolution I am introducing today. If we, as a government, are going to make an error in judgment, then let it be on the side of caution—not on the side of haste. A very pertinent point was made by Dr. Willard Gaylin, president of the Hastings Institute, when he testified that 90 percent of the psychosurgical operations that are presently taking place would not occur if the proper guidelines and precautions were adhered to. This seems to me to be a very compelling argument for us to pursue at this time—a policy that will restrain and not encourage this type of experimental research.

Dr. Breggin, who has emerged as a prominent spokesman in opposition to psychosurgery, expressed another area of concern when he summed up his views by stating that:

. . . The real issues are not scientific or technical. The real issues are moral, political, and spiritual. What is man—a machine, device, a space filled with molecules? Or is man a spiritual being, devine in origin, human in character, charged with life, with will, [and] with the ability to love . . .? And how should man best live—under the control of others through behavioral modification, or to the best of his capacities within an environment that respects his freedom and his unique human and spiritual quality?

Mr. President, in conclusion let me say that the controversy surrounding psychosurgery has grown increasingly intense in recent months. I believe that the people are deeply distressed by the implications of a large scale application of this surgical technique. Thus, the time has come for Congress to provide leadership in seeing that the Federal Government does not inadvertently promote the wide spread use of an experimental surgical technique unless and until a more clearly defined public policy has been determined. The resolution I have introduced today does not seek to preordain what that public policy should be, but it does mandate a pause in all Federal activities in this area until the appropriate officials with the Department of Health, Education, and Welfare have had an opportunity to compile and analyze the vast amounts of existing data. Once this process has been completed, well documented information along with the Secretary's views and recommendations will be presented to Congress for additional action. This study, plus the ensuing debate, will serve to increase public awareness regarding the implications of psychosurgery. I believe that intensified public interest will assist us in the establishment of a proper public policy.

Mr. President, I ask unanimous consent that the text of this Joint Resolution be printed in the RECORD at the conclusion of my remarks along with several additional articles that I have not previously referred to.

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

(See exhibit 5.)

EXHIBIT 1

[From the National Observer, Mar. 25, 1972]

A CURSE, OR A BLESSING?—EERIE BRAIN SURGERY

(By Jim Hampton)

She was 22 and psychotic, seized by outbursts of lethal violence. Twelve times she had attacked others, once knifing a girl through the heart, once plunging scissors into a nurse's lung. But this day she was quiet, the object of an eerie medical treatment that is being hailed for its dramatic promise for the mentally ill and damned for its irreversible effects and potential for mind control.

As the girl walked around her hospital ward, a tiny electrode implanted deep inside her brain worked steadily, silently, painlessly. It sensed miniscule electrical changes as mental reactions to her environment and fellow patients sluiced through her brain. A miniature transmitter-receiver, wired to the electrode, radioed her brain-wave pattern to an electroencephalograph 100 feet away.

There, out of view, her doctors alternately watched the girl and the recorder's rapid, hill-and-valley squiggles. By merely pushing a button they could transmit a burst of low-voltage electricity into any of 12 areas of her brain surrounding the electrode. A burst to one area might evoke a smile of pleasure; to another, nothing; to a third, sudden rage and violence . . .

"A CRIME AGAINST HUMANITY"?

That scene, reminiscent of George Orwell's 1984, occurred in top-rated Massachusetts General Hospital. It was reported here the other day by Dr. Vernon Mark, a neurosurgeon and leading researcher in the rapidly developing field of psychosurgery, or brain surgery performed to correct severe behavioral disorders. And it illustrates techniques and results that a Washington, D.C., psychiatrist, Dr. Peter R. Breggin, says are ample evidence for banning psychosurgery in America.

During the past month Breggin has assailed psychosurgery and psychosurgeons in polemical articles in the Congressional Record, in Medical Opinion magazine, in a Washington newspaper, and in person before 175 physicians—including Mark—attending the Houston Neurological Symposium's session on "Neural Bases of Violence and Aggression."

"Psychosurgery is a crime against humanity," says Breggin, "a crime that cannot be condoned on medical, ethical, or legal grounds." Because it often leaves patients with flattened emotional responses and lessened intellectual capacity, he says, "Psychosurgery in all its forms is a partial absorption of a living human being."

"VOLUNTARY" MAY NOT BE

Breggin insists it is meaningless that psychosurgeons never operate without permission of the patient or his family. Most such patients are in mental institutions, whose custodians can use subtle threats or promises to obtain the patient's consent for surgery, he says. And he says families can become so distraught over a love one's illness that they sign away his human rights simply because they can bear the stress no longer.

Breggin calls psychosurgery "a little murder" because the brain is a unique organ, the seat of man's intelect, emotions, and personality. "It's illegal for me to help you kill yourself," he says, so it should be illegal to perform surgery that partially kills the self. "What a human being is the sum total of his personality, not his body," Breggin adds. Thus he considers it unethical to operate—except where the patient's life is threatened, as by a tumor—if the surgery lessens one's humanness.

Finally, Breggin says psychosurgeons are operating not just on psychotic patients, but primarily on women and increasingly on children as young as 5. 'The vast majority of patients now being operated on are not being wrested from the back wards [where hospitals keep violent, padded-cell cases]," he says. "In most cases the majority are labeled neurotic, simply neurotic."

Breggin says that even severely disordered psychotics can be made manageable through proper psychotherapy, which he says they rarely get because "psychiatry in this country is a farce. The state hospitals are a creation of our society. They are one of our most offensive and reprehensible institutions. The feeling that we have created these horrible institutions must never be used to justify psychosurgery," which Breggin says is for the convenience of the keepers, not the kept.

Slightly built and graying at 35, Breggin is in private practice and also teaches at the Washington School of Psychiatry. He has written two novels: *The Crazy From the Sane*, published last year, and *The Hebrew Disease*, to be published next fall. He graduated from Case Western Reserve University medical school after undergraduate studies at Harvard.

PSYCHOSURGEONS PLEAD INNOCENT

Breggin says he began gathering information on pyschosurgery last April without intending to attack psychosurgeons. He decided to speak out, he says, when he discovered that 400 to 600 Americans a year are undergoing psychosurgery without doctors in general knowing about the trend, which he calls "the return of lobotomy." He adds: "It just got to the point where I couldn't stand it any more."

So, at his insistence, Breggin was placed on the Houston symposium's program as a representative of the Medical Committee for Human Rights, a group working for medical-care reform. The committee was particularly upset because a newspaper had revealed two weeks earlier that psychosurgery was performed on three California prisoners in 1968. All purportedly volunteered for it.

Breggin aimed his attack principally at Dr. Mark and his coworker, Dr. Frank Ervin, a psychiatrist who is director of the Stanley Cobb Laboratories for Psychiatric Research at Massachusetts General Hospital in Boston. Mark and Ervin are coauthors of *Violence and the Brain,* which proposes a nationwide screening program to detect and treat brain-damaged, violence-prone persons early in life.

Ervin and Mark met with reporters and denied Breggin's allegations point by point. They said Breggin has distorted their and others' published papers, slanted quotes by using them out of context, set himself up as an expert in a field that he is professionally unqualified to judge, and made false inferences that "these operations are being done on normal or near-normal people."

A STRONG COUNTERATTACK

"It's good for any field to have a critic," Mark says, but a responsible critic "has to be fair, he has to be accurate, and he has to be knowledgeable." Breggin, he implies, is none of these.

In telephone interviews with The National Observer, some of the other neurosurgeons whom Breggin excoriates expressed substantially the same reply. The strongest counterattack came from Dr. William Beecher Scoville, 66, president of the International Association for Psychosurgery.

His voice etched with fatigue from a long day in surgery, Scoville explains that he is the great-grandson of Henry Ward Beecher, the famed Nineteenth Century preacher; the great-nephew of Harriet Beecher Stowe, author of *Uncle Tom's Cabin;* and the grandson of Thomas Gallaudet, founder of Gallaudet College for the deaf in Washington, D.C., and the American School for the Deaf in Hartford, Conn., where Scoville lives.

"I come of a crusading family," Scoville says, "and maybe that's why I want to fight when somebody like Breggin says we ought to be put in jail." (Breggin didn't go that far.) "I don't like to have all of us allegedly reputable scientists on one side of the fence and him on the other and have you act as if we were coequals. He's not. . . . He's not qualified [to judge psychosurgery]; he's prejudiced; . . . he has misquoted all of us. . . .

"We object to this talk about 'lobotomies,' that we are taking away the soul of a person, making a vegetable out of him. The standard, complete lobotomy was given up 25 years ago," Scoville adds, agreeing that it *was* too destructive and *did* blunt human qualities.

TWO DIFFERENT ARGUMENTS

"But now selective procedures don't do that," he continues. "Now it's as different as day is from night. . . . To argue about the ethics of this seems a little bit absurd to me, because surgery of the brain has always affected behavior."

Any surgery is ethical, in Scoville's view, if two conditions are met. First, the patient and his family must consent in awareness of the possible risks and benefits. Second, "Any operation is ethical if it makes the patient better than he was, and any operation is unethical if it makes him worse."

Here is where the arguments of Breggin and the psychosurgeons begin to pass one another like trains approaching one another on different tracks. For Breggin's chief point is metaphysical ("*All* psychosurgery is immoral because *all* of it dehumanizes"), while their chief reply is medical ("The doctor's duty is to relieve suffering, and psychosurgery helps far more than it harms").

Frank Ervin, a witty man with a chest-length beard, agrees with Breggin that American mental institutions "are miserable: badly designed, understaffed, underfunded." However, Ervin adds, "As long as he bases his debate on these moral grounds, his argument is medically unanswerable."

Yet Breggins raises questions that are not easily pushed aside. They stand despite the polemical nature of his attack on psychosurgery, his obloquies against individual surgeons, and the professional damage he has done to himself by taking his attack noisily into the public prints instead of the quiet gentility of professional journals.

VALID QUESTIONS RAISED

Mark and Ervin, for example, note that three Harvard Medical School "ombudsmen," unrelated to the patient, review all of their psychosurgery candidates beforehand. They say they themselves accepted for psychosurgery only 2 of the last 23 candidates referred to them by other doctors, recommending psychotherapy or drugs for the other 21. But Harvard's rigorous screening might not occur elsewhere, nor is it hard to find other surgeons willing to operate.

Breggin also raises the possibility that psychosurgery holds immense potential for behavior control. The prospect, real if distant, is getting serious consideration among both psychosurgeons and social scientists. Mark and Scoville, for example, took part in a recent seminar on the subject at the Institute of Society, Ethics, and the Life Sciences in Hastings-on-Hudson, N.Y.

Perry London, a psychologist from the University of Southern California and a seminar participant, writes in the institute's magazine that very soon "large domains of behavior, thought to be subject to the individual's own will, and thus his own responsibility, can be removed from his control and placed under the control of other people.

"Most of the other people, presumably, will be doctors" whose only aim is to cure sickness, London adds. "Some of them, on the other hand, will surely be legislators, policemen, and judges, who will have available the same apparatus, but to use on behalf of society, whether or not the individual likes it. At its greatest extreme, in fact, the problem that arises is that the controlled individual probably can be made to like it."

Electrodes in the brain's pleasure or erotic centers, for example, might be triggered to give the individual a euphoric or sensual jolt whenever he performed as the controller wanted him to.

"Since the methods in question are typically used only for the most benevolent purposes, such as medical treatment, their political implications are somewhat subtle, and they are sure to come into more and more widespread, unreflective use," London continues.

"The ethical and legal challenge of behavior control, therefore, is the common problem of how to maintain personal liberty in situations where its suppression may be rationalized both by the common welfare and the individual's happiness."

Breggin lumps today's psychosurgeons with the early lobotomists, but in doing so he appears to be firing for effect and not for accuracy.

LOBOTOMY VERSUS PSYCHOSURGERY

Portuguese neurologist Antonio Egas Moniz won the Nobel Prize for developing the lobotomy in 1936. A last-ditch procedure for severe schizophrenia, lobotomy involves severing the frontal lobes of the brain to reduce psychic tensions. The operation leaves patients passive, with "flattened" emotions, and with impaired ability to think into the future. Electroshock and chemotherapy replaced lobotomy in the 1950s, but by then an estimated 50,000 Americans had been lobotomized.

Vernon Mark's case—the 22-year-old psychotic girl who stabbed two women—illustrates the difference between Moniz-style lobotomy and today's psychosurgery. It also illustrates some of the points that Breggin and others are so concerned about.

The girl contracted encephalitis, a brain disease, before she was 2. She became epileptic at 10, and began having seizures and "racing spells," running mindlessly through the streets. Four times she attempted suicide. Twelve times she attacked others without warning, including stabbing the two women—both of whom survived. She had been treated in three major medical centers and had had psychotherapy, drugs, and 60 electroshock treatments—all to no avail—when Mark took her case.

Tests showed brain damage and electrical "spikes" indicative of temporal-lobe epilepsy, in which seizures are usually expressed as sudden violence. Mark inserted electrodes into both amygdalas, twin almond-shaped organs, one to a side, located in the midbrain. The midbrain and the forebrain make the limbic system, in which reside man's capacity for love, creativity, insight, judgment—all his higher functions.

To insert the electrodes, Mark used stereotactic surgery. This technique permits the surgeon to place the patient's head in a metal frame with cross-hair sights that, combined with X rays, allows precise visual placement of electrodes anywhere in the brain through small holes drilled in the skull. Some psychosurgery patients wear the electrodes for months or years, often under a wig. And some psychosurgeons implant many minuscule electrodes—Breggin says the record is 125—to study brain functions over wide areas.

THE SONG WASN'T FINISHED

Mark performed two amygdalotomies on the girl; neither required a scalpel. Instead, he used radio-frequency energy to heat the electrode, destroying (by baking it) a fingertip-size area of brain. Psychosurgeons also use ultrasonic waves, radium seeds, and, via small stereotactically placed catheters, injections of foreign matter such as olive oil to create lesions.

The girl's symptoms persisted after the surgery on her left amygdala, however. Tests showed that her right amygdala probably was causing her seizures, Mark says. He later operated on the right amygdala, after conducting 100-foot-distant tests.

Before the second operation Mark's team also stimulated the girl's brain with electricity while she sang and played the guitar. After one five-second electrical burst she stopped making music, went mute, and began producing epileptoid brain waves. "This was followed by a sudden and powerful swing of her guitar," Mark says. "She narrowly missed the head of the psychiatrist, and instead the guitar smashed against the wall."

The second operation stopped the girl's seizures, which have not recurred in four years. However, Mark reports, "Her preoperative psychotic behavior has not been modified by this procedure."

The question of psychosurgery on children is charged with both emotion and contradiction. Breggin says the chief U.S. prac-

titioner is Dr. Orlando J. Andy of the University of Mississippi, who, he says, told him that most of his 30 to 40 operations were on children, the youngest age 7.

NO "NEAR-NORMALS" INVOLVED

Andy declines to discuss his practice or Breggin's allegations. "I will give my reports in scientific journals and at [scientific] meetings," not in the newspapers, Andy told The National Observer. He adds: "If it's a matter of philosophy, then I think you ought to get opinions from philosophers. . . . All I can say is that I hope that in the long run we finally end up going in the right direction."

Other psychosurgeons, however, strongly deny Breggin's accusation that psychosurgery is being done on near-normal children, such as hyperactives, to make them easier for their parents to manage.

The typical child psychosurgical patient, Frank Ervin says, is a back-ward mental defective with "evidence of severe, diffuse brain damage" such as epilepsy, cerebral palsy, retardation, or paralysis or weakness of one side of the body. "Some are characterized by what looks like a high drive state: They're in constant motion, hyperactive, self-mutilating, biting themselves. They often attack others like wild animals. I've seen such a kid in a private home [as a consultant] who was kept naked in a room because he shredded everything in sight, including the drapes and the plaster. He even pulled the wiring out of the wall."

IN TIME, THE RIGHT PLACE

Ervin and Mark accept only those patients who have not responded to treatment by other doctors for at least two years. Scoville, the association president, says he requires three years of intractability before he will operate. In one group of six patients, Mark says, three are working full-time after psychosurgery—one for the first time in a decade.

A British neurologist participating in the Houston symposium put the psychosurgery argument into what may be its proper, unemotional perspective. "Clearly psychosurgery will not be the permanent answer," says Dr. Denis Williams, editor of Brain, a British journal. "Neurosurgeons, no matter how good they are, can never put anything back. They can only destroy; they can only take out.

"This is what happens in medicine," Williams adds. "Something works. It's used. It's overused. Then it finds its place."

EXHIBIT 2

[From the CONGRESSIONAL RECORD, Oct. 3, 1973]

BRAIN DISEASE

Mr. COTTON. I would like to raise the issue of brain disease and violent behavior with my distinguished colleague.

I want to reassure the Members of the Senate that any funds in this bill added by the Senate committee for research into brain disease and violent behavior will be awarded to competent scientists and only after such scientists meet the high ethical and medical science standards demanded by the established NIH peer review process which is used in awarding all the grants at NIH. Is that not correct, Mr. Chairman?

Mr. MAGNUSON. The Senator has stated it very well. At this point, Mr. President, I ask unanimous consent to place in the RECORD some pertinent correspondence with the Director of the National Institutes of Health which I believe will serve to further clarify the issue and reassure my colleagues in this matter.

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

U.S. SENATE,
Washington, D.C., September 22, 1972.

Dr. ROBERT Q. MARSTON,
Director, National Institutes of Health, Bethesda, Md.

DEAR DR. MARSTON: This is to call your attention to a passage on page 55 of the Senate report (92-894) accompanying the first 1973 Labor-HEW appropriation bill. The report has earmarked $1 million to continue and expand studies of violent behavior related to brain disease.

Subsequent to Senate action on the first 1973 Labor-HEW bill, the Committee has received several disturbing published reports regarding the use of an earlier appropriation of $500,000 for this work. Consequently, it would be appreciated if NIH would delay the funding of this work at this time. It is the desire of the Committee that, as a condition precedent to the award of any funds to continue such work, the NIH should thoroughly study the earlier work conducted with appropriated funds and determine that the adverse reports regarding this project are without merit.

In the interim, the Committee would also appreciate receiving from you a statement on NIH policy concerning research into the relationships between brain disease and violent behavior.

Thank you for your consideration.

Sincerely,

WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Bethesda, Md., October 2, 1972.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you for your letter of September 22 about the funding of research on the relationship of brain disease to violent behavior.

We are well aware of the criticism that has been directed toward earlier research projects in this field which were supported by other agencies. We are also, of course, anxious to ensure that there shall be no valid basis for similar criticism in any future work that NIH might support through the appropriation for the National Institute for Neurological Diseases and Stroke.

The policy of NIH, briefly stated, is as follows:

1. There is evidence that some kinds of uncontrolled violence and other forms of unacceptable human behavior are due to abnormal brain development or brain disease. However, the evidence is fragmentary, scattered, and equivocal. We believe that further research is necessary but that a first step should be to collect, correlate, and assess the evidence currently available in order to determine what direction further research should take.

2. Consequently, the National Institute of Neurological Diseases and Stroke has established a task force, as a subcommittee of its Advisory Council, to plan a series of workshops on brain disease in relation to violence. The National Institute of Mental Health—which is not part of NIH but which has previously supported research in this field—has set up a similar task force to study the more restricted topic of psychosurgery. Close liaison is being maintained between these two task forces.

3. Research projects on abnormal behavior and on the physiological factors affecting behavior in animals, including non-human primates, will be supported if they are of high scientific merit and appear to be relevant to the elucidation of behavioral problems in man.

4. Research projects on the genetic, hormonal, biochemical, and neurological factors in abnormal human behavior will be considered only if they conform to the established guidelines governing all research involving human subjects. These guidelines will be most rigorously enforced. The conditions include (a) a thorough initial review and continued surveillance by a multi-disciplinary committee at an institution of high repute that can, and does, accept responsibility for the protection of the subjects involved; and (b) specific grant or contract terms providing for the protection of human subjects including the right of privacy, and requiring their informed consent.

I can give you a firm assurance that no commitment to fund research projects using human subjects for the study of the relationship between brain disease and violent behavior will be made until the results of the discussions now being initiated by the NINDS task force have been completed and considered.

Please be assured of my personal concern in this matter and of my full appreciation of the committee's interest in it.

Sincerely yours,

ROBERT Q. MARTSON, M.D.,
Director.

Mr. BEALL. Mr. President, I wish to thank the distinguished chairman of the Appropriations Committee's Subcommittee on Labor, Health, Education, and Welfare, and Related Agencies, Mr. MAGNUSON, and the distinguished ranking minority member, Mr. COTTON, for engaging in a most fruitful colloquy designed to clarify the intentions of the committee with regard to the language appearing on page 55 of Senate Report No. 92-894—June 21, 1972.

I recently had an opportunity to meet with Dr. Peter R. Breggin who has, as many of us know, become an active and prominent spokesman in opposition to the use of brain surgery as a device to regulate behavior. As a layman, I am unable to pass judgment on a medical matter as complex and as specialized as psychosurgery, but I do share some of the concerns expressed by Dr. Breggin and his colleagues. Because nerve cells do not regenerate, psychosurgery produces a permanent and irrevocable change in the behavior of the individual. For this reason, Mr. President, I believe that we should move carefully and cautiously in this area. I would hope that the National Institute of Neurological Diseases and Stroke will not assume that the report language accompanying this bill constitutes a congressional directive that would override their normal peer review procedures. I believe that the remarks by the distinguished senior Senator from Washington and the distinguished senior Senator from New Hampshire have helped to still my concerns and clarified the congressional intent with regard to this matter.

EXHIBIT 3

(Taken from testimony by Dr. Bertram S. Brown, Director, National Institute of Mental Health, before the Subcommittee on Health, Committee on Labor and Publice Welfare, U.S. Senate, Friday, February 23, 1973)

DHEW POLICY

I know the Subcommittee is quite familiar with the three cardinal principles of DHEW policy guidelines for the protection of human research subjects. They are, briefly: that the rights and welfare of the subjects involved are adequately protected, that the risks to the individual are outweighed by the potential benefit to him or by the importance of

the knowledge to be gained, and that informed consent is obtained in an adequate and appropriate manner.

The securing of informed consent poses a difficult problem even when the human subjects are of normal intelligence and are emotionally healthy and mature. It becomes infinitely more complicated when the subjects are seriously disturbed, below normal intelligence, or children and when the proposed procedures involve serious risks and irreversible consequences. But a clinical investigator may not avoid the solemn responsibility of securing informed consent merely because it is difficult.

DHEW guidelines describe the basic elements of an informed consent as follows:

1. A fair explanation of the procedures to be followed, including an identification of those which are experimental:

2. A description of the attendant discomforts and risks;

3. A description of the benefits to be expected;

4. A disclosure of appropriate alternative procedures that would be advantageous for the subject;

5. An offer to answer any inquiries concerning the procedures; and

6. An instruction that the subject is free to withdraw his consent and to discontinue participation in the project or activity at any time.

In other words, the clinical investigator may not withhold from the subject any facts which are necessary to form the basis of an intelligent consent to the proposed investigation. In addition, it forbids the inclusion of any exculpatory language in the consent form through which the patient waives or appears to waive any of his legal rights, or which he releases the institution or investigator from liability for negligence.

All this assumes that the human subject is himself capable of giving an informed consent. While the DHEW guidelines speak of obtaining consent from the subject "or from his authorized representative," they leave to applicable local law such difficult questions as (1) who may consent for the patient when he is incapacitated—next-of-kin? court appointed guardian? (2) under what circumstances can a substitute or agent consent instead of the patient? (3) may parents ever consent to a risky procedure on behalf of a child when the benefit is primarily for science and the benefits for the child are minimal?

Some hospitals and institutions have been drawing up very detailed and comprehensive procedures for solving these questions. They require the presence of the subject's personal physician, personal lawyer, and immediate kin with periods of time being allotted for reflection, questioning, and debate before consent is given. This is an area that will be receiving increased attention as we work with our sister agencies to refine and expand the DHEW requirements for research on human subjects.

Since most of the biological, medical, and behavioral research conducted in this country is supported by funds from the Department of Health, Education, and Welfare, the Department recognized its responsibility to take the lead in promulgating procedures which would adequately safeguard the rights of human subjects. The Division of Research Grants of the National Institutes of Health and, more recently, its Institutional Relations Branch was charged with the responsibility to formulate and oversee policies that would protect the welfare of human subjects involved in research projects supported with DHEW funds. The NIMH continues to work with NIH in proposing further refinements and modifications of the existing policies.

With respect to the specific issue of psychosurgery, the NIMH and the NINDS have established an Inter-Institute Work Group on Brain and Behavior to examine a variety of aspects of the problem. The Inter-Institute Work Group will be responsible for the formulation of a comprehensive report containing recommendations and policies for further activities in this area.

The ethical and moral problems posed by current medical, biological, and behavioral techniques are of considerable concern to Government agencies as well as the health professions, the scientific communities, religious groups, the Congress, and the lay public. Knowledge, or at least the application of knowledge to wield political or social power, has always been a potentially dangerous concomitant of scientific inquiry. Even new knowledge which at first appears to have only beneficial consequences can create new problems. Potter, in a book called Bioethics puts it quite succinctly: ". . . once we have made the choice to open Pandora's Box of Knowledge, we can never put back its contents, and mankind must continue to search forever for the wisdom that is needed to cope with the avalanche of new knowledge that is upon us." We must somehow evolve a system of technology assessment whereby the state of knowledge can be assessed and its readiness for application can be addressed within the context of relevant social, human, and ethical issues. Such a system would assure the timely application of relevant technology and help prevent the premature use of those techniques not thoroughly explored for their human and social implications.

EXHIBIT 4

[From the New York Times, Mar. 18, 1973]

PSYCHOSURGERY: MYRIAD TOUGH QUESTIONS

A surgeon can take out tonsils and tumors or transplant kidneys and hearts, and rarely is the appropriateness of his actions challenged. But one kind of surgeon—with a special practice called psychosurgery—has found himself in the middle of an international controversy.

The psychosurgeon destroys tiny pieces of tissue deep in the brain to change the way people feel and act—those who suffer from severe emotional or behavioral disorders that seem resistant to traditional treatments. His patients may include intractable depressives, incurable schizophrenics, uncontrollable aggressives, destructive hyperactives, among others.

From the psychosurgeon's viewpoint, he is performing a humane and noble service, rescuing desperate people. But to some, he is a tamperer who "mutilates" the brain, blunts the emotions, distorts the personality and exercises a form of behavior control.

Last week in Detroit the issue became the subject of a courtroom drama that could set a national precedent, not just for psychosurgery but for other radical treatments and for human experimentation in general.

The case centers on a research project in which patients from a state hospital for the criminally insane might be subjected to psychosurgery in an attempt to relieve them of their uncontrollable violent tendencies.

The goal of the project, which was to be carried out by the prestigious Lafayette Clinic, the psychiatric research and training arm of Wayne State University, was to rehabilitate patients and return them to society.

But just before the first patient was to be subjected to the in-depth brain wave studies that would precede surgery, a suit was brought by a civil liberties lawyer. Involuntarily committed persons, he charged, cannot give informed, voluntary consent to such a radical procedure when they may regard it as their only possible ticket out of the institution. The suit also asked whether psychosurgery should not be banned in any case as contrary to the public interest.

Although the original research proposal has now been scrapped as a result of the publicity it generated, the clinic is working on substitute proposals involving psychosurgery and the court has agreed to deal with the core issues of consent to radical treatments by institutionalized persons and the use of psychosurgery as a medical tool.

Modern psychosurgery, a technique that has evolved over the last decade and a half, is currently being used on some 500 patients a year in this country and many hundreds more elsewhere. In most cases, actual destruction of brain tissue is preceded by intensive studies of the brain's electrical activity under a wide variety of circumstances. Usually, electrodes are implanted deep in the brain in regions that are believed to be important in controlling behavior and emotion.

If electrical abnormalities are found in a certain region that appears to be linked to the patient's problem, then a section of brain tissue—probably no more than six-hundredths of an inch—might be destroyed by surgery, electricity, ultrasound or radiation. Sometimes, however, such in-depth brainwave studies do not precede surgery. In these cases, surgery is performed in an area of the brain (which may or may not be abnormal) that influences the behavior or emotion at issue.

The results of psychosurgery vary widely—from reports of 40 per cent to 95 per cent of patients experiencing significant improvement.

Even among supporters of the program, there is dissension. Some argue that only those patients with well-defined organic brain diseases, such as tumors or epilepsy, should be subjected to surgery. Others insist that behavioral or emotional evidence of brain disease is sufficient justification.

The practice raises some difficult questions. Is enough known about how the brain works to be sure the surgery will have the desired beneficial effect and not interfere with otherwise normal human responses and feelings? Or will those subjected to the refined techniques of modern psychosurgery be rendered "semi-vegetables" as were some patients who underwent the gross lobotomies of decades past?

How can it be demonstrated with certainty that the patient is unresponsive to more conservative treatment, especially if the patient is in a state institution where treatment is notoriously inadequate? On the other hand, if conservative methods are unavailable to some patients, is it fair to deny them a more radical treatment that may offer a realistic hope for relief?

How can a person whose brain is supposedly diseased give informed consent to an operation on the self-same organ?

If brain surgery can control aggressive behavior, will it be used to control politically violent individuals or, more realistically, to ease the custodial management of aggressive prisoners or hospitalized patients?

There is a real fear among some of letting psychosurgery out of the laboratory before enough is known about its effects and effectiveness. The present controversy, however, has had the effect of halting nearly all studies of the technique in this country, raising a not unfamiliar medical dilemma: Without further studies the potential of psychosurgery—for good or ill—will never be known.

—JANE E. BRODY.

EXHIBIT 5

SENATE JOINT RESOLUTION 86

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the two-

year period beginning on the first day of the first month which begins not less than 30 days after the date of enactment of this Joint Resolution, no Federal funds shall be expended, or available for expenditure, for the purpose of conducting, or providing assistance in the conduct of, any project or activity which consists of, or includes, the performance of psychosurgery; and during such period, no Federal facilities shall be available for the performance of psychosurgery or for any project which includes the performance of psychosurgery.

SEC. 2. The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall (through the National Institutes of Health, or through other appropriate facilities of the Department of Health, Education, and Welfare) conduct a study of the employment of psychosurgery with a view to determining the number and types of cases, during the five-year period ending December 31, 1972, in which psychosurgery has been performed in all private and public hospitals in the United States, and of compiling an analysis, on a case by case basis, of a sufficient number of such cases (together with follow-up information thereon) to provide the basis for an objective scientific evaluation of psychosurgery performed during such period with regard to the types of psychosurgery performed, the conditions for which it was performed, and the results thereof. The Secretary shall complete such study and shall submit to the Congress, not later than one year after the date of enactment of this Joint Resolution, a full and complete report thereon, which report shall contain his views and recommendations as to the circumstances (if any) in which the performance of psychosurgery is appropriate, as well as the reasons and justifications for such views.

SEC. 3. It shall be the duty of each person who is the head of each department and agency of the Federal Government to cooperate with the Secretary in his conduct of the study authorized by section 2, and to provide to the Secretary such information as he may request and is available to such person.

SEC. 4. As used in this Joint Resolution, the term "psychosurgery" means brain surgery on (A) normal brain tissue of an individual, who does not suffer from any pathological disease, for the purpose of changing or controlling the behavior or emotions of such individual, or (B) on diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term shall not include brain surgery designed to cure, or ameliorate the effects of epilepsy; nor shall such term be construed to include electric shock treatments.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Joint Resolution.

PSYCHOSURGERY: NEW DOUBTS

(By David Holmstrom)

SAN FRANCISCO.—A deepening moral conflict is developing in the United States over the increased use of psychosurgery—operations on the brain—to permanently alter human behavior.

The result, according to concerned lawyers, surgeons, and psychiatrists, is a grim challenge to the fundamental rights granted Americans in the U.S. Constitution—such as protection against deprivation of "life, liberty, or property without due process of law . . ." (5th and 14th Amendments).

The extent of psychosurgery, according to Dr. Peter R. Breggin, a Washington, D.C., psychiatrist and the leading opponent of psychosurgery, is greater in other countries—particularly England, where a total of 20,000 operations have been performed in the last 11 years.

UPWARD TREND SEEN

In the United States Dr. Breggin estimates from scant available data, between 400 and 600 operations have been performed in general hospitals and mental institutions during the last several years, "with the current rate going up rapidly."

He advocates taking psychosurgeons to court on charges of making "exaggerated claims" that lead to "uniformed consent" on the patient's part. He would also like to see federal and state legislation outlawing all forms of psychosurgery in the U.S. as they are in the Soviet Union.

Dr. Breggin and others assert that in the 1940's and 50's more than 50,000 operations were performed. "We are in the midst of a resurgence," he says, "including multiple forms of psychosurgery upon hyperactive children."

QUESTIONS POSED

At a recent symposium here entitled A Clockwork Orange? Psychiatric Experimentation on Prisoners, Dr. Breggin and a panel of lawyers and doctors discussed the legal and moral questions raised by psychosurgery. They asked:

How can mentally troubled patients with a long history of violent or "unacceptable" behavior be protected from brain surgery when mental turmoil is viewed as proof that psychosurgery is needed?

Who has the right to consent to psychosurgery? the patient himself? his family? the doctor? a professional committee?

Even if a person consents to psychosurgery how can he or she be sure that the "full story on the possible outcome" has been carefully explained? Who would explain it?

Does anyone, parents included, have the right to permit psychosurgery of children?

How can psychosurgery be stopped? Should penal institutions be allowed to expand experimentation on inmates?

Dr. Breggin says that "psychosurgery offends the whole Western ethnical tradition of respect for the individual." He says all forms of psychosurgery blunt the individual's emotions and make him docile—"and of course they subject the individual to the control of others."

BIOLOGICAL ORIGIN SUGGESTED

The decline in the use of psychosurgery—or "lobotomies"—in the United States in the late part of the 1950's was apparently in proportion to the rise in the use of electroshock and exotic drugs on patients, noted Dr. Breggin, and the resurgence now hinges on the belief that mental illness may have a biological origin.

Dr. Breggin and others believe that aside from violating all ethical standards, psychosurgery is a tragic mixing of rehabilitation and punishment. And this is clearly seen in efforts by some penal institutions to deal with their most troublesome inmates by attempting to alter their behavior with drugs and psychosurgery.

How can experiments on humans that leave them permanently docile be considered rehabilitation? they ask.

At the symposium it was pointed out that in the recent California Supreme Court decision banning capital punishment there was a nearly overlooked statement that seemed to sanction behavioral control experimentation. The court said: "We do not interpret the constitutional prohibition of cruel or unusual punishments either as a license for the indefinite continuance of all punishments known to the common law . . . nor as a proscription of innovative types of punishment whose purpose is the rehabilitation or reformation of criminal offenders."

PRISONER USE WAS PROPOSED

According to Dr. Philip Shapiro, a Los Angeles psychiatrist, the key phrase is "innovative types of punishment," which could lead to such behavioral control techniques as seen in the current movie, "A Clockwork Orange."

Only last year it was disclosed that the California Department of Corrections had considered using brain surgery on its more hostile and aggressive inmates. But a storm of protest in the press, and among doctors and psychiatrists, forced the state to drop the idea. But recently the Department of Corrections opened a new facility in Vacaville known as the medical-psychiatric diagnostic unit. It is designed to house California's most troublesome prisoners.

It is known that since 1966 some inmates in California prisons have been injected with a drug that causes loss of use of all voluntary muscles, including those used for breathing. It is part of an "aversion therapy" program in which the drug is administered and then the patient is "scolded" in an attempt to associate the drug's terrifying reaction with the crime the patient had committed. The theory is that the patient will no longer want to commit the crime, because he will remember the drug reaction. Many, it is charged; were given the drug without consent.

[From the Washington Star, Sept. 28, 1972]

"MIND CONTROL" HIT

(By Judith Randal)

Uneasy about the ethical implications of experimental surgery intended to alter behavior, scientists and activist groups are urging the Senate Appropriations Committee to drop a $1 million item from the Department of Health, Education, and Welfare budget scheduled to be marked up today.

The budget item would provide money to the National Institute of Neurological Diseases and Stroke, part of the National Institutes of Health, to support violent behavior research at university-affiliated medical centers in Boston, Los Angeles and Houston.

Critics oppose the proposal because it includes provisions for so-called psychosurgery, the implantation of electrodes in the brain for the diagnosis and therapy of organic brain disease associated with violent behavior.

They say the surgery "blunts" personality and that it could be used as a weapon of oppression against women, prisoners and minority groups, for instance.

Furthermore, they charge, the operation—called an amygdalotomy and which destroys a part of the almond-shaped nucleus in the temperal lobes of the brain—is "just a new version of the old-fashioned lobotomy."

Supporters of the research proposal argue that patients are candidates for such surgery only when all other treatments have been tried to no avail. Such patients, they say, are often appalled by the damage their rage inflicts on themselves and others and are desperate for help.

And because so little is known about the physical basis underlying some forms of chronic violence, they add, research on what is called the "limbic system," or emotional brain, is crucial.

While the program would include surgery, it would concentrate at least as heavily on studies of biochemical tests, fingerprints, sex hormone levels and chromosomes. Abnormalities of these factors are often linked to violent behavior, they say.

During the surgery, electrodes are inserted in one or both almond-shaped nuclei in the temporal lobes, paired structures in the brain. The electrodes are used to record electrical discharges in these nuclei and to destroy the nuclei if the discharges are abnormal.

The object, the surgeons said, is to damage the brain as little as possible. Contrary to critics' allegations, they claimed, the op-

eration does not blunt the patients' personalities. Indeed, they said, they are still able to become angry but do not become violent.

"RIGHT OF PRIVACY"

In the last few weeks, Ralph Nader's Center for the Study of Responsive Law has been looking into the situation and Dr. Peter R. Breggin, a Washington psychiatrist and novelist, has urged several senators to withdraw their support for the proposal.

Besides basically objecting to psychosurgery for any reason whatever, Breggin argues that profiles of violence-prone prisoners are being developed from computerized data derived from a study being done for the Justice Department's Law Enforcement Assistance Administration. They say this is "unconstitutional because it constitutes an invasion of the right of privacy."

As a result of these and other pressures, Sen. Warren Magnuson, D-Wash., chairman of the Labor-HEW appropriations subcommittee has written to the director of the National Institutes of Health, Dr. Robert Q. Marston, to ask for clarification and some senators seem to be on the verge of withholding their support for the proposal, pending a thorough review of the issues.

Among these are Sens. Edward Brooke, R-Mass., Edward M. Kennedy, D-Mass., Glenn Beall, R-Md. and Norris Cotton, R-N.H.

One of the things that troubles Brooke, according to an aide, is that Dr. William Sweet, a top advocate of the proposal, told the Senate Appropriations subcommittee last spring that he was "speaking on behalf of the Neurological and Neurosurgical services of Harvard University at the Massachusetts General Hospital."

While Sweet is chairman of neurosurgery at the hospital, a spokesman there says he was not speaking on behalf of the MGH and that his research plans for human subjects were never approved by its research committees because of opposition from staff psychiatrists.

They acknowledged, however, that the hospital rents space to the Neuro-Research Foundation, of which Sweet is an officer, to do some diagnostic tests on outpatients and to conduct animal experiments.

At the hearing Sweet also spoke on behalf of the Neurologic unit at the University of Texas in Houston and the Neuropsychiatric Institute of the University of California in Los Angeles. No opposition witnesses appeared.

Meanwhile, the work has been going forward at the Boston City Hospital, also affiliated with Harvard, where Dr. Vernon L. Mark is chief of neurosurgery. Like Sweet, Mark is an officer of the Neuro-Surgery Foundation which has engaged a Washington lobbyist, Nathaniel Polster, to present its case to Congress and government.

Mark and Sweet said they have studied more than 100 patients subject to repeated violence with the aid of federal funds from LEAA and NIHM, but that only two of these had undergone the implantation of electrodes.

Neither of these, they said, was either a prisoner or otherwise a ward of the state. No patient in any of their work, they added, participates without providing informed consent.

In all, the surgeons have operated on 13 violence-prone patients, all with temporal lobe epilepsy. The progress of six has been followed for three years or more. Of these, two patients are "strikingly better" and two "considerably improved," according to Sweet and Mark.

Should Congress approve the controversial proposal, it will still have to be reviewed by scientists who act as advisors to the National Institute of Neurological Diseases and Stroke in order to be funded. Dr. Murray Goldstein, the institute's associate director said that approval would also entail both adherence to the NIH's regulations on human experimentation and extra ethical safeguards.

[From the Morning Star, Dec. 28, 1972]

MIND-CONTROL CURBS ASKED

(By Frederick P. McGehan)

WASHINGTON.—A panel of distinguished scientists called yesterday for increased controls over psychiatric experimentation ranging from brain surgery to encounter groups.

As it stands now, the panel told a session of the American Association for the Advancement of Science's annual meeting here, there are no effective controls over surgeons who wish to experiment on mental patients, or over non-professionals who organize encounter groups and sensitivity-training sessions.

Without guidelines and limits, the panel warned, a "small number of people will gradually gain control over greater numbers of other people." Such a move could have serious political, moral and ethical consequences, they stated.

The panel discussion was arranged by the Institute of Society, Ethics and the Life Sciences, a nonprofit "think tank" in Hastings-on Hudson, N.Y., concerned with moral and social implications of biological and medical advances.

Appearing on the panel were two psychiatrists, a neurologist, a lawyer, a psychologist and a social scientist.

They adopted both a personal approach—protection of the patient from unwarranted experimentation—and a broad social viewpoint—protecting society from mass-behavior control.

Harold Edgar, associate professor of law at Columbia University, said the only control over brain surgery experimentation now "is the integrity and self-discipline of the surgeon." He called for more formal controls either by professional organizations or by government.

Dr. Herbert G. Vaughan, Jr., associate professor of neurology at Einstein Medical School, Bronx, N.Y., said there has been unwarranted brain surgery in an attempt to cure alcoholism.

"There are no controls at the present time over any kind of surgery," said Dr. Vaughan.

He estimated that there are between 100 and 500 cases of psychosurgery in the United States each year. But because of the lack of any reporting system, it is impossible to determine the exact number, he added.

Willard Gaylin, president of the Institute for Ethics, told of a Mississippi surgeon who during the past 15 years has operated on some 30 children to correct abnormal behavior patterns. There is serious question whether the operations have had any impact on the children's conditions, Mr. Gaylin said at a news conference.

He also told of a Tulane University psychiatrist who has used electric shock therapy to treat one person suffering from recurrent episodes of rage and another man who is a homosexual.

"I feel some form of registry of psychosurgery and electric shock therapy should be developed," said Dr. Gerald Klerman, professor of psychiatry at the Harvard University Medical School.

Dr. Klerman also warned that mass manipulation of the population could theoretically be obtained by use of psychiatric medication or behavior-altering drugs.

Already, he noted, "one-half of the adult population" uses tranquilizers "for minor stress and tension anxieties of everyday life." He speculated that, in the future, drugs may note of caution about vasectomies, a popular memory.

In another presentation at the association's annual meeting yesterday, a group of scientists from Long Island University issued a note of caution about vasectomies, a popular sterilization operation for men.

In studies on rats, the group found serious side effects in about half of a group of 30 that was vasectomized. The effects noted included "abnormal, smaller, soft purplish testes," the development of cysts in sperm ducts and a drop in male hormone production.

The group, led by Dr. A. M. Sackler of the Laboratory for Therapeutic Research in the university's College of Pharmacy, concluded that vasectomies "are not innocuous procedures."

PSYCHOSURGERY DEBATED AT NIH

(By Judith Randal)

Over the past 10 years or so, Dr. Orlando J. Andy, chief of neurosurgery at the University of Mississippi, has performed brain operations on "about 30" children to correct what he terms "their erratic hypersensitivity, aggressiveness and emotional instability."

Popularly known as psychosurgery, the procedures some performed on children as young as five years old—consist of the insertion of thin electrodes into small areas of the brain where they are used to stimulate the tissue and then destroy it.

Speaking at the National Institutes of Health here yesterday. Andy said that such surgery should be considered for both children and adults whenever what he calls "the hyper-responsive syndrome" occurs.

Andy was invited to speak at a panel discussion arranged by the National Institutes of Health-National Institute of Mental Health Ad Hoc Committee on Psychosurgery. The committee has been formed to focus attention on the social and political implications of the behavior-altering surgery and on a request made to Congress by Dr. William Sweet of Harvard University for a $1 million grant to develop centers for the identification and treatment of violent or potentially violent persons.

Sweet, also an advocate of psychosurgery under some circumstances, was invited to participate in the discussion, but declined.

Andy described the conditions he thought justified such surgery.

These, he told an audience of several hundred, included the failure to respond to other treatments. Patients of this kind, he said "are a detriment to themselves and to society." In addition, he said, behavior-altering surgery should be considered when a patient requires "constant attention, supervision and inordinate institutional care . . . or requires such heavy drug dosage that he is nonresponsive and noncommunicative."

Usually, he said, such patients in addition to their antisocial behavior have movement disorders such as cerebral palsy.

As for psychosurgery for children who chronically misbehave, he said: "It should be used in the adolescent and pediatric age group in order to allow the developing brain to mature with as normal a reaction to its environment as possible."

The reason for this, he argued, is that personality patterns formed in youth persist in the behavior of adults.

Andy's views did not go unchallenged. Dr. Peter R. Breggin, a psychiatrist at the Washington School of Psychiatry here, called the operations Andy performs "old fashioned lobotomies in a new guise." Patients become "quiet and manageable" after such operations, he conceded, but the surgery "blunts" the emotions and irreversibly "reduces vitality."

Andy had reported that he prefers to operate on both sides of the brain and said of one patient that he had operated on him variously three, five, or six times—he wasn't sure which, although he did know that the boy was "nine or ten" at the time of the first surgery.

Breggin commented: "You operate and operate until you get the blunting effect." He also noted that one of Andy's patient's intelligence quotient tested at the same level when he was 16 that it had when he was 9, thus indicating that the surgery may have impaired his learning ability.

Other critics included Dr. David Eaton, senior minister of the All Souls Unitarian Church in Washington and Drs. P. D. MacLean and Larry Ng, both of the National Institute of Mental Health.

Eaton expressed fear that the poor, in general and blacks and other minority groups in particular, have been and will be used as guinea pigs for psychosurgery. He warned scientists that it will no longer be possible for them "to hide behind a white coat and say 'I'm being medically objective . . . and devoid of politics.'"

MacLean, said that his experience with brain surgery on animals has convinced him that psychosurgery is unjustified except when there is clearly something wrong with brain tissues. Dr. A. K. Ommaya of the NIH, however, disagreed. Ommaya, a neurosurgeon himself, said there are some rare exceptions. He cited some cases of intractible pain and chronic inability to eat because of an anxiety-producing disorder known as anoexia nervosa as examples.

Ng, a neurologist, summed up the psychosurgery dilemma.

"Compassion and curiosity", he said, "are two powerful elements in human existence. Compassion without curiosity is ineffectual but curiosity without compassion is inhuman . . . We can now ask not whether something can be done, but whether it should be done . . ."

[From the Star and News, Feb. 5, 1973]

CLERGYMAN ASKS PSYCHOSURGERY HALT

(By Rebecca Leet)

A Washington minister yesterday called for an end to brain surgery operations whose sole aim is behavioral modification.

The Rev. David Eaton, senior minister at All Souls Unitarian Church at 16th and Harvard Streets NW, said that about 1,000 such experimental operations have been reported annually in recent years. He said that most of the patients are poor and from minority groups.

Eaton claimed, in his Sunday sermon, that at the present time, the intent of such operations—known as psychosurgery—is simply experimentation. He said research physicians performing them are more interested in collecting medical data than in treating the individual.

The minister said he recently served on a National Institutes of Health panel with four psychosurgeons, has talked with other doctors and has studied the subject.

He said: "Psychosurgery is unsound because no one really understands the brain and none of these experiments has helped in understanding the brain.

"(It is) ethically wrong because it is human experimentation in the guise of therapy, medically untenable because there is no accepted criterion for 'improvement' and politically ominous because it is a potent tool for controlling behavior."

He noted that, in the late 1960s, three Harvard University research doctors received a $100,000 Justice Department grant to study how to control people who had "poor control of dangerous impulses."

"Who is going to determine what dangerous impulses are?" Eaton said.

Eaton noted that "the reason many of us are present today is a direct result of the . . . ingenious people who went before us" in medical research.

However, he added, "the vigil we must keep (over medical research) . . . cannot be lessened." Later, he said, "We must be aware of it (psychosurgery) . . . and fight to prevent its continuation."

Eaton said that, at the NIH panel, a Mississippi psychosurgeon said he had performed 20 such operations. The minister said he guessed the 20 people were poor blacks, but that the doctor would not answer a letter asking if they were. However, Eaton said, a follow-up study, which could locate only four of the 20, noted that all four were black.

Eaton praised the clinical physician, who is involved with treating the individual patient, but criticized the research doctor whose interest is in collecting medical data and not treating the individual.

He said other doctors have told him that some research doctors are not even able to do a thorough medical history of a patient.

Some, he claimed, "don't even want to touch the patient . . . or even see the patient" because they feel this lack of contact will enhance their research objectivity.

[From the Washington Post, Feb. 24, 1973]

PSYCHOSURGERY ASSAILED ON HILL

(By Stuart Auerbach)

The government's chief psychiatrist said yesterday he opposes brain surgery for behavior problems—now being performed at a rate of about 500 a year—because doctors don't know enough about the brain.

The statement by Dr. Bertram S. Brown, director of the National Institute of Mental Health, was the first by a high government health official in open opposition to psychosurgery.

"The goal of responsible researchers in psychosurgery is to pinpoint the exact locus of the undesirable behavior in the brain and destroy only those tissues and nerve cells, leaving other functions and behaviors of the patient unaffected," Brown told a Senate Health subcommittee hearing.

"Frankly," he continued, "current practice of psychosurgery falls short of this goal, and even the best research in this field is not able to achieve such precision.

"My own view is that more knowledge and more refined techniques would be needed before one could determine unequivocal clinical indications for psychosurgical intervention."

Brown's view was disputed as being too hard on psychosurgery by Dr. Orlando J. Andy of the University of Mississippi, who said he has performed 30 to 40 such operations, and as being too easy on psychosurgery by Washington psychiatrist Dr. Peter Roger Breggin.

"It is well established," Andy testified, "that surgery is one of the most effective methods of treating structural pathology of the brain. Psychosurgical procedures are not experimental as implied by some critics."

He insisted that doctors know exactly where to operate on the brain to achieve the desired behavioral changes, that the operation is done only after lengthy consultations with both patient and family.

Subcommittee chairman Edward M. Kennedy (D-Mass.), however, read Andy's own reports on his operations which told how 75 per cent of one group of patients suffered a decrease in verbal intelligence and another patient suffered "intellectual deterioration."

Breggin said psychosurgery should be made illegal. "It's not even a medical procedure any more than the mutilation of an arm for a criminal act is a medical procedure," he told the subcommittee.

Brown said that neither NIMH nor the National Institutes of Health currently supports psychosurgery on humans although they both are supporting animal research on the brain.

"Until we do more animal research," he said, "we don't want to move into experimental psychosurgery."

He said psychosurgery may be of "potential benefit . . . in cases of extreme mental illness, especially those that are life-threatening to the patient or those around him. Psychosurgery should be performed only after extensive attempts at alternate modes of therapy had failed."

Asked by Kennedy about the possibility of psychosurgery being used for behavior control, Brown said it would be "an abuse of the highest order . . . I think it would be dreadful and unAmerican."

Dr. Willard Gaylin, a psychiatrist who heads the Hastings (N.Y.) Institute of Medical Ethics, said he doubted psychosurgery would be used for mass behavior control since there are more efficient means available such as education, television and drugs.

[From the Baltimore Sun, Mar. 3, 1973]

CURING SOCIETY'S ILLS WITH A SCALPEL

(By Nick Thimmesch)

WASHINGTON.—The scariest medical technique to be described before Senator Edward M. Kennedy's subcommittee on health is "psycho-surgery," a surgical procedure intended to alter human behavior. Some scientists believe that many violent people can be relieved of their uncontrollable impulses to assault, rape, kill or riot, if such surgery is performed.

When superficial information about psycho-surgery gets around, there is understandable fear among mental patients, prisoners and minorities, particularly blacks, that psycho-surgery might be performed on them in the interest of law-and-order.

And when large bundles of federal money are granted for studies and experimentation in brain disorders—including those of violent prisoners—well, the fear turns to paranoia, and even to wild charges against the government.

Psycho-surgery is not the type performed for brain disorders caused by injury, disease or tumor formation. Psycho-surgery is performed strictly to alter behavior, though there may be no evidence of brain damage or disease.

An estimated 500 psycho-surgery operations are performed annually. Dr. Orlando J. Andy of the University of Mississippi who testified that he performed 30 or 40, says these procedures are not experimental, but admitted that behavior improvement in many cases also involved reduced verbal intelligence.

Dr. Robert G. Heath of Tulane University's school of medicine testified as to how electrodes were implanted into brain regions of 65 patients in the department of psychiatry under carefully controlled conditions with "gratifying" therapeutic results. Dr. Heath said a medical school human-research committee, made up of scientists, attorneys and clergymen, reviews and approves all procedures of his department.

The Justice Department, through the Law Enforcement Assistance Administration, made an initial grant of $108,931 to the Neuro-Research Foundation of Boston (followed by continuation grants of $85,000) to study brain disorders in violent offenders. A contract totaling $500,000 was made with the foundation by the National Institute of Mental Health, a federal agency, to "understand and control violent and destructive behavior that is presumed to be a direct result of brain disfunction."

What bothered civil libertarians and black spokesmen is that the three top scientists at the foundation, doctors William H. Sweet, V. H. Mark and F. R. Ervin, in 1967 signed a letter which discussed the possible role of brain disorders in "rioters who engaged in arson, sniping and physical assault." The letter cited medical reports of the high incidence of brain disorders in persons arrested for murder in other countries.

Also disconcerting was the recent revelation that three convicts underwent brain operations at the California Medical Facility at Vacaville for the reported purpose of making them more manageable. A request for

funds for more operations of this kind on violent inmates was put aside in the midst of a public uproar.

The trend toward behavior control, through surgery or otherwise, outrages a man like Dr. Peter R. Breggin of the Washington School of Psychiatry, who blames much of this thinking on Harvard's B. F. Skinner and Yale's Dr. Jose Delgado, both believers in medical control of humans.

"Man is seen as nothing more than a collection of molecules," cries Dr. Breggin rhetorically, "a machine programed by an environment, all of which leaves him completely at the mercy of these totalitarians." He sees America threatened by "a new collectivism based on hatred of the individual couched in psychiatric and behavioral jargon."

Well, it's not that bad yet, but I'm glad Dr. Breggin speaks out, and that Senator Kennedy conducts such hearings. The facts are that not a penny of National Institute of Mental Health or Justice Department money has gone for operations of the "psycho-surgery" type. An additional $1 million grant to the Neuro-Research Foundation was suspended when President Nixon vetoed two Health, Education and Welfare bills, though that was not the express purpose of his vetoes. Moreover, Dr. Bertram S. Brown, director of the National Institute of Mental Health, testified last week that he is against "psycho-surgery" because not enough is yet known about it.

Some 50,000 Americans with severe mental illness had prefrontal lobotomies when that brain-damaging operation was the rage, between 1936 and 1955, and that experience is regarded as a mistake. We are fortunate that the Kennedy hearings, and other whistle-blowing actions by concerned Americans, makes medical science restrain itself in fooling around with the brain.

By Mr. KENNEDY:

Senate Joint Resolution 87. Joint resolution relating to the National Advisory Council on Indian Education. Referred to the Committee on Labor and Public Welfare.

INTRODUCTION OF JOINT RESOLUTION TO REQUIRE IMPLEMENTATION OF INDIAN EDUCATION LEGISLATION

Mr. KENNEDY. Mr. President, the administration's 1974 budget proposes rescission of the total funding provided by Congress for fiscal year 1973 to implement title IV of Public Law 92–318, constituting the Indian Education Act. The attitude of this administration toward providing quality education for American Indians has been negative from the start. Proposing no legislation in this area on their own, representatives from the Executive consistently opposed each effort on the part of congressional committees to work up constructive and far-reaching legislation on their own. Despite this opposition, the Congress acted last year and passed title IV, followed by appropriations of $18 million for 6 months of operation of the programs established by the new law.

RESCISSION OF APPROPRIATIONS REQUESTED

As justification for its rescission request, the appendix to the budget suggests (at p. 1074):

> Support for Indian education—which totaled more than $80 million in 1973—is provided under several existing educational authorities. The proposed rescission would eliminate duplication of these exciting authorities and programs.

It is clear that this request for rescission has no operative effect legally. The legislative language of title IV is clear: part A directs the Commissioner of Education to carry out a program of making grants to local educational agencies; part B directs the Commissioner to carry out a program of making grants for the improvement of educational opportunities for Indian children; part C directs the Commissioner to carry out a program of making grants for adult education. There is no discretion, express or implied, in this language. The Commissioner has no legal authority not to carry out these programs; nor does the President of the United States have any power not to effectuate the laws duly passed by Congress and signed into law.

The handwriting on the wall was unfortunately clear last summer, when in informal conversation the then Commissioner of Education suggested that appropriations might be allowed to "lapse" if they applied to fiscal 1973. Then, on November 24, 1972, in a memorandum to the Secretary of Health, Education, and Welfare, Assistant Secretary and Comptroller James B. Cardwell said that:

> We are placing in reserve all discretionary funds appropriated above the level of the President's budget, e.g., program grants for Indian education.

I ask that this memorandum be placed in the RECORD as exhibit 1.

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

(See exhibit 1.)

Mr. KENNEDY. Mr. President, it now appears that this proposed action has become a fait accompli: title IV funds have been placed in limbo, with no sign that they will be released. The Office of Education has indicated that it will not expend or obligate the funds appropriated for fiscal year 1973 until Congress has rejected the proposed recission. This position is clearly legally untenable. I do hope, however, that Congress makes resoundingly clear as soon as possible its intention to see title IV carried out.

Title IV was most assuredly not the product of superficial or hurried legislative action. A Special Subcommittee on Indian Education of the Senate conducted hearings over a period of 2 years, culminating in a final report recommending legislative action to meet the challenge and reverse the tragic history of Indian education programing in the past. After introduction of the Indian Education Act, 3 days of hearings were held by the Senate Labor and Public Welfare Committee, 1 day by the Senate Interior Committee, and 6 days by the House Education and Labor Committee. The act was passed without dissent by the Senate on two separate occasions, and was adopted as title IV of the Education Amendments of 1972 by the House and Senate before passage of that important legislation.

My own review of "existing authorities and programs" convinces me completely that any duplication is minimal and inconsequential. No other authority targets assistance to off-reservation Indian children; none promotes Indian control and involvement in education programs; none provides special resources for Indian-controlled schools, or for Indian adult education programs.

REQUIRED APPOINTMENT OF NATIONAL ADVISORY COUNCIL

In addition to the funding problem, it appears that the White House does not intend to take seriously title IV's provisions for a National Advisory Council on Indian Education. Part D of that title calls for a 15-member Council of Indians and Alaska Natives appointed by the President from a list submitted by Indian tribes and organizations. Despite the compilation of such a list by HEW, the President has made no move to appoint the members of this Council.

The National Advisory Council is the first congressionally established body authorized to play a substantive role in the determination of policy and implementation of programs affecting Indian people. It is also the first Indian advisory body required to be appointed based on input from the Indian community itself. On August 18, 1972, the Commissioner of Education sent out hundreds of letters to tribes and organizations asking for recommendations for the Council. I ask that a sample letter be printed in the RECORD as exhibit 2.

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

(See exhibit 2.)

Mr. KENNEDY. Mr. President, the names are all in now. They were assembled and, according to criteria developed through consultation with Indian leaders, recommendations for appointment were transmitted from the Office of Education to the Secretary's office, for further transmittal to the President, last fall. That was the end of it.

This session Congress has already had to go through tortured processes to obtain "faithful execution" of our laws by the Executive, processes which were not contemplated by the Framers of the Constitution. The Constitution provides that Congress enacts legislation and the President, if he signs a bill into law, will carry it out. If the President does not want to carry out provisions of a bill passed by Congress, then he may veto the bill. He has no item veto power. And of course, Congress may override this veto. The Constitution does not suggest any further action on the part of Congress, once funds have been appropriated to enable execution of a law, to effectuate that law. Nonetheless, we find ourselves having to pass bills and resolutions saying that "we mean really!"—that we are serious about our desire that the law be carried out.

Although I do not believe this process ought to be necessary, and in fact I find it wholly undesirable, it does seem to be called for upon occasion. Thus, although part D clearly reflects Congress' intention that the President appoint a National Advisory Council on Indian Education, I have sent to the desk today a joint resolution, the provisions of which are simple and straight-forward:

> *Be it resolved that* the members of the National Advisory Council on Indian Education for which provision is made by section 442 of the Education Amendments of 1972 shall be appointed not later than 10

days after the enactment of this Joint Resolution.

I expect a similar resolution to be introduced in the House and that Congress will act on this resolution without delay.

ADMINISTRATION RHETORIC

In discussing the failures of this administration to implement the Indian Education Act, I am reminded of the statement made a few weeks ago by the Under Secretary of the Interior, John Whitaker, in a press conference regarding Indian affairs. Introducing for the second time the administration package of Indian legislation, some of which has been strongly opposed by Indians, Mr. Whitaker said:

> While the Federal Government has dramatically increased funding for Indian programs in the last four years we have exhausted the limits of existing authority to provide America's Indians the full opportunity to achieve self-determination. We need Congressional action—not inconclusive hearings or an expression of sentiment at a press conference.

I ask Mr. Whitaker, and the administration generally, to reflect on this language as applied to the situation in Indian education. Our hearings were not inconclusive; our expressions of sentiments were translated into direct legislative language which was responsive to the many constructive suggestions of Indian organizations and tribes and educators. Thus I would call upon the administration, with regard to the Indian Education Act, to take even the first steps required by the law, much less to "exhaust the limits of existing authority."

BUDGET PROSPECTS

It is accurate to observe that the Federal budget for Indian affairs has been on the increase. Administration spokesmen do not miss the opportunity to bring this point out at every occasion. But automatic raises in employee salaries, rapidly increasing construction costs, and inflation generally account for a large percentage of any increases. The Alaska Native claims payments account for another large chunk of increases. And some increases represent restoration of cuts from this year's budget, or movement of OEO programs to HEW next year. An excellent article written by Karen Ducheneaux and Richard LaCourse for the American Indian Press Association places the Indian budget in perspective, and I ask that this article be reprinted as exhibit 3.

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

(See exhibit 3.)

Mr. KENNEDY. Mr. President, I think that we must acknowledge that the resources of the executive branch are greater and more capable of making the initial determination of funding needs for various programs. By the same token, the congressional appropriations process allows for full input from outside the Government, as well as from members of Congress directly, and on the basis of these inputs Congress often determines that appropriation requests by the administration are either too high or too low, or that some specific need has been overlooked. The pattern adopted by the administration this year, of impounding or withholding expenditure of funds that were not included in its original request, is unacceptable both from a practical basis—since the administration participates in the appropriation hearings and the President signs the appropriation bills—and from a constitutional basis—since the Constitution does not provide for item vetoes and clearly empowers Congress, not the Executive, to provide for the spending of Federal funds.

Finally, I want to take note of what seems to be a regression in the past few years in the area of tribal participation in the budget process. Extensive discussion of this subject occurred in hearings before my Administrative Practice Subcommittee on November 1971, and officials representing the Department of Interior assured us of their full commitment to tribal involvement in the budget-formulation process. Documents provided for our record contain the following:

From Deputy Commissioner John Crow: "It is our policy to seek the involvement and participation of the Indian people served by the Bureau in developing program and financial plans. . . . *I want the FY 1974 PM* [Program Memorandum] *for each installation to reflect the thinking of Indian people served by the installation.*" (Italics in original).

From the Commissioner of Indian Affairs: "I place absolute top priority on achieving Indian participation in program development. Until Indian people participate in planning and developing Bureau budgets at the Agency level, they will not be completely aware of the scope, commitment or, in some instances, the limitations of BIA programs or other BIA activities."

From Acting Deputy Commissioner Harold Cox: "It is our policy to provide Indian Tribes and other Indian organizations with the maximum opportunity allowed by law to become involved in the operation of BIA funded programs."

Unfortunately, these fine pronouncements have not been translated into action. Let me focus on the example of the Navajo area, which representatives of the Navajo Education Association recently brought to my attention.

It was agreed that there would be increased financial needs for education programs on the Navajo Reservation. Even to maintain programs at the previous year's level, increases in salaries and costs would require some addition to the budget. Despite the feeling on the part of the tribe that educational programs would suffer and many needs would remain unserved if a real expansion of the budget were not allowed, for the sake of economy and to remain within limitations imposed. from above, the education association believed that it could not not only live without expansion—it could provide for absorption of the cost and pay increases within the previous budget level.

The education association, however, desired to control the process of absorption, determining itself which slots and programs were to be cut. The BIA could not live with this brand of self-determination; after all, some sacred cows—sacred especially to superfluous bureaucrats would be gored. So the increased funds were budgeted to come from cutting meat issues to schools for food programs; from deleting the entire summer program; from eliminating a model dormitory program that had shown sufficient promise to have merited an add-on by Congress the previous year; and from curtailing other programs believed by the Indian people to be crucial to their children's needs. In short, the Navajo education budget dispute reveals a strange definition on the part of the BIA of "involvement and participation of the Indian people" in the budget process.

NATIONAL COUNCIL ON INDIAN OPPORTUNITY EDUCATION SUBCOMMITTEE

In the much heralded Presidential message on Indian affairs of July 8, 1970, the only specific proposal for Federal action in Indian education called for by the President was the establishment of an Education Subcommittee of the National Council on Indian Opportunity to assist local communities to take control over their schools. After reciting the statistics of the tragedies of Indian education, the President stated:

> Consistent with our policy that the Indian community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own Indian schools. This control would be exercised by school boards selected by Indians and functioning much like other school boards throughout the nation. To assure that this goal is achieved, I am asking the Vice President, acting in his role as Chairman of the National Council on Indian Opportunity, to establish a Special Education Subcommittee of that Council. The members of that Subcommittee should be Indian educators who are selected by the Council's Indian members. The Subcommittee will provide technical assistance to Indian communities wishing to establish school boards, will conduct a nationwide review of the educational status of all Indian school children in whatever schools they may be attending, and, will evaluate and report annually on the status of Indian education, including the extent of local control.

Let me remind my colleagues that this is the only comprehensive statement made by the President on Indian education. Let me also offer the observation that a Special Subcommittee on Indian Education in the Senate had studied the subject for over 2 years and reported to the Congress with specific remedial recommendations, and at almost the same time the Office of Education sponsored a $500,000 study of Indian education. Yet the best the President could come up with was the mandate that a new group study the subject and, incidentally, provide technical assistance to communities wishing to establish school boards.

Mr. President, the Special Education Subcommittee of NCIO reported to the President on November 30, 1972. There was no fanfare or ballyhoo; there were no press conferences or public statements. In fact, the report has to this date been suppressed. I think the following quotes from the subcommittee's major findings tell us why:

> The Federal Government is failing to implement its proposed policy that federal elementary and secondary day and boarding schools on or off reservations be placed under organizational and operational control of local school boards with all deliberate speed.

The Special Education Subcommittee, conceived as an action agency to provide technical assistance, was reduced to a token Indian group by withholding official and financial support. . . . The subcommittee was promised, but did not receive, the resources necessary to form an effective technical assistance team(s) that would be accountable to them. . . . This lack of resources engendered the feelings of tokenism on the subcommittee and the impression that implementation of the self-determination without termination policy did not have strong or healthy roots in the Federal Government.

These are the words of a subcommittee set up under direct Presidential mandate, a subcommittee to a body chaired by the Vice President himself. There is little wonder, then, that there has been so little progress in Indian education over the past few years; little wonder that legislative attempts to provide solutions have been opposed by the administration; little wonder that Indian education today remains a national tragedy.

I believe that the major findings and recommendations of this NCIO subcommittee will be of interest to Indian people and to members of the Senate, and I ask that they be included at the end of this statement as exhibit 4. I also want to include in the RECORD as part of that exhibit a section on Scope and Limitations of the Report, which conclude that the subcommittee "made no attempt to recommend solutions for local situations." This can certainly be contrasted with the Presidential direction that the subcommittee work with local communities to assist them in achieving control of their education programs.

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

(See exhibit 4.)

WOUNDED KNEE AND BEYOND

Mr. KENNEDY. Mr. President, shortly after the occupation of Wounded Knee began, almost a month ago, a member of my staff traveled to South Dakota to talk with the Indian people involved. The complaints related were not new:

Exploitation of Indians by white traders and real estate operators.

Federal housing projects that are both inadequate and inappropriate for the life-pattern of the Oglalla people.

Education programs that cost, per pupil, over twice the national average, yet yield a dropout rate of over 60 percent.

Local BIA officials who often appear at best insensitive or paternalistic, and at worst brutal or exploitive.

Discrimination in Federal and State programing.

Continuing failures on the part of Federal officials to abide by their own regulations in dealing with Indian lands.

These are the same complaints I heard in Washington and across the country when I chaired the Indian Education Subcommittee. They are the same complaints I heard in extensive hearings here and across the West and Southwest by my Administrative Practice Subcommittee. They come to me daily in letters from tribal chairmen in Arizona, from welfare recipients in the Midwest, from schoolchildren in Oklahoma, from landowners in the Southwest. Allegations are the same from everywhere: too much "white tape"; too much Government interference; too little funding; inadequate recognition of Indian sovereignty. These are the issues also that were brought to my office by participants in the BIA occupation last November.

Certainly these complaints apply in the area of Indian education. The Office of Education has not implemented the Indian Education Act, and its revenue-sharing proposal threatens other programs benefiting Indians. The Bureau of Indian Affairs is not fully including tribes in the budget process and continues to be reluctant to abandon paternalistic control of Indian programs. The National Council of Indian Opportunity's Education Subcommittee has not been given adequate leeway or resources to achieve the goals set out for it. The White House has made no appointments to the National Advisory Council on Indian Education.

The list of particulars could go on indefinitely. In a test case in New Mexico a Federal judge found last month that the local public school district had "consistently followed a pattern of resource allocation that discriminates against the Indian students," had "violated both the Johnson-O'Malley Act and the title I act" in its regulations, thereby depriving Indian children of equal educational opportunity. As the court concluded, "the Indian children truly have not been given an even chance." The facts giving rise to these conclusions repeat themselves throughout the country.

Though admitting that substantial, and probably drastic, steps were needed to resolve the problems raised relating to off-reservation boarding schools, the BIA has yet to take definitive action. Revision of Johnson-O'Malley regulations has been in process now for 3 years, but new regulations have yet to be promulgated. For a year and a half the BIA has talked about the importance of its proposed student bill of rights; these have yet to take effect. With all the talk of Indian control of schools and other education programs, at this date there are stilly only 7 out of over 200 schools that are community controlled, and only two or three JOM contracts with tribes have been firmed up. Indian employment within the BIA's central office education division continues at disgracefully low levels, despite the growing number of qualified Indian educators and administrators. The backlog on school facility construction continues to grow. Inadequate attention is being given to higher education needs of Indians.

I believe that Congress has taken important first steps in reversing the tragic history of Indian education. Further action is needed, and I am confident that we will meet the challenge from the legislative standpoint. But there must be a corresponding commitment on the part of the executive branch, to carry out the will of Congress and to fulfill its trusteeship toward native Americans. So far, on this score, we have heard a lot but seen very little.

EXHIBIT 1

NOVEMBER 24, 1972.

To: The Secretary.

From: James B. Cardwell, Assistant Secretary, Comptroller.

Subject: Current Activity Report—Week Ending November 24, 1972.

Apportionments. All apportionments associated with the fiscal year 1973 supplemental appropriation bill (except for the Social and Rehabilitation Service account) have been submitted to OMB. Those submitted include all of higher education, emergency school assistance, and the salary and exense accounts associated with those items, including the Office of the Secretary. Non-education items submitted include Head Start and drug abuse. We are requesting apportionment of all funds appropriated at or below the level of the President's budget and mandatory formula grants appropriated above the President's budget, e.g., the veterans cost of instruction payments to institutions of higher education. We are placing in reserve all discretionary funds appropriated above the level of the President's budget, e.g., project grants for Indian education. (Mr. Dukes, Ext. 22573)

Public Assistance Items. The Secretary, the Under Secretary, and others met with Cap Weinberger and staff on November 22 to discuss savings associated with the 1973 and 1974 budgets under cash assistance. The principal objectives of the meeting were to provide OMB with assurances that the savings already estimated could be achieved and also to discuss the possibility of advancing some of the 1974 savings into 1973. Additional staffing for SRS, GC, et al., required to carry out some of the proposed actions was not discussed.

The Under Secretary, SRS staff, and members of this office met with Paul O'Neill and staff on November 22 to deliver and describe the proposed new regulations on social services. Our target is to publish notice of proposed rule making in the Federal Register by December 1, and we alerted OMB to the fact that every month's slippage will cost us approximately $60 million per month. OMB has requested another meeting for November 28, at which time they expect to either be able to give us the go ahead or describe the changes they recommend in the regulations. Presumably, these could be handled in time for the December 1 publication date. Prior to November 28, they have asked us to rack up, if possible, additional possible steps to tighten the regulations and the amounts each would save. (Mr. Canfield, Ext. 21773)

EXHIBIT 2

WASHINGTON, D.C., *August 18, 1972.*

Mr. THEOPHILE O. TRAVERSIE,
Chairman,
Cheyenne River Sioux Tribal Council,
Eagle Butte, S. Dak.

DEAR MR. TRAVERSIE: Since the passage of the Indian Education Act, Title IV, P.L. 92-318, the U.S. Office of Education has been busily engaged in reviewing the intent, direction, and ramifications of this new legislation.

One section in the law calls for the establishment of a National Advisory Council on Indian Education. This Council will have 15 members who are Indians and Alaska Natives representing diverse geographic areas of the country. They will be appointed by the President.

The Council will serve as advisors to my Office on a number of important matters concerning Indian education, including submission of nominations for the Deputy Commissioner of Indian Education.

In accordance with the new law, we are seeking broad participation from Indian tribes and organizations throughout the country. Therefore, I am writing to invite the recommendations of your Tribal Council for the National Advisory Council. If you wish to make any nominations, I would appreciate receiving them by September 25, 1972. In view of the large number of organizations expected to submit names, we ask that you limit recommendations to not more than five.

To assist you in submitting nominations, I enclose several items, as follows:

1. A general information sheet on P.L. 92-318, Title IV, the Indian Education Act;

2. The specific language in the law relating to the role of the Advisory Council; and

3. The forms to be used for submitting nominations. Please provide all the information requested for each nominee.

After my Office receives the nominations, I will move quickly to process them and make recommendations for membership.

I appreciate your assistance and look forward to a more effective joint working relationship with the Indian community as we seek to improve the educational circumstances of all Indian people.

Sincerely yours,

S. P. MARLAND, JR.,
U.S. Commissioner of Education.

EXHIBIT 3

NIXON'S NEW INDIAN BUDGET

(By Karen Ducheneaux and Richard La Course)

WASHINGTON, D.C. — Analysis of the proposed federal budget for the coming fiscal year must be viewed from two standpoints in order to grasp what it will really mean for the Indian people of America.

The first standpoint is the definition of the term "Indians," and the second is the actual cuts or increases in the budget proposed to the Congress by President Nixon.

The most basic viewpoint is that of the definition of terms. Indians have been permitting the federal government to define what constitutes an Indian, what constitutes an "Indian expenditure," and the meaning of the phrase "spent on."

Four major facts emerge from a careful analysis of the new budget.

First, when the President's budget states that $1.45 billion will be spent on the approximately 500,000 reservation Indians and Alaska Natives, it is patently false. At least one-third of the $1.45 billion is money from non-Indian agencies which is available to all Indians on the basis of their U.S. citizenship, not on the basis of their legal Indian identity. Many of the approximately 500,000 non-federally recognized Indians participate in these programs.

Second, not all of the $1.45 million is spent to "support" Indians. A portion is actually spent "against" Indians, or to rectify past mistakes on the part of the federal government. For example, money to support the Justice Department staff which works against Indians before the Indian Claims Commission is included in the total figure, as are monies to support the work of the commission itself, and funds to support the work of the General Services Administration which straightens out federal accounts of Indian money. Another portion is money spent by the U.S. Army Corps of Engineers to build dams on Indian reservations or to pay Indians for lands taken. None of this is money "spent on" Indians.

Third, some of the monies included in the $1.45 billion are monies belonging to Indian tribes themselves, deriving either from claims payments or tribal revenues which the U.S. holds in trust. The figure for this area in Nixon's new budget is $190,000,000.

Fourth, that money spent by the federal government on Indians which comes from non-Indian programs, such as the Veterans Administration or Labor's Manpower Training, is by no means money spent on Indians as Indians, but on taxpaying citizens who have fought in the wars of this country.

The result of this redefining of terms is to leave about half of the $1.45 billion which can accurately be said to be spent "on" Indians. This is the money which will go to the Bureau of Indian Affairs, the Indian Health Service and the National Council on Indian Opportunity.

The second standpoint from which the new budget must be analyzed is that of increases and decreases in "Indian" expenditures and "citizen" expenditures.

At first glance, it would appear the BIA will get a $50 million increase. But analysis shows the increase to be a puff of smoke. Cuts in education and welfare services are hidden by including the $20 million increase in payments on Alaska Native claims. Increases in resource management are due to the transfer of $25 million from the Economic Development Administration to the BIA. This is hardly new money.

And there is some indication that a mix-up on the part of the administration may mean that this $25 million will have to come out of the new BIA appropriation rather than through a supplemental appropriation.

The Indian Health Service budget shows a proposed increase of $8,928,000. Upon analysis, however, one finds that $4,708,000 was cut from the appropriation for the current year and is simply being added back in the new budget.

In their capacity as citizens, the funds Indians have been drawing from other agencies may disappear into special revenue sharing legislation, if the Congress passes the proposed Nixon legislation. Indians have no guarantee they will participate in special revenue sharing as they have in general revenue sharing. Two programs in which Indians have participated as citizens will fall under special revenue sharing concepts if the President has his way with Congress. These are the HEW Office of Education programs and Labor Department manpower training programs.

The purses strings will also be tightened for urban Indians. The federal government has assisted in funding a total of 13 urban centers, to the tune of $1,405,000 during the past year. According to Nixon's new budget proposals, only four centers—called urban demonstration centers—will receive continued funding at their current levels. And Nixon has liquidated the Office of Economic Opportunity (OEO), which in his July 1970 Indian Message he billed as his "lead agency" for urban Indians.

On the brighter side, an increase in monies for the General Services Administration will mean a speed-up in the work of the Indian Claims Commission, due to expire in 1977. Although accelerated work and additional funds do not guarantee that Indians will win their claims, it means at least that many tribes will finally get their day in court.

Although there is a net increase in BIA appropriations, about $23 million will be chipped away in the area of social programs. And while appropriations for Indian health facilities has been cut by about $3 million (with about $48 million needed for new facilities, modernization and repair), the appropriation request for Indian Health Services has gone up a net of about $4 million.

Finally, the really good news in 1973 will be the money going to tribes and Indian communities through general revenue sharing. Indian tribes and communities are receiving about $6 million in general revenue sharing n February. They will be receiving such checks henceforth on a quarterly basis.

EXHIBIT 4

BETWEEN TWO MILESTONES: THE FIRST REPORT TO THE PRESIDENT OF THE UNITED STATES

(By the Special Education Subcommittee of the National Council on Indian Opportunity, November 30, 1972)

CHAPTER I

Major Findings and Recommendations

The Special Education Subcommittee of the National Council on Indian Opportunity was initiated by the Presidential Policy Message of July 8, 1970 to 1) provide technical assistance to local American and Alaskan Native communities wanting to establish local boards of education and 2) to report the status and monitor change in American and Alaskan Native education through a national review and annual assessments. The Specil Education Subcommittee was established as the primary mechanism for implementing the policy of self-determination without termination in the educational sector of American and Alaskan Native affairs. The nine member Subcommittee conducted regional hearings in the contiguous forty eight states and Alaska.

Major findings

On the basis of testimony by American and Alaskan Native people and Subcommittee deliberations, the following summary of major findings is presented:

1. The Federal Government is failing to implement its proposed policy that federal elementary and secondary day and boarding schools on or off reservations be placed under organizational and operational control of local school boards with all deliberate speed. The federal bureaucratic agencies charged with this responsibility are reluctant to abandon the paternalism and patterns of influence which the new policy sought to eliminate. Since July 8, 1970, only eight, out of an approximate total of 200, federal day and boarding schools on-and-off reservations have been placed under the control of local boards of education with Native people as members. An additional six Native communities can be said to be in the process of establishing local boards to operate existing federal elementary and secondary schools. Those instances of actual and proposed assumption of control by Native people have generally been instigated and pursued by the people themselves.

Middle and lower echelons of the Federal Government have not planned for nor pursued implementation of the proposed policy. After two years under the new policy, many local advisory boards have been created, but the actual operational control of the federal schools for American and Alaskan Native children remains in the hands of the Bureau of Indian Affairs. The power to guide and effect this policy clearly resides in the agencies of the Federal Government; it has not been exercised.

2. The July 8, 1970, Presidential Policy Message also called for the vesting of a greater degree of programmatic control over education of Native children in public schools by contracting for the expenditure of Johnson O'Malley educational funds directly with the tribes and communities. During fiscal year 1971, approximately $19,-652,000 was allocated to Johnson O'Malley educational programs. Of this total, $919,000 or about 4.67 percent was contracted directly with tribes or other Native communities. During fiscal 1972, $2,750,000 or about 12.16 percent of the total Johnson O'Malley educational budget of $22,600,000 was contracted directly with tribes and local communities. The Subcommittee interpreted the small proportions of Johnson O'Malley contracted directly to tribes to be evidence of hesitancy or actual failure in policy implementation.

The small proportion of Johnson O'Malley funds actually contracted directly with tribes may be in part due to the fact that needed enabling legislation has not yet been passed by the Congress. In its hearings, the Subcommittee found that the promise of vesting a significant degree of educational programmatic control with Native people at the local level remains largely unfulfilled.

3. A division of organizational authority and responsibility reduces the effectiveness of educational programs and services for American and Alaskan Native children attending public schools. Two uncoordinated federal agencies, the Bureau of Indian Affairs and the United States Office of Education, administer separate programs which have major significance for the education of Native children enrolled in public schools. The Johnson O'Malley program is managed by the BIA, and the USOE distributes resources authorized under P.L. 815, P.L. 874.

several Titles of ESEA, the Vocational Education Act, and other laws.

The Presidential Policy Message recognized the dual relationship of the Federal Government to American and Alaskan Natives stemming from: (1) special treaties, statutes, and executive orders; and (2) rights and responsibilities attending United States citizenship. Under treaty provisions or other arrangements, the Federal Government is obligated to provide educational services to Native children living on designated federal trust land. While the Subcommittee opposes centralized control and student boarding features of the federal schools, it recognizes the important and necessary function of the BIA as an organizational mechanism for implementing and supporting special federal relationships with Native people.

When American and Alaskan Native children attend public schools on or off reservation land, a different set of relationships stemming from citizenship applies. The principal channel of control for public schools flows from a state legislature through a state department of education to local school boards. The principal channel, aptly described by one Subcommittee member as a maze, for federal support and limited control flows from the legislative branch to the USOE and from there to state organizations. These channels of authoritative communication constitute the formal organizational structure for public education.

The BIA is not part of this organization, in spite of the fact that it disbursed $22,600,000 in Johnson O'Malley funds and received an estimate $16,316,226 in set-asides or project grants from the USOE during the fiscal year 1972. Beyond the amount of set-asides and grants to the Interior, the USOE has actual and potential impact on the education of Indian children through such varied programs as Compensatory Education, Bilingual Education, Drop-out Prevention, and other programs not aimed at particular ethnic groups. The passage of the Indian Education Act provides an important opportunity to provide better coordination of educational services provided for Native children enrolled in public schools.

4. The Special Education Subcommittee, conceived as an action agency to provide technical assistance, was reduced to a token Indian group by withholding official and financial support. The Subcommittee was appointed from the Office of the Vice President of the United States, but the prestige of that office was not infused in Subcommittees credentials in spite of repeated requests. The magnitude and importance of the specific charges to the Subcommittee merited greater official support from the Executive Branch of the Federal Government if performance expectations really went beyond the mere preparation of another written report. The effectiveness of the Subcommittee as an administrative mechanism was neutralized through inadequate allocations of financial and/or human resources.

The first charge to the Subcommittee was to provide technical assistance in the formation of local boards of education in Native communities wishing to assume local control of federal schools. Assumption of control of education is a complex task. A team of legal, financial, and educational specialists is needed to create a viable organizational structure. The Subcommittee members were experienced educators, but none of them were lawyers, accountants, or organizational specialists and all of them were employed on a full-time basis in demanding positions. Technical assistance in developing local boards of education to take over federal schools is not a part-time job. The Subcommittee was promised, but did not receive, the resources necessary to form an effective technical assistance team(s) that would be accountable to them.

The second charge to the Subcommittee was the preparation of a national review-status report on Indian education. The third charge called for an annual report that would serve a monitoring function. A national assessment is an undertaking of great magnitude. The 1928 Meriam Report and the seven volume Senate Subcommittee Report each took two years to complete, while the recent Havighurst Study required nearly tree years from its inception. The Havighurst Study, for example, was performed on a grant of $500,000.

The Special Education Subcommittee proposed to meet its charges on a rather conservative budget of $191,000. The needed support was not forthcoming and, only after considerable negotiations, a total of $21,000 plus travel was made available for the Subcommittee technical assistance, national status reporting and annual assessment functions. This lack of resources engendered the feelings of tokenism on the Subcommittee and the impression that implementation of the self-determination without termination policy did not have strong or healthy roots in the Federal Government. Only the collective and individual Subcommittee member commitments to improve the quality of education for Native people deterred resignation of the Subcommittee.

5. The Special Education Subcommittee sensed two general sentiments or points of view among native people toward local control of education at the hearings it conducted. One point of view was characterized by hesitancy and a fear that local control of education would eventually mean a loss of support; another approach to termination. Support for this point of view was phrased in arguments that Native people are not yet ready to assume control, that sufficient numbers of trained Native personnel are not available, and that an assumption of local control might jeopardize existing programs and the progress that has been made.

This point of view tended to be held by Native and non-native people whose status or career goals were linked to the perpetuation of the status quo. This point of view has a strong chance to prevail because its proponents tend to be in positions of influence or have access to those in power. If the implementation of local control of education is left to Natives and non-natives inclined toward this point of view, the process will be prolonged and difficult.

The second point of view toward local control of education by Native people was characterized by receptivity and enthusiasm. People who held this point of view were generally those who felt that they had little to lose as a result of change. These are the Native people who seek relief from the family strains of boarding school, who want curricula and programs which would help their children achieve better in basic subjects, and who want school climates which would be more sympathetic to the Indian and Alaskan Native experience. By and large, the Native people who advocate the assumption of local control see it as a means to better education for their children. Their concerns are not with formal organizational structure but with sensitivity to academic, personal, and social needs in the classroom.

6. The role of the Special Education Subcommittee is unclear. It was unable to execute the specific charges it was given. Its relationship to other American and Alaskan Native Education advisory groups in the Federal Government remains undefined. The future is even more uncertain. The recent Indian Education Act created a National Advisory Council on Indian Education in Health, Education, and Welfare. The language of the act charges the National Council with some of the same responsibilities as the Subcommittee. For example, in Section 442(b)(3) the National Council is charged with responsibility for the evaluation of any program or project involving Indian children or adults carried out under the auspices of Health, Education and Welfare. This responsibility for evaluation overlaps with the second and third specific charges to the Subcommittee which call for a status report and annual assessments.

Section 442(b)(4) states that the National Council shall "provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children." The language of this provision clearly includes the primary charge to the Subcommittee in which it was to provide technical assistance to Native communities seeking to establish local boards of education.

The Special Education Subcommittee is concerned that the proliferation of advisory councils of American and Alaskan Natives can become counter-productive. Native involvement in policy formulation is essential, but too many councils or committees can impede real progress in the improvement of educational oportunity. The Federal Government must be commended for its efforts to involve Native people, but it must make a concerted effort to minimize role ambiguity for the advisory bodies it creates. The pressing educational needs of Native people cannot afford duplications of effort which may result in eneffective and inefficient use of available resources.

Recommendations

The educational concerns of American and Alaskan Native people go beyond the problems referred to in the charges of the Special Education Subcommittee. Hearing testimony and Subcommittee deliberations led to the following recommendations:

Recommendation No. 1

Whereas, the cultural backgrounds, economic circumstances, educational needs, and degree of desired responsibility for the management of education are too diverse to be implemented by a single set of operational policies or procedures without violating the individuality of Native people or the spirit of self-determination;

It is recommended that, all agencies of the Federal Government meet the obligation to support Native education and implement the policy of self-determination through a variety of contractual arrangements which are sufficiently flexible to meet the needs of Indian people living under the diverse circumstances of native communities on or off reservations and in pluralistic urban areas.

Recommendation No. 2

Whereas, the local community constitutes the fundamental level at which individuals, families, and other social groups act out their social, political and economic interdependence, and whereas, the local community is the institution which preserves, adapts, and reinforces group mores and cohesiveness, and whereas, people have the right to join together to provide educational opportunities for their children, and whereas, there exists a special relationship between the Federal Government and Native people, and whereas, Native people do exist in both rural and urban communities:

It is recommended that, social change in the Native community be officially accepted by all agencies of the Federal Government, and that, for educational purposes, native tribes, clans, bands, chapters, villages, land claims settlement corporations, or nonprofit educational corporations of parents, who trace their lineage to several traditional Native nations be recognized by the Federal Government as agencies eligible to contract with the Federal Government for the support of the education of their children, and that, guidelines for recognition and appropriation of support be legislated by the Congress of the United States.

Recommendation No. 3

Whereas, the family is the basic unit of social structure in American and Alaskan Native culture, and whereas, the family is the most important social institution for the rearing and nurturing of children:

It is recommended that, federal implementation of self-determination take policy directions and procedural forms which preserve, support, and reinforce the American and Alaskan Native family, that, boarding schools as a normative education process for Native children be phased out as the result of road construction and decentralization programs until the boarding school experience remains only a minor program component of some day schools to accommodate exchange students or local students with special personal circumstances, and that, the emerging day schools be governed by organizational structures which encourage and require direct and elected representative community educational government.

Recommendation No. 4

Whereas, Indian children attending public schools have rights to educational opportunity attendant upon state and federal citizenship, and whereas, the division of responsibility for the education of Native children in public schools between the BIA and the USOE tends to inhibit program coordination and effectiveness, and whereas, the Indian Education Act has created an organizational mechanism within the USOE capable of coordinating all educational efforts in the public schools;

It is recommended that, all programs involving the education of Native people through public school organizations be administered or coordinated by the Bureau of Indian Education in USOE under the direction of a new Deputy Commissioner, and that, the responsibility and authority vested in the new Bureau specifically include the management and distribution of Johnson O'Malley funds.

Recommendation No. 5

Whereas, schools serving children of Native communities need to become an integral part of that community, and whereas, Native people want a choice to hire competent Native teachers, counselors, and administrators, and whereas, it is to the benefit of the Native and non-natives to have Native educators working in public schools which serve few, if any, Native children, and whereas, colleges and universities training teachers should have Native people represented on their staffs;

It is recommended that, federal resources be made available to colleges and universities which have demonstrated involvement of Native communities and organizations of which are prepared to provide quality programs with Native policy input to recruit, train, and assist in placing Native teachers, counselors, curriculum specialists, librarians, special education teachers, school administrators and other educational specialists, and that, a Native organization with a research capability be employed to assess the supply and demand function for such programs.

Recommendation No. 6

Whereas, the revival of interest in Native history and culture is a vital part of an effort by Native people to gain a meaningful social perspective for their lives somewhere between a romantic, but unrealistic, return to the past and a complete, but artificial assimilation with transplanted European culture, and whereas, many of the educational materials are historically incorrect and prejudicial to the image of Native people;

It is recommended that federal resources be allocated to Native organizations for the development of instructional materials, curriculum and library resources which will lead to unbiased perceptions of Indian history and culture by both Native and non-native students in pursuit of Native studies and for incorporation into the study of religion, art, music, dance, and other disciplines of study at elementary, secondary and collegiate levels.

Recommendation No. 7

Whereas, the knowledge and skills offered by institutions of higher education are essential in the conduct of native affairs, and whereas, it is important to Native people to have non-natives become better informed about the past, present, and future of Native life in the context of higher education, and whereas, Native people must have increased access to general and professional programs in established colleges and universities, and whereas, the emergence of Native institutions of higher education is a new trend which promises unique orientation to the needs of Native people, and whereas, the costs of higher education have risen beyond the means of most Native students;

It is recommended that federal resources continue to be made available to established colleges and universities to stimulate Native studies and special professional training programs for Native people with mandatory programmatic control shared with representatives from Native communities, and that, sufficient federal resources be made available to emerging Native institutions of higher education so that they have an adequate opportunity to demonstrate their effectiveness in meeting the needs of Native people, and that, the level of funding for both undergraduate and graduate Native students be increased.

Recommendation No. 8

Whereas, Native students are not adequately informed about undergraduate, graduate and vocational scholarship opportunities in the various colleges, universities, and technical schools, and whereas, there is no formal structure established for the effective dissemination of information already available;

It is recommended that, a central clearinghouse be established with assigned responsibility for collecting, cataloging, and disseminating information from federal, state, tribal and private agencies, regarding the nature of opportunities and levels of support available for Native students in vocational, technical, and higher education, and that, regional branches be established throughout the United States to facilitate communication and the accommodation of diverse geographical needs, and that, application procedures to various sources be consolidated to produce a more simplified, uniform, and expeditious procedure, and that, part of each clearinghouse organization be a Native Student Scholarship Opportunity Committee to actively disseminate scholarship information to Indian high school and college students and recruit applicants for these opportunities.

Recommendation No. 9

Whereas, the movement of Native people to urban areas is predicated on an often unfilled promise of economic opportunity to live a richer life, and whereas, the movement to urban areas tends to drain trained leadership away from Native communities which need the social presence and the services these individuals can provide;

It is recommended that, the policies and procedures for the implementation of self-determination in Native education should reach into other areas of Native affairs so that the impact of vocational, collegiate, and professional training of Native people is felt more strongly in Native communities, and that, long-range plans for staffing the Public Health Service, Legal Assistance, Land Management, and other services provide on-reservation jobs at many skill levels for Native people who have completed appropriate training programs and wish to render service, other than in education, to their home or other reservation community.

Recommendation No. 10

Whereas, American and Alaskan Natives are citizens of the United States and enjoy all rights and privileges, and whereas, the Native people have a unique relationship with the Federal Government through treaties, statutes, executive orders, and whereas, such treaties, statutes, and executive orders conflict with other federal statutes such as the Civil Rights Act of 1964, and whereas, federal funds are appropriated for education and disbursed to public schools, universities and colleges, state and federal agencies and profit and non-profit organizations subject to the conditions of the Civil Rights Act, and whereas, educational funds must also be expended to meet the educational needs of Native citizens residing in either on-or-off-reservation communities;

It is recommended that, legal clarification be immediately undertaken to resolve the status of Native children in school desegregation plans of districts located on or adjacent to reservations; and that, such clarification provide that desegregation plans being enforced by the Federal Government through Civil Rights Act of 1964 not apply to Native people, and that, until such time as the Federal Government officially clarifies the implications of the Civil Rights Act for Native people, desegregation plans not be forced upon or accepted by reservation or non-reservation Native communities.

Recommendation No. 11

Whereas, the areas of technical, vocational and related skills are expanding rapidly and now offer career opportunities which were not previously available to Native students, and whereas, Native students have traditionally been educated for selected technical and vocational careers that have not reflected the diversity of vocational opportunities nor specific skills demanded in the society in which they must compete, and whereas, the need for skilled technicians and tradesmen is severe on reservations and other Native communities, and whereas, a shift of national priorities is reflected in increased federal and state funding for vocational and technical education;

It is recommended that, federal agencies provide human and financial resources for training Native people in all facets of vocational and technical education, and that, federal agencies pool their efforts to have maximum impact in supplying trained Native citizens in various occupations.

Recommendation No. 12

Whereas, American and Alaskan Natives have one of the highest dropout rates of any group of people in the United States, and whereas, educational achievement for Native students remains a critical issue, and whereas, traditional Adult Basic and Continuing Programs have not met the needs of Native people;

It is recommended that, additional federal resources be allocated to Adult Basic and Continuing Education, and that, these programs be redesigned with more mandatory involvement of Native people at the local level to increase their effectiveness in terms of existing opportunities.

Recommendation No. 13

Whereas, there are American and Alaskan Native children attending public federal, and mission schools who are in dire need of special education programs to deal with physical handicaps, emotional problems, mental retardation, and learning difficulties, and whereas, human, plant facility, and funding resources have been inadequate or nonexistent by federal and state governments to accommodate these Native children, and whereas, special educational training programs for professional and para-professional staff have not been developed in colleges and

universities with a specific focus on the problems of Native children;

It is recommended that, the federal and state governments, schools, universities, and colleges make a concerted effort to provide the human and financial resources to develop comprehensive programs and special facilities to meet the special educational needs of American and Alaskan Native children, and that, such resources be extended to include follow-through programs as the children become adults by providing resources in developing skills and job placement, because special education is a continuing process.

Recommendation No. 14

Whereas, the Special Education Subcommittee established by the President's Message on July 8, 1970, related the following specific charges:

"The Subcommittee will provide technical assistance to Indian communities wishing to establish school boards, will conduct a nationwide review of the educational status of all Indian school children in whatever schools they may be attending, and will evaluate and report annually on the status of Indian education, including the extent of local control."

And whereas, the Subcommittee did not receive adequate resources to actively and adequately perform the responsibilities with which it was charged, and whereas, the relevance and need for a thorough performance of those responsibilities continue to increase, and whereas, the local school systems located on and near reservations and in urban settings have not been sensitized to the special and unique educational needs of Native youth, and whereas, the state and federal agencies have had limited effect in monitoring their programs and resources for the education of Native children, and whereas, the Indian Education Act has created a National Council with responsibilities overlapping those of the Special Education Subcommittee;

It is recommended that, the role of the Special Education Subcommittee be clarified, and that, the Subcommittee be continued with sufficient human and/or financial resources made available to insure effectiveness in pursuit of the assessment charge and further study and development of the local organizational control model.

Recommendation No. 15

Whereas, educational resources allocated under the Johnson O'Malley Act are of major importance in the education of Native children, and whereas, the utilization of these resources has been subject to recent intense criticism, and whereas, there appears to be extreme differences in the utilization of these resources among the various states;

It is recommended that, a comprehensive study of the distribution and utilization of Johnson O'Malley resources among the various states be conducted, and that, the data collected be employed to formulate more uniform guidelines for the allocation and expenditure of these important resources.

OVERVIEW OF THE REPORT

The major findings and recommendations presented in this chapter are the end result of activities and deliberations presented in subsequent chapters. Chapter II describes the information of the Subcommittee and presents the general guidelines for its operation. The Subcommittee's deliberations on the basic local control issue are presented in Chapter III. A research design for meeting charges two and three is proposed in Chapter IV. A summary of Subcommittee deliberations on other topics and issues is presented in Chapter V. An appendix to the report provides brief biographical sketches of the Subcommittee members, and a calendar of Subcommittee activities.

* * * * *

SCOPE AND LIMITATIONS OF THE REPORT

The Subcommittee members were concerned by the following factors which impeded the proceedings of the Subcommittee and imposed limitations on the report.

1. The Subcommittee was not provided with the resources necessary to marshal technical assistance teams which would help individual Indian communities to establish school boards to create new schools or take over existing federal Indian schools.

2. The Subcommittee, made up of Indian educators who have full time responsibilities, were unable to meet the charge of conducting a nationwide status study of Indian education. Available resources did not permit employment of a professional staff nor was assignment of staff personnel already employed by federal agencies sufficient to conduct a national study.

Subject to these limitations, the Subcommittee attempted to maximize the impact of those resources which were available. The Subcommittee members combined information from their experience, published documents, hearings, and visits conducted in diverse areas of the country. The report attempts to provide a national focus on the problems and policy issues involved in making equal educational opportunity available to Indian people. While the Subcommittee observed and discussed many educational problems in local Native communities, it made no attempt to recommend solutions for local situations.

ADDITIONAL COSPONSORS OF BILLS

S. 397

At the request of Mr. STEVENSON, the Senator from California (Mr. CRANSTON), and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 397, to require disclosure of financial interests by Members of Congress and certain congressional employees.

S. 587

Mr. BEALL. Mr. President, on January 29, 1973, I introduced along with Senators TOWER and TAFT, S. 587, the National Catastrophic Illness Protection Act, which would amend the Social Security Act to establish a national catastrophic illness insurance program, under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost.

I ask unanimous consent that the name of Senator ROTH be added as a cosponsor.

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

S. 909

At the request of Mr. HOLLINGS, the Senator from Colorado (Mr. DOMINICK) was added as a cosponsor of S. 909, amending the Federal Property and Administrative Services Act of 1949 to permit donations of surplus Federal property to State and local public recreation agencies.

S. 1133

At the request of Mr. METCALF, the Senator from Nevada (Mr. CANNON), and the Senator from Oklahoma (Mr. BELLMON) were added as cosponsors of S. 1133, to provide additional funds to the States for carrying out wildlife restoration projects.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 14

At the request of Mr. HUMPHREY, the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of Senate Concurrent Resolution 14, relating to national priorities.

SENATE RESOLUTION 87—SUBMISSION OF A RESOLUTION TO REQUEST THE PRESIDENT TO BEGIN A NATIONAL PROGRAM OF PUBLIC INFORMATION REGARDING THE BENEFITS OF CARPOOLING

(Referred to the Committee on Commerce.)

Mr. BARTLETT. Mr. President, on behalf of myself and Senators DOMENICI, McCLURE, and BELLMON, I have today introduced a resolution requesting that the President initiate a national program to encourage the increased use of carpools and economy cars.

The consequences of traffic saturation have adversely affected all America, but particularly our large cities.

No large city has escaped the ravages of pollution. The greatest contributor to pollution is the automobile. I recently read that during morning rush hour on the Shirley Highway leading into Washington, D.C., pollution created by auto exhaust is serious enough to create a present health hazard.

But the adverse effects of the automobile are not limited to pollution. Today, the United States is in the midst of a serious energy crisis. There is a real potential of gas rationing this coming summer. The automobile is the chief culprit in the consumption of gasoline.

Traffic congestion is a significant contributor to our accident rate, to employee loss of time and maybe most importantly, to the immense frustration which every commuter experiences during a typical rush hour.

A recent study by the Department of Transportation indicates that the average commuter car in Los Angeles contains 1.2 people—while the average in Washington contains 1.5. The study estimates that an increase in occupancy from 1.2 to 1.5 results in a 20-percent reduction in auto traffic—an obviously significant reduction.

My resolution requests that the President begin a program to familiarize people with these benefits of carpooling and similarly the smaller economy car. The resolution does not suggest any effort to supplant any other program of mass transit. However, carpools are the most economical and expeditious method of reducing traffic problems and this information should be made available to the American people.

Mr. President, I ask unanimous consent that the resolution be printed in full in the RECORD.

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

S. RES. 87

Whereas, the United States is experiencing an energy crisis and there exists the potential of gas rationing in the months ahead and the automobile is the largest consumer of gasoline; and

Whereas, Automobile traffic has reached the saturation level in many American cities causing loss of time, accidents, and frustration; and

Whereas, The automobile has been a significant contributor to the pollution of our cities; and

Whereas, Some conventional methods of mass transit are necessarily expensive, involve a great deal of lead time and have questionable consumer support; and

Whereas, Studies by the Department of Transportation have shown that by increasing the average commuter auto occupancy from 1.2 persons to just 1.5 persons per car would result in a 20% reduction in auto traffic on the commuter highway; and

Whereas, A 20% reduction in traffic would have a significant beneficial impact on pollution, gasoline consumption, and traffic congestion, be it therefore

Resolved by the United States Senate, That the President of the United States is hereby requested to take such action as is necessary to begin a national program of public information to inform the commuter of the benefits of car pools and economy cars and that the President report to the Congress on possible legislative incentives to promote such a program.

AMENDMENT OF PAR VALUE MODIFICATION ACT—AMENDMENTS

AMENDMENT NO. 69

(Ordered to be printed and to lie on the table.)

Mr. NELSON. Mr. President, this amendment which I submit has three parts.

First. It establishes an expenditure ceiling of $267,700,000 which is $1 billion less than what the President has requested for fiscal 1974.

Second. It establishes a procedure for the President to follow in any reduction of funds to achieve this ceiling. The President must make such reductions proportionately and may not reduce any activity, program, or approriation item by more than 10 percent.

Third. To the extent that the President exceeds the 10-percent limitation, or wishes to reduce expenditures for any other purpose, he must submit such recommendation of reservation of expenditure for Congress to act on within 60 days. If Congress does not approve such reduction, they do not take effect.

There is no debate between the President and Congress over the necessity for establishing a spending ceiling. Most representatives realize that failure to control spending within reasonable bounds would add further fuel to a dangerous inflationary situation. The debate then between Congress and the President is not over spending but over priorities. Many Members of Congress feel that President is proposing excessive spending for military, space, and foreign assistance while making drastic and unnecessary cuts in vital social programs.

AMENDMENTS NOS. 70 AND 71

(Ordered to be printed, and to lie on the table.)

Mr. McCLURE submitted two amendments, intended to be proposed by him, to the bill (S. 929) to amend the Par Value Modification Act.

AMENDMENT NO. 52, AS MODIFIED

(Ordered to be printed, and to lie on the table.)

Mr. TAFT (for himself, Mr. BELLMON, and Mr. PROXMIRE) submitted amendment No. 52, as modified, intended to be proposed by them, jointly, to Senate bill 929, supra.

AMENDMENT OF OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968—AMENDMENTS

AMENDMENT NO. 72

(Ordered to be printed, and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him, to the bill (S. 800) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the compensation of innocent victims of violent crime in financial stress; to make grants to the States for the payment of such compensation; to authorize an insurance program and death benefits to dependent survivors of public safety officers; to strengthen the civil remedies available to victims of racketeering activity and theft; and for other purposes.

AMENDMENT NO. 73

(Ordered to be printed, and to lie on the table.)

Mr. TALMADGE submitted an amendment, intended to be proposed by him, to Senate bill 800, supra.

NOTICE OF HEARINGS ON INTERIOR DEPARTMENT NOMINATIONS

Mr. JACKSON. Mr. President, I wish to announce for the information of the Members of the Senate and other interested persons that the Committee on Interior and Insular Affairs has scheduled open public hearings for Thursday, April 5, 1973, at 2 p.m., to take testimony on the nominations by President Nixon of Dr. Laurence E. Lynn, Jr., of California, to be Assistant Secretary of the Interior for Program Development and Budget, and Kent Frizzell, of Kansas, to be Solicitor of the Interior Department. The hearings will be held in the committee room, 3110 Dirksen Senate Office Building.

Persons wishing to testify or submit statements for the hearing record on either or both of these nominees should so advise the staff of the Interior Committee.

Mr. President, I ask unanimous consent that the texts of brief biographical sketches of both nominees be printed in the RECORD at this point in my remarks.

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

NOVEMBER 1972.

LAURENCE EDWIN LYNN, JR.

Address: 3269 Arcadia Place, N.W., Washington, D.C. 20015.

Date of Birth: June 10, 1937. Married, four children.

Education: Ph. D. (Economics) Yale University, 1966; A.B. (Economics) with honors, University of California, Berkeley, 1959.

Thesis: U.S. Foreign Economic Aid and the U.S. Balance of Payments, 1954–1963.

Honors: Phi Beta Kappa; Yale University Scholarship; Ford Foundation Doctoral Dissertation Fellowship; Secretary of Defense Meritorious Civilian Service Medal; Presidential Certificate of Distinguished Achievement.

EXPERIENCE

June 1971–Present: Assistant Secretary for Planning and Evaluation, U.S. Department of Health, Education, and Welfare. Responsible for coordination of Department activities in economic and social analysis, policy development, policy and program evaluation, and long range planning. Develops and participates in the administration of the Department's planning and evaluation systems.

September 1970–June 1971: Associate Professor of Business Economics, Graduate School of Business, Stanford University. Taught courses in economic analysis, decision-making in the public sector, and business in the changing environment to MBA candidates. Consultant to National Security Council on strategic intelligence, defense programs and policies; Department of Health, Education and Welfare on higher education; Chief of Naval Operations on naval strategies and programs.

January 1969–August 1970: Assistant for Programs to Dr. Henry A. Kissinger, Assistant to the President for National Security Affairs. Directed the Program Analysis Staff (6 professionals), which was responsible for supervising comprehensive country and regional program analyses to be used as the basis for Presidential and NSC decisions on major policy and program issues; provide general staff assistance, direct interagency study groups, prepare studies and analyses on U.S. strategic intelligence estimates and capabilities, strategic arms limitation, defense strategies, programs and budgets, Vietnam policies and programs, other program-related issues.

April 1968–January 1969: Deputy Assistant Secretary of Defense (Economics and Resource Analysis), Office of the Assistant Secretary of Defense (Systems Analysis). Responsibilities included supervising and directing the work of a staff of 70, including 50 professionals, organized into the following divisions: Mobility Forces; Command Control and Communications; Cost Analysis; Manpower Requirements; Special Economic Studies. Worked directly with the Secretary and Deputy Secretary of Defense, Assistant Secretaries of Defense, Secretaries and other senior civilian and military officials of the military departments.

February 1966–April 1968: Director of Strategic Mobility and Transportation Division and then of Economics and Mobility Forces in the Office of the Assistant Secretary of Defense (Systems Analysis). Directed extensive program of research, studies and analyses on U.S. requirements for airlift and sealift forces, national maritime policy, economic impact of defense expenditures, related issues.

July 1965–February 1966: Weapon Systems Analyst, Office of the Assistant Secretary of Defense (Systems Analysis).

July 1963–July 1965: U.S. Army (1st Lieutenant, Infantry).

PUBLICATIONS

"Notes from HEW," in *Evaluation*, Fall, 1972.

"Economic Models in the Analysis of Military Strategic Mobility Requirements," in *Proceedings, 17th Military Operations Research Symposium*, Spring 1966.

"The Analysis of Strategic Mobility Problems," in *Papers—Seventh Annual Meeting,*

Transportation Research Forum, November 1966.

"Strategic Mobility and Logistics" in *Proceedings 20th Military Operations Research Symposium,* Fall 1967.

"Economic Impact of Defense Programs: Progress and Prospects," (with R. Riefler) *1967 Proceedings of the Business and Economic Section—American Statistical Association.*

"Economic Analysis of Public Investment Decisions: Interest Rate Policy and Discounting Analysis," *Hearings Before the Subcommittee on Economy in Government of the Joint Economic Committee,* U.S. Congress, 90th Congress, 2nd Session, Washington, D.C., U.S. Government Printing Office, 1968, pp. 141–150.

"Systems Analysis—Challenge to Military Management," in Cleland, David I., and King, William R., eds. *Systems, Organizations, Analysis, Management: A Book of Readings,* McGraw-Hill, 1969.

Other Research: Performed contract research and engaged in consultation of U.S. foreign economic assistance and the U.S. balance of payments for U.S. Agency for International Development. Reports submitted to A.I.D.: "U.S. Foreign Economic Assistance and the U.S. Balance of Payments, 1954–1962," "Analysis of Regional and Third Country Impact," "The Analysis of Tied Aid: Some Concepts and Methods." Author, "A Program to Compute Partial Correlation Coefficients," Yale Computer Center Memorandum No. 10, May 10, 1963, and "A Program for Obtaining Efficient Estimates of the Parameters of a Set of Single Equation Regressions," Yale Computer Center Memorandum No. 12, May 10, 1963. Participated in drafting chapter on defense programs and budgets for Brookings Institution analysis of the 1972 federal budget.

BIOGRAPHY—KENT FRIZZELL

Personal and Family: Born February 11, 1929, Wichita, Kansas; married, wife Shirley, 5 children.

Education: Wichita Public Schools; Undergraduate Work at Northwestern University, Evanston, Illinois; B. A., Friends University, Wichita, Kansas; J. D., Washburn University Law School, Topeka, Kansas; Lecturer of Business Law, Wichita State University.

Business and Professional: Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C., 1972–1973; Kansas Bar Association, Member; American Bar Association, Member; Federal Bar Association, Member; Legal Counsel for Kansas, Republican National Committee, 1970–1971; Phi Alpha Delta Legal Fraternity.

Public offices held: Republican Precinct Committeeman, 1950–1964; Wichita Board of Education, Member 1959–1965, President 1963–1964; State Municipal Accounting Board, State of Kansas, Member 1961–1964, Chairman 1963; State Senator, State of Kansas, Twenty-fifth Senatorial District, 1965–1969; Attorney General, State of Kansas 1969–1971; Republican Nominee for Governor, State of Kansas, 1970.

Civic and other: Sunflower Boys' State, Past President, 1960; Sedgwick County Campaign Chairman for United States Senator James B. Pearson, 1962 and 1966; State Legal Counsel, Kansas Jaycees, 1965; Judge Advocate, American Legion Department of Kansas, 1966; Trustee, Mid Continent Regional Educational Laboratory, 1966–1968; National Law and Order Committee of the American Legion, Member, 1968–1969; Who's Who in American Politics; Kansas Wildlife Federation, Member 1968–1971; March of Dimes, Campaign Director for Northeastern Kansas, 1971–1972.

Church: St. Luke's Methodist Church, Wichita, Kansas; Director, Methodist Youthville, Newton, Kansas, 1964–1971.

NOTICE OF HEARING ON AMENDMENT OF THE LAND AND WATER CONSERVATION FUND ACT

Mr. BIBLE. Mr. President, I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation at 10 a.m. on April 12, in room 3110, Dirksen Senate Office Building, on the following bill:

S. 1381, a bill to amend certain provisions of the Land and Water Conservation Fund Act of 1965, relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes.

ADDITIONAL STATEMENTS

VIETNAM—CLOSING THE BOOKS

Mr. SCOTT of Pennsylvania. Mr. President, the American involvement in Vietnam ends today. The last of our prisoners is returned today. This has been a most terrible war. All wars are. But we have learned, I hope, many lessons from this involvement. Mr. President today's Christian Science Monitor clearly details this involvement and some of the lessons we should have learned. I ask unanimous consent that this editorial be printed in the RECORD.

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

VIETNAM—CLOSING THE BOOKS

It's over now—largely. True, there is still American sea and air power around Indo-China. And, also true, President Nixon has threatened to use that power if there is a sudden effort to upset what he considers "peace with honor." And, again true, many more American dollars will be spent in and around Vietnam (North and South both) and there may be more American casualties. There will be tag ends of the great American intervention in Indo-China for a long time.

Yet, in the main, this is the time to close the books on the longest, the most remote and the most controversial military effort in the history of the still relatively young American Republic. In money, it has cost something over $100 billion. No one can say exactly how much because military cost accounting is an art form, not a science. In human life, nearly 50,000 Americans went, and did not come home; roughly double the number killed in Korea, but small in comparison to the number of Vietnamese soldiers and civilians lost in the inconclusive struggle.

Many lessons have been learned.

American power is not all powerful. Lyndon Johnson did not "nail the coonskin to the door." Instead, he left the White House for the ranch on the Pedernales. Another President, Richard Nixon, was left with the thankless task of getting the United States out "with honor."

American ability to understand the outside world is limited and sometimes imperfect. The effort was begun to resist "monolithic" communism, but Mr. Nixon used the China-Russia break in communism as the fulcrum for his disengagement policy.

The American people will not willingly give "their last full measure of devotion" to a cause they do not understand or fully accept. They certainly will not again allow their sons to be conscripted into such a war. An "all volunteer" military force is one result of the Vietnam experience.

What was it really all about? It began with the Truman doctrine, way back in 1946. From then to now, the United States has used its power and spent its blood freely and lavishly on all the continents. In Europe, Greece and Turkey were saved from the Russian embrace and the NATO alliance sheltered the great capitals of the West. In the Middle East Lebanon was protected. In Latin America there was an expedition into Dominica—which some think was unnecessary—but then who can be sure? South Korea was sheltered and built into one of the more flourishing of the new countries which move in the Western orbit.

What would have happened if all this had not been attempted? Who can say? The fear was of Russian communism engulfing the world. Did it really have the capacity? But if there had been no resistance, it might have spread and the world would at the very least have learned how inefficient and heavy-handed the rule of Moscow has always been.

Need the Truman doctrine have been carried on into Indo-China? Probably not. Probably historians of the future will say that communism had spent its momentum and lost its unity before the commitment was made to Vietnam in 1965. Mr. Nixon himself substituted his more modest "Nixon doctrine" for the world-embracing Truman doctrine, and it seems the right thing to do.

Walter Lippmann labels the whole era from the Truman doctrine down to these times as "the romantic period of American imperialism." He links it with "the Great Society" as an example of Americans reaching for unrealistic and unreachable goals. There has been through it all something of the quality of a "noble experiment." The motives were high—all the way through. Certainly most Americans accepted the Vietnam commitment, at least in the beginning as being something which should be attempted. To John F. Kennedy it was necessary if only to show Moscow that he and his country could not be bullied.

And yet this moment of the end of the major American commitment in Vietnam certainly is an end of an era. The reasons which started it have receded into history. The world around is new and different. China and Russia are vying for American friendship, and machine tools. We are thankful that Mr. Nixon has succeeded in bringing this moment to pass. We can join with President Thieu in remembering Abraham Lincoln's injunction at the end of the Civil War. This is another time to bind up the wounds and work for reconciliation of all factions—everywhere. Let there be no more recrimination—although we should all think through the experience to be sure that we have drawn from it the right lessons. We do not want to repeat the old mistakes. There were mistakes. But above all—we are thankful today that the ordeal is substantially over.

CONGRESSIONAL APPROVAL OF PRO RATA REDUCTIONS

Mr. MONDALE. Mr. President, it is extremely important to have congressional review of the way in which the President makes his pro rata cuts in order to reach a budget ceiling.

First, of course, the executive branch might abuse its power to cut on a pro rata basis.

But more important, we must not be fooled into assuming that a requirement that cuts be made on a pro rata basis ends executive discretion. Control of timing and the size of cuts made early in the fiscal year confer enormous discretion on the executive branch.

Initial decisions on pro rata cuts will have to be made early in the fiscal year. These decisions will be based on administration estimates and assumptions of appropriations action to be taken by the Congress at a later time. And the executive branch may base a large cut on faulty assumptions.

They might, for example, respond to congressional appropriations to environment programs with impoundment—on the assumption that Congress would approve in total a large request for military foreign aid at a later time. The Congress might have no intention of appropriating the executive request in full.

I believe that congressional approval would be given in most cases almost automatically. But I also believe that Congress must retain the right to review Presidential actions in order to keep the executive branch honest.

CONGRESSIONAL REFORM CONCERNING THE BUDGET

Mr. BIDEN. Mr. President, the March 20, 1973, edition of the New York Times carried an editorial of considerable insight on the issue of congressional reform in handling of the budget.

The editorial referred specifically to the establishment of a unified congressional committee to study the budget in depth.

In commenting on a specific proposal the Times said:

Reforms of this kind may even surpass in importance the opening up of Congress' own committee hearings which has now begun in the House. An open budget openly arrived at would greately enhance the education of Congress and the public about budget alternatives.

I request unanimous consent to have the editorial printed in its entirety in the RECORD.

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

OPEN BUDGET

The struggle between President Nixon and Congress over the content of the budget has directed attention to a long-standing Congressional weakness. The House and Senate lack a regular system for viewing the budget as a total entity.

As matters now stand, the budget once it reaches Capitol Hill is broken down into large chunks which are assigned to a dozen separate Appropriations subcommittees, whose decisions are usually conclusive.

These subcommittees are often painstaking in their examination of specific programs. Contrary to the impression which the Administration is seeking to create of an irresponsible, free-spending Congress, the Appropriations subcommittees have cut Mr. Nixon's budget requests in the last four years by a total of more than $20 billion. The huge deficits of the Nixon years have been Presidentially-submitted budget deficits.

The fact remains that the subcommittees are too narrowly focused; they tend to concentrate on waste and day-to-day weaknesses in the management of Federal programs. But a Federal budget is much more than an adding up of expenditures or an exercise in cost accounting. It represents a series of judgments about the nation's needs and priorities; it is a kind of social accounting that requires examination in the broad context of the economy's condition and prospects and the society's strengths and weaknesses.

Out of recognition that Congress needs better independent machinery for assessing the unstated assumptions in the President's budget, Senator Humphrey of Minnesota and Representative Moorhead of Pennsylvania have introduced the Fiscal and Budgetary Reform Act of 1973, giving the Joint Economic Committee the power to study the budget and propose an over-all budget ceiling within which the Appropriations Committees would work. The committee would have its own professional staff and its own computers to enable it to analyze budget alternatives for the Congress, as much as the Office of Management and Budget analyzes them for the President.

The bill would also open up the budget process within the Executive branch. Agency heads would submit copies of their initial budget requests to the proposed Congressional Office of Budget Analysis as well as to the O.M.B. Governors and mayors would be permitted to testify; transcripts of all budget sessions would be made available to Congress and public.

Reforms of this kind may even surpass in importance the opening up of Congress' own committee hearings which has now begun in the House. An open budget openly arrived at would greatly enhance the education of Congress and the public about budget alternatives. It would correspondingly reduce the mystery which is now one of the chief props for the President's dominance in this field.

The joint study committee on the budget set by the last Congress is examining ways to strengthen procedures on Capitol Hill to respond to the President's aggressive challenge. The Humphrey Moorhead bill offers that committee a simple yet comprehensive plan which would gradually enable Congress to define its majority judgment on national priorities much more effectively than at present.

THE PUBLIC HEALTH SERVICE ACT EXTENSION OF 1973

Mr. MATHIAS. Mr. President, I was pleased to have voted in favor of S. 1136, the Public Service Act Extension of 1973 which was passed by the Senate Tuesday. My support for this measure stemmed from a longstanding concern which I have expressed to the Congress many times in recent months. In my opening statement last December at the ad hoc hearings on congressional reform in which I cochaired with the distinguished Senator from Illinois, ADLAI E. STEVENSON III, I stated that—

If we have not yet reached the point, then it is far too close for comfort, at which the Congress becomes a little more than a constitutional relic, a vestigial organ of the body politic.

I also pointed out that—

The fact is that, in relation to the executive branch of government, the Congress today has become a third-or-fourth-class power, a separate and thoroughly unequal branch of our national government. The fact is that the executive branch, not the Congress, has come, over the years, to exercise the more effective power over the federal purse.

I echoed this same theme in my remarks at a symposium on congressional reform sponsored by Time magazine in Boston, Mass., on December 12, 1972, and in an article which I wrote for the Washington Post last December.

What was at stake, therefore, in the effort to pass the Public Health Service Act Extension of 1973, was the reassertion of the Congress role and responsibilities under our system of separate and equal powers; otherwise, this body would have taken another step backward toward becoming an archaic echo, bearing little resemblance to its original form and little relevance to contemporary needs.

I noted with great interest, that S. 1136 was reported out of the Labor and Public Welfare Committee by the overwhelming margin of 15 to 1 and that 5 of the 6 Republican members of the committee voted to support this bill.

The situation which has given rise to the need for legislation like the Public Health Service Extension Act of 1973 in a way epitomizes the key issue facing the 93d Congress; namely, should the Congress allow the executive branch to legislate through the budget process. By passing this bill, by the wide margin of 72 to 19, the Senate has demonstrated to the American people that the Congress is the one institution which is uniquely theirs, in which the issues that disturb and divide them can be openly and intelligently discussed and decided, in which various views are fairly represented and fully explored—an institution, in short, that functions as a genuinely democratic deliberative, decisionmaking body.

I am pleased to note that the distinguished ranking Republican of the Labor and Public Welfare Committee, Senator JACOB K. JAVITS, in his statement on March 8 in support of this bill pointed out that—

The legislative extensions of the Public Health Service Act now being considered are not intended to be indicative of any Senator's opposition or support of the President's position regarding a particular provision.

I certainly agreed with that observation. What this bill will do, however, is to provide the Congress with the opportunity to regain the confidence of the American people by demonstrating its competence to cope with the issues represented in the health programs encompassed in this legislation. If there are federally sponsored health programs that should be substantially altered from their present form either through expansion, modification, reduction, or termination, then it should be the Congress working in concert with the executive that determines the destiny of these programs. Mr. President, that is what the Constitution of he United States of America would have us do, and having the power, we also had the duty to act as we did.

ROCHESTER, N.H., STUDENTS SHOW THEY CARE

Mr. McINTYRE. Mr. President, in the last week I have received 23 letters from students at Spaulding High School in Rochester, N.H., dealing with the plight of native Americans and the current situation at Wounded Knee, S. Dak.

If all Americans, of all ages, had thought as deeply and cared as much about this problem 50 or 100 years ago there would not be a confrontation there today and there would not have been a massacre there in 1890.

As I speak here today, there is no peace yet at Wounded Knee. We can only hope that the parties involved will arrive at a compromise that will mean not only peace, but a new beginning of justice for native Americans.

For as much as all of us deplore the violent nature of the Wounded Knee protest, we must all agree that a full investigation of the injustices committed against American Indians is long, long overdue. I am confident that the Senate will move to initiate just those kinds of hearings in the very near future.

Mr. President, I ask unanimous consent to place the letters of the students from Spaulding High School in the RECORD. I want to share with my colleagues their expression of the feelings of millions of Americans that the time has come for justice for native Americans.

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

SPAULDING HIGH SCHOOL,
Rochester, N.H., March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: Enclosed in this envelope are letters written by my eighth period freshman English class concerning the plight of the American Indian in general and the situation at Wounded Knee, South Dakota in particular. While reading Bury My Heart at Wounded Knee the students became aware and concerned about the problems of the American Indians. At this time the Oglala Sioux captured Wounded Knee and made the whole problem contemporary.

These letters here enclosed to you are an English assignment, but are, to my mind, far more important than just that. For most of these students, it is the first time they have ever written to a government official and expressed their opinion on an issue. I am well aware that you are a busy man and cannot answer each student individually. However, if you would please answer their letters with a general response to the class, I would most appreciate it. It was the class decision to write to you. In three years these young people will be voting and such positive reinforcement as an answer from you will aid them in the realization of the responsibilities and privileges of citizenship. Thank you for your attention.

Sincerely,

PANELA J. HUBBARD.

ROCHESTER, N.H.,
March 12, 1973.

Hon. Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I would like to express to you my feeling on the Indian Affairs. I feel that the United States government is neglecting the Indians of America. The Indian reservations are barren and contain unlivable conditions. The Indians on the reservations are mostly unemployed, uneducated, and lack good medical facilities.

Canada has three hundred and sixty thousand less Indians in their country than we do. They also have twenty two hundred more Indian reserves than we do. I feel the government should set up more reservations and provide them with the proper care.

The incident which is now going on at Wounded Knee, South Dakota is only one of many incidents to come if the United States government,continues turning its back on the Indians.

Something must be done to help the Indians, before they decide to do something. We would not want another massacre at Wounded Knee. I do hope you can understand why I feel this way.

Sincerely yours,

SUE BELLEMEUR.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing to you about the situation in Wounded Knee, South Dakota. I have been reading about Indian history and I am very concerned about the way they are being treated. The government has expected many of them to live on dry, barren wasteland without means of irrigation. The Indians live in shabby old buildings because they have no jobs. Their children receive little education. I am asking you to please consider the American Indians and help them to get a better education and better jobs.

Sincerely,

FREDERICK F. HELVIE.

ROCHESTER, N.H.

Hon. Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing in reference to the incidents at Wounded Knee, South Dakota. We, at Spaulding High School, are in the process of reading *"Bury My Heart at Wounded Knee,"* by Dee Brown. The book "painfully and shockingly conveys not how the West was won, but how it was lost."

I wholeheartedly believe that the Indians are being treated like savage, senile prisoners.

We benevolently forced them on a two-bit, good for nothing reservation. Here we made them live on land that was unsuitable for whites, but good enough for the Indians.

I sincerely hope that you take into consideration the things I have said. Thank you.

Cordially,

KAREN LAMONTAGNE.

EAST ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I am writing to you about the conflict at Wounded Knee, S. Dak. I feel that even if you cannot grant the Indians all their demands, you should do something about some and consider the others. We are reading the book *Bury My Heart at Wounded Knee* in our English class, and it tells us how all through the years the Indians have been cheated out of all their agreements with the white people. I think that we are far more modern than we were back in the 1800's and the Indians should be given the chance to have better reservation facilities.

Sincerely,

KEVIN HARTE.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: As a ninth grade student at Spaulding High School I am concerned over the dispute at Wounded Knee. My English class is in the process of reading *Bury My Heart at Wounded Knee* and I think throughout American history the Indians have been treated poorly, to say the least. The colony at Plymouth would have been wiped out if not for the American Indian. I think they should be given full possession of Wounded Knee and much more besides.

The Indians are as human as you or I. We both had good education and a chance for improvement. You certainly have proved that by your position as United States Senator. I feel the Indians should be given that chance also. I don't feel the least bit proud of my American heritage when it comes to the treatment of the Indians by us Americans. Wounded Knee was an Indian land; so was much of our West. If anything should have happened back in those times, it should have been the Indians pushing out the white people as we moved West. In my opinion the reservations should be abolished and the Indians given educational and occupational opportunities, and Wounded Knee be forever theirs.

Yours truly,

LOUISE STODDARD.

UNION, N.H.,
March 8, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing to you with concern about the American Indian. I attend Spaulding High School in Rochester, N.H. My English assignment has been to read the book *Bury My Heart at Wounded Knee.* In reading this book I have found out about how the Indians have been treated. I do not think it was fair to put them on reservations or to have them on reservations now. I would like to see some changes in the conditions of the Indians.

Yours Truly,

LORRAINE JOY.

SANBORNVILLE, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am very concerned about the conditions of the Indians. When the white men tried to change the Indians to their way of life, the Indians followed the white man's life style. He wore white mans clothes and followed his laws and rules. The thing I really don't understand is if the Indians were to be like and live like the white man, why they are on reservations. Americans do not live on reservations, do they? Black men do not live on reservations, nor do Chinese, Mexicans, or any other nationalities that have become citizens of the United States. The Indians have lived in this country much longer than anyone else, yet they seem to have been treated much worse than many people who have just recently become citizens.

I feel that the Indians should be free of the reservations and that you should deal with the poor conditions of the Indians.

I am a student at Spaulding High School, in Rochester, N.H., and my English class and I have been reading the book *Bury My Heart at Wounded Knee* by Dee Brown. We have also been keeping up to date on the happenings at Wounded Knee, South Dakota, I hope you feel the same as I do about the welfare of the Indians and will try to do something for them.

Thank you.

Sincerely,

NANCY CLARK.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing this letter to express my feelings and concern for the American Indians, especially the ones at Wounded Knee. Their living conditions are somewhat less than luxurious. They are forced to live on barren wastelands called "reservations." By coincidence, we happen to be studying the book *Bury My Heart At Wounded Knee* by Dee Brown. This book really shows how the Indians were maltreated and abused, starting with Columbus and hopefully ending within a short period. I feel the Indians should have better land for reservations if they are forced to live on them. Like the buffalo and eagle, they should be preserved.

The battle at Wounded Knee was one of the last, let's keep it that way.

Sincerely,

MIKE COUCH.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing to you in concern about the situation of the American Indian. In my English class at school we are reading the book *Bury My Heart at Wounded Knee.* We have learned how the Indians were abused and how most of their land was taken. Now that they are asking for some things from our government, I think that it would only be fair if we met some of their demands. I think that they should receive more aid from the government, and I hope that many changes will be made in their benefit.

Yours Truly,

CAROL BRYANT.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing to you in regard to the incident at Wounded Knee. The reason I am writing to you is because I feel that the Indians have been totally mistreated. They are human, people with feelings. They have a right to the land that was wrongly taken from them. I do not feel killing is a peaceful way to settle a disagreement. If you don't agree, that is okay, for you also have your opinion. At least look into this as you would any other important incident. Right now it doesn't seem very upsetting, but it could result in the repeating of history mainly December 28, 1890. Please, look into this because people's lives are involved. Thank you.

Respectably,

PEGGY GILMORE.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am deeply concerned about the Wounded Knee situation. I am a student in high school and our class by coincidence is reading the book "Bury My Heart at Wounded Knee." We haven't even finished the book yet and what I have read is terrible! And I hear conditions aren't any better. I truly hope you will do something about this to help the Indians.

I hope you make a thorough investigation on the subject and straighten this whole thing out. And tell the Indians I'm with them all the way!

Sincerely,

DONNA DESMARAIS.

ROCHESTER, N.H.,
March 3, 1793.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: As a concerned citizen, I would like to voice my opinions on the situation in Wounded Knee, South Dakota.

The Indians were the first people to come to America, so I believe that they are entitled to any land they want. If you really thought about it, taxes probably should be paid to the Indians if to anyone. I agree with them for wanting to control their lives on the reservations. Indians also want better schooling for their children, which is something everybody wants with such importance set on education. I have also heard that they want their children to learn their tribal customs and languages. I think this is great because I would like to learn more about my own heritage.

I am not very well informed of the situation, but I would like to learn more.

Sincerely,

DAWN ASHLEY.

ROCHESTER, N.H.,
March 12, 1973.

DEAR SENATOR MCINTYRE: I am writing in regards to the Indian take-over of Wounded Knee, South Dakota.

I am a freshman at Spaulding High School in Rochester and my English class is reading *Bury My Heart at Wounded Knee.*

I think something should be done about the Indian reservations. From what I've heard they aren't fit to live on. Over the years the Indians' condition has been deplorable and something should definitely be done about improving this situation.

Thank you.

Sincerely,

KAREN OSGOOD.

ROCHESTER, N.H.,
March 8, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building.

DEAR SIR: As an informed senator you must listen to the news. One item that sticks in my mind is what is happening at Wounded Knee. It would be disastrous for another massacre to happen as it did so many years ago. You might be thinking that if they get slaughtered it is their fault, but, if they hadn't been cheated through the years, none of this would have happened. Please look into this and if you get a chance, restore the rights to the Indians.

Sincerely,

ANDRE LAURION.

ROCHESTER, N.H.,
March 9, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: It is my opinion that some agreement should be drawn up between the Indians and the "white people." All along we have been unfair to the American Indian and it is my opinion that we should have the reservations checked. Also, if the Indians want to buy Wounded Knee for themselves they should be able to buy it, instead of leaving it open for people to go there and nose around on land that doesn't belong to them. The Indians should have their say in what to do about "The new attack on Wounded Knee."

Have you read the book called *Bury My Heart At Wounded Knee?* Well, if you have not, you should. We are now reading this book in English classes here at Spaulding High School. It tells of some really barbarous things that the "white people" did to the Indians for no good reasons at all. I sincerely hope that your vote can do some good for the American Indian.

Yours Truly,

PENNY MEARS.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am concerned about the recent happenings at Wounded Knee, South Dakota. In my opinion I think it is ridiculous that this sort of thing has not been settled between the Indians and Whites a long time ago. You would think that with the highly developed society of today that this matter would have been resolved. Furthermore, I think something should be done immediately, whether it be exactly what the Indians request or some other improvements for the better.

A Concerned American,

JAMES L. KIROUAC.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I am writing to express my concern for the Indians of America. It is very hard to put my feelings into words. Many people, including myself, feel that the Indians have been maltreated long enough. The white men have deceived them so many times, that they have no trust left in us. Very coincidentally, a day before this Indian conflict started, my English class started reading *Bury My Heart at Wounded Knee* by Dee Brown. This book has given me a better view of how injustly we have treated the Indians. I thought a letter written to you would help to inspire you to try to do something about this situation. We are all very concerned and hope that in some way you can express our concern to others. Thank you so very much for listening.

Sincerely,

CHARLENE MAXFIELD.

OSSIPEE, N.H.,
March 11, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I attend Spaulding High School and am reading *Bury My Heart at Wounded Knee* in my English class. For an English assignment we have to write to either our Senators or Congressman about what we think should be done for the Indians.

I feel that we are not doing enough for the Indians on the reservations. I think that it is terrible the way the Indians were treated in the past. I don't think that it is right for the Indians to have to be put on reservations when they are on worthless ground that nobody else wants. It was terrible the way men got the Indians to sign those papers when the Indians didn't know that they were signing away land.

I think that the Indians should be able to pick their own representatives for Washington. We should be able to have civilized discussions in Washington or wherever they choose with the Indians just like we had over in Paris. We shouldn't want to fight with them like long ago. In the Bible at Isaiah 2:4 it points out that we should not fight: "And they will have to beat their swords into plowshares and their spears into pruning shears. Nation will not lift up sword against nation, neither will they learn war any more." Peace will never come from violence, it has to be talked over in a decent peaceable manner.

Sincerely,

WENDY FISHER.

ROCHESTER, N.H.,
March 12, 1973.

Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing this letter to express my opinion and concern for the Indians in Wounded Knee. I don't think either side will accomplish anything by killing each other. The Indians were there first, we have no right to push them out into some barren little corner.

The Indians should be given their choice of better schools and living conditions. The land they have now (which isn't very much) isn't fit to live on. These Indians deserve a better environment to live in. I want to see something done about this!

Sincerely,

JOAN RINES.

ROCHESTER, N.H.,
March 8, 1973.

Hon. Senator THOMAS MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I would like to express my opinion to you on the Indian affairs in Wounded Knee, South Dakota.

Most of my opinions to the situation which has now arisen have come through class discussion on the book, "Bury My Heart at Wounded Knee," by Dee Brown, which my English class is now reading.

I feel that the Indians should be given a fair chance at living. My father says that the Indians should be going about this the wrong way, but I feel that if they would have gone about it a different way they wouldn't have been heard.

I believe the Bureau of Indian Affairs ought to be thoroughly investigated to show how, if, or why these Indians are being cheated.

All of their lives the Indians have been cheated by white men. Of course, I know that not all Indians were good and not all white men were bad, but I don't see why this should continue. People ought to see to it that they get something out of this instead of living on a reservation whose land is so fallow and dry it won't produce anything, and a water supply with a very high alkalai content.

I feel that all people involved, from the Senate to the Indians, themselves, should see to it that they will have a new start at living and be able to make it work.

After all the Indians are people, too, and there is a law against discrimination.

Thank you for taking the time to read my letter. I realize you must be busy with this going on, but I feel that since it was my parents and friends that elected you, you should at least hear my opinions and at least try to do something about them.

Sincerely,

BARBARA BADGER.

ROCHESTER, N.H.,
March 14, 1973.

Senator THOMAS J. MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am deeply concerned with the situation at Wounded Knee, South Dakota. This country has treated the Indians badly in the past century or so.

I believe that the Indians have a right to the land at Wounded Knee. It belonged to the Indians once, but it was taken away from them. It is rightfully theirs. If the Indians are willing to buy the land, it should be sold to them.

I believe that you should do something about all of the Indians, not just the ones at Wounded Knee. They should have the right to speak what they think about the whole situation. They have their rights also. It is in your power to do something about it.

I am a Freshman in the Spaulding High School in Rochester, N.H. I am currently reading *Bury My Heart at Wounded Knee* for my English class at school. If you haven't read this yet you should. It tells how all the white men took away the Indian's land.

Please send me some information of the Oglala Sioux that are looking over the land at Wounded Knee, South Dakota.

Very Sincerely,

TERRY TOWLE.

DOVER, N.H.,
March 9, 1973.

Senator THOMAS J. MCINTYRE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I would first like to open my letter with an explanation which is this: The students in our English class are reading the book *Bury My Heart At Wounded Knee*. It happens that we started the day before the Indian attack on Wounded Knee, S.D. took place. Although we are not very far into the book, we can see an angeringly cruel treatment to the Indians as far back as Columbus' day. These facts led up to this attack some 460 years later. My question is this, Senator McIntyre: how do you stand on this matter? In this letter I would like to bring out some points that hopefully will show you how a vast majority of the public feels.

You see, when a baby is brought into this world, he has no say in the matter as to what race, religion, sex, and nationality he will be. These are decided by society long before he is born. And in this supposedly *"free and democratic"* country, unfortunately so are things like whom he'll associate with, where he'll live, what type he'll marry, and what his career will be. You say, that's not so for most, but think about it Senator McIntyre.

When the child before mentioned is born an Indian, these things are almost mandatory: He'll live on a reservation, which is worse than the ghettos and slums. This reservation land isn't good enough for whites or Negroes. So why is it all that great for Indians? Chances are he may never leave the reservation. His occupation and education will be next to nothing. He'll marry another Indian, his children will have the same kind of life he had, probably wishing they were never born. Man treats the Indian like a dog. Where do they get off putting themselves above the Indians?

Well, Senator McIntrye, again I ask: "What is your position on the matter?" "If they took a vote on this issue right now, how would you vote?" I think almost all the people in New Hampshire would want you to vote in the favor of the Indians. If there was anything I could do for the Indians' fight for right and freedom, I'd do it. But hopefully this letter is my one form of help.

Yours Truly,

MARILYN TAYLOR.

S. 1136—AN OPPORTUNITY LOST

Mr. DOMENICI. Mr. President, on Monday, March 26, I addressed this body on the need for the Congress to begin to confront the issues instead of confronting the President. I pointed out that it was much easier to find fault with what someone else is doing—namely the President—than it is to face up to doing a better job ourselves to develop our own game plan and have the courage to stick to it. I urged the Congress to find that courage and determination to discard its "business as usual" attitude and try to accommodate the President as he seeks to confront the issues.

Yesterday the Senate had a unique opportunity to do all these things in its actions regarding S. 1136, the bill to extend the expiring authorities of various health programs. As reported, that bill would extend those authorities from their expiration date of June 30, 1973, for one full year until June 30, 1974. The estimate of costs during that year's extention was in excess of $2 billion.

The Committee on Labor and Public Welfare in its report recognized a need to reevaluate these authorities, to upgrade, improve, transfer, reduce, and even eliminate certain authorities to achieve more effective programs. The committee and proponents of S. 1136 maintained that the administration had failed to submit legislation for these purposes while admitting that the Senate had likewise failed to do so. The solution suggested by this bill was simply to maintain the status quo for a year while the reevaluation process was being carried out, in spite of the fact that the status quo, admitted to need improvement, could cost the American taxpayer more than $2 billion.

WALTER LIPPMANN AT 83

Mr. BIDEN. Mr. President, Walter Lippmann represented the more thoughtful aspects of journalism. One need not agree or disagree, in whole or in part, to recognize that whatever his judgments, they were arrived at thoughtfully and rationally and without the rancor that often scars contemporary writing today.

On March 25, 1973, the Washington Post published excerpts of an interview between him and Ronald Steel who is writing a biography of Mr. Lippmann. The interview appeared in question-and-answer format. Whatever our political and philosophical tendencies, I believe the interview offers insights to us all.

Mr. President, I ask unanimous consent that the interview be printed in the RECORD.

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

Q. Nixon's been President for over four years. How would you assess his performance?

A. His role in American history has been that of the man who had to liquidate, defuse, deflate the exaggerations of the romantic period of American imperialism and American inflation. Inflation of promises, inflation of hopes, the Great Society, American supremacy—all that had to be deflated because it was all beyond our power and beyond the nature of things. His role has been to do that. I think on the whole he's done pretty well at it.

Q. Aside from his prolongation of the Vietnam war, which you've criticized, how do you feel about his domestic policies?

A. He will do anything he thinks is expedient.

Q. Is that necessarily a bad thing?

A. No, it isn't. He's a Keynesian when it suits him and he isn't when it doesn't suit him. That's the way public men have to act.

Q. You see him as responsive to public mood?

A. He's very cunning.

Q. So you would give him rather high marks?

A. Yes. He has played a very disagreeable role, but a role imposed upon him by historical necessity.

Q. Do you look on Nixon's crushing defeat of McGovern as merely a personal victory, or as something deeper—a repudiation of the philosophy of the New Deal and of the Great Society?

A. My feeling is that what happened in the Nixon-McGovern election is what happens in all elections of advanced modern industrial societies when the basic policy of the Jacobin or Rousseauistic philosophy is repudiated. By that I mean the belief that man is essentially good and can be made perfect by making the environment perfect, and that the environment can be made perfect by taxing the mass of people to spend money for improving it. Modern society won't accept that philosophy and it is usually repudiated. Sometimes the repudiation takes the form of fascism, but this rejection is morally and intellectually the equivalent of it, with-

out some of the ugly features of fascism.

Q. What do you mean by the "moral equivalent" of fascism?

A. The equivalent of fascism in my view is the repudiation by the society, by the masses of people, of the whole Rousseauistic belief in man's inherent goodness and perfectability. The mechanics of the repudiation is another matter. Whether the society takes the form of a dictatorship or a parliamentary system is a secondary question to what is being repudiated.

Q. Were these ideas repudiated because they were too ambitious or because they represented something incapable of achievement?

A. I think they represent something that is incapable of being achieved in human society. They are philosophically and morally untrue. Man is not naturally good, nor is his nature perfectable by economic means. The Jacobin philosophy is being repudiated in every advanced society because it involves attempting to do by taxation and appropriation things not possible to do. It's not possible by government action or any other action I know to create a perfect environment that will make a perfect man.

Q. Do you believe that those policies did in fact fail?

A. I don't think every detail of those policies, every reform, failed. But the idea that motivated them has failed.

Q. If the ideal has been repudiated then what happens to the effort to achieve social change through government action? Is that repudiated too?

A. It goes on, but there are a lot of errors that have been discarded in the course of human history, and this is one of them.

Q. Do you think the effort to achieve any kind of social change through the government is undesirable?

A. Certainly it's desirable. It's not the effort to achieve reforms that's wrong, but the inner ideological or philosophical content of these particular efforts. This is where the fallacy lies—the belief in human perfectability through government action.

Q. Did McGovern represent this philosophy?

A. Yes. McGovern believed in all the corollaries that go with this philosophy and he espoused any one of them that seemed to him promising. In this election, the people themselves showed that they won't have it. This is a philosophy that has been more or less prevalent in the Western world since the 18th Century. People have fallen for it for generations. But now it is being repudiated almost everywhere. Sooner or later it always gets repudiated.

Q. How would you distinguish what you all call Jacobinism from the kind of liberalism represented by Lyndon Johnson?

A. The difference is that liberalism is a much more measured form of human improvement. It neither claims nor seeks the exaggerated results claimed by Rousseauism and Jacobinism. It regards man as improvable but not perfectable; it takes a much more modest view of what mortal man is capable of doing.

Q. Were the goals of the New Deal and the Great Society rooted in this Rousseauistic or Jacobin approach?

A. Yes. We have been in the grip of this general view of the nature of society at least since Woodrow Wilson.

Q. If this philosophy has been repudiated, does this mean there will be less government intervention in the lives of the people?

A. No, I wouldn't say it would mean less intervention, but the difference between perfectability and improvability is a very big one. The belief in government as the agent of perfectability is what has been repudiated. People have rejected the idea that you can use the government—by controlling it, by getting the majority or physically seizing it—to do what I regard as what history has now shown to be impossible. Sometimes this repudiation can take the form of facism. But it didn't here. Instead it took the form of Nixon Republicanism. But a corruption of that, or a more extreme form of it, could lead to fascism, just as fascism can lead to Nazism. The Jacobin-Rousseauistic view of society and human nature will lead to the most dangerous forms of fascism or even Nazism if it is not brought under control.

Q. So this administration should be welcomed by liberals because it's headed off a reaction that could have degenerated into fascism?

A. I supported Nixon in '68 and I preferred him vastly to McGovern in '72. In that sense, yes. That doesn't mean I'm enthusiastically pro-Nixon. What he's done is historical: Nixon has performed a service that historically had to be performed if American society was not to be blown up or disintegrate or crumble.

Q. Nixon has certainly appealed to self-reliance and attacked the social welfare programs of the past four years. Won't this lead to a cynical neglect of the poor, the disadvantaged and the abandoned?

A. I thought there was no hope for those abandoned, if you call them that, members of society in those programs. These programs had been greatly excessive, as occurs in every advanced society. But it was much exacerbated in our society because actually taking from those who had really meant taking from whites to give to blacks. That was a cause of deep division and bad feeling in this country.

Q. But if the government does not play a big role, what hope is there for the disadvantaged?

A. I'm not accepting Nixon's philosophy. But no government can bring people up. They have to achieve it themselves. The belief that the government can do it is one of the great illusions of our time.

Q. In the kind of society we have, can the disadvantaged achieve economic and social equality?

A. I don't know. Nobody knows enough now to say yes or no to that question. There are all kinds of hidden assumptions we don't know the answers to.

Q. Being opposed to what you call Rousseauian Jacobinism, do you consider yourself a conservative?

A. I am a conservative; I think I always have been. But that doesn't mean that I'm a conservative who agrees with William Buckley.

Q. What kind of conservative are you?

A. I never joined Barry Goldwater or anybody like that. I don't consider myself that kind. I hope and trust I am a conservative in the line of Edmund Burke. I believe in certain fundamental things in philosophy and constitutional law which are conservative as against the Jacobins.

Q. One of the definitions of conservatism is a belief in a hierarchical traditional society. Do you believe in that?

A. Well, I believe in what we used to call meliorism. You can make things better, but you can't make them perfect.

Q. Is it effective to deal with the symptoms of poverty, for example, rather than the causes?

A. Can anybody know what the causes are? There are many causes: laziness, wastefulness. Those are traits inherent in human beings. Some make for poverty and some make for wealth.

Q. The liberal would say we can isolate and eradicate the causes of poverty.

A. Does he know them? If he thinks he does, he's mistaken.

Q. Is this rejection of the Rousseauian philospohy also a repudiation of the goal of social equality and progress?

A. Social equality, if you carry it far enough, is an absurdity. That doesn't mean that you have to be in favor of social privilege or inequality.

Q. I suppose the essence of Rousseau's thought is that man is corrupted by his environment and by social conditions—"Man is born free but he is everywhere in chains." It's this conception you consider false?

A. Yes, if you like, that's one thing.

Q. If you reject Rousseau's argument that man is born free, but is enchained by unjust laws, how do you achieve equality and justice?

A. Look, man isn't born everywhere free and equal. It's impossible that he should be born that way. The Rousseau-Jacobin doctrine was that he could be perfected by changing his environment.

Q. If you reject this, isn't the alternative simply to ride along with the status quo?

A. I don't think so. I don't think it does at all. It just makes you work very hard. You have to do things specifically and practically and in accordance with the possibilities of man. I read the other day a quotation from a Chinese which seems to me to sum up that Jacobin view. He said, "On television we watched the men the Americans put on the moon. We are going to be the first to put a new man on earth." That, I think, is exactly the Jacobin revolutionary philosophy.

Q. I suppose the idea that man is not perfectable is based on the belief in original sin. Do you believe in original sin?

A. In that sense, yes.

Q. Government is playing a much greater role in the lives of its citizens. Do you see this as irreversible?

A. Yes, I do. We're a mass society and a great many of our troubles and evils come from that. There are too many people alive in order to govern, control them and inform them. You have to have things that you wouldn't have dreamt about if you had a smaller population.

Q. So even though the people have rejected the idea of the government as an agent of perfectability, they've accepted that the government must play a powerful role in their lives

A. We've accepted it, but we're very rebellious about it, too. I mean people hate filling out all the forms—I know we do in this house—and we have to employ lawyers and bank people and so on to fill out forms for us and tell us what they mean. Thats a burden. There are a lot of people who have just resigned themselves, taken themselves out of what we would call the welfare state. They don't fill out the forms, they just don't live in it.

Q. As a result of this growing governmental role, do you see a danger of authoritarianism and repression?

A. There's always a tendency of the governing power to be repressive if it can be. That has to be resisted.

Q. What are the best means of resisting? Through the courts?

A. The role of people is crucial. We resisted Joe McCarthy in the 1950s by denouncing him. McCarthy didn't have enough power to arrest us, those of us who did denounce him, and so we revealed him for what he was. Finally a lot of people got angry with him.

Q. Do you see the government's prosecution of Daniel Ellsberg as an act of repression or intimidation?

A. No, I don't think it's an effort to do that. I think public papers which are classified and regarded as secret should not be stolen or revealed by anybody who is not willing to pay the price of doing it. It's the case of the Boston Tea Party: If the king's tea is there and you dump it in the harbor, then you expect to pay the penalty of dumping it in the harbor. One thing I like about Ellsberg is that he doesn't deny that he will take the penalty.

Q. If there's a higher loyalty than the law itself should those with the courage to defy it be applauded?

A. I think it was a good thing to reveal the Pentagon Papers because classification has become a vicious habit which needs to

be resisted. But that doesn't mean that every paper should be stolen or revealed. The penalty for doing that must be enough to deter anybody from doing it frivolously or easily.

Q. There's a great controversy now about executive privilege and whether members of the President's personal staff and his Cabinet should be obliged to testify before Congress. Do you feel the President is abusing this prerogative?

A. While there obviously has to be some kind of executive privilege, it must be used with the utmost discretion and restraint. Our system of government will simply not work if any principle is pushed to an extreme. There must be respect for the rules on the part of everybody—the President, the Congress, the courts. The men who wrote the Constitution were rational gentlemen. They knew the system they were devising could not work unless the rules were respected. Their primary assumption was that the kind of people who were running the government would play by the rules. If the President refuses to do this, nothing works and you don't have our constitutional system. The President of the United States is actually a king, with all the powers and all the limitations inherent in a king. What is important is that there be respect for the unwritten law, which is an important part of the American constitutional system.

Q. It's been said that one of the effects of the Vietnam war has been the questioning of all forms of authority—the family, state, religion. Do you think this is happening?

A. I don't think it's the result of the Vietnam war. The breakdown of forms of authority is a much deeper and wider process in modern history than the Vietnam war. I wrote a book back in the beginning of the century about the dissolution of the ancestral order. Clearly, the ancestral order of the family, for instance, has been much more affected by the contraceptive pill than it has by anybody's speeches or by the war.

Q. Is this breakup of the ancestral order dangerous?

A. Well, yes. It's dangerous in the sense that the fabric of society is of a cellular structure, of families related to each other in tribes and nations. Of course the destruction of that threatens to produce the chaos of modern times.

Q. You see this as leading to authoritarianism or fascism?

A. It's absolutely one of the things that will occur. Yes, there'll be all kinds of repression.

Q. It is said that we live in an age of permissiveness in which all the old values pretty much have been destroyed, including the belief in patriotism and the state. Can people live with that kind of uncertainty in their lives without any focal point of attachment?

A. I think it's a good question, but there's no easy answer to it. Whether people can live without an organized life around authority and the belief in something is a question that the modern age has been experimenting with, and hasn't solved.

Q. I suppose it's in periods like this that people have created new religions in the past.

A. When they've been lucky.

Q. How do you feel about the future of parliamentary democracy?

A. I think it's increasingly unworkable mechanically with the growth of population. Aristotle said long ago that there's a certain size a good city should have so that the human eye could see its limits. There is a limit which we have passed in these mass democracies. Societies are not capable of governing themselves if they're that crowded and that numerous.

Q. Then you look at parliamentary democracy as . . .

A. As a doubtful experiment.

Q. And a parenthesis in history perhaps?

A. Parliamentary democracy was the product of a much simpler, less numerous, stratified society, class system. Whether it can be applied to these massive modern democracies, I don't know. It's very doubtful.

Q. What do you see as the alternative?

A. I don't think anybody can see an alternative. I certainly haven't got a panacea for it. That's a very American question you asked. I'll tell you what: Part of this illusion of what I call Jacobinism for short is that there's a remedy for every evil and a solution for every problem. A lot of things are not solvable.

Q. If they're not solvable, what attitude can we take toward these problems—stoicism?

A. Stoicism, resignation, acceptance. Part of the myth of the perfectability of man is that he can solve everything.

Q. If we're forced to live in a world where we recognize that problems can't necessarily be solved and also that America may not have anything very special to give to the world, we're in for a very difficult process of adjustment. Isn't the basis of our society that we can create the future?

A. It is the American myth.

Q. Other societies have something to fall back on: the continuity of their history, a religion, a strong social structure. We have nothing like that.

A. No, and we have this feeling—this comes from the Puritans—that we are a chosen people with a mandate from God Himself to make a perfect world for ourselves and for everybody else. Of course that is a terrible myth.

Q. There's been a great concern over the freedom of the press recently—the right of newsmen to protect their sources, the effort of the government to intimidate the media. You've been concerned with this problem throughout your career. Do you think there is a serious threat to freedom of the press?

A. I think that very often troubles of the press come from a commercialized desire to get scoops, to be the first to print the news. These "sources" very often are places to get tips of what's going to happen. The desire of newspapers to be the first to print particular information is corrupting to the whole journalistic process. In the journalistic world I grew up in, it wasn't a question of law whether you had to divulge your sources. It was a question of whether the reporter had the guts to refuse to reveal where he got the information, whether he was willing to go to prison if necessary. That was regarded as the elementary code of a newspaper man. The reverse of that was—and this was always my practice—when someone told me something in confidence, I didn't pass it on to the reporters so we could get a scoop. I had a relationship with the man I was interviewing and I didn't want to print that.

Q. Does the press have a responsibility to publish what it thinks is newsworthy at whatever cost?

A. I wouldn't make a generalization. I think raw news, raw fact, is not intelligible anyway to the public, and has to be explained. The explanation is an important as the fact itself. The duty of the press is to put forth no raw news but explained news.

Q. Does the press have a responsibility to the government to keep secrets, even if it thinks the government is doing something wrong—as in the Bay of Pigs or the Pentagon Papers?

A. I think that's a matter of conscience. I would decide only in specific cases.

Q. You've known many officials during your career. What is the proper relationship between reporters and government officials?

A. I certainly have. I feel that newspapermen cannot be the personal or intimate friends of very powerful people. They just can't. It won't work. They'll either end in corruption of the press or a quarrel, and I've said that before. You cannot be in the confidence of a king.

Q. There is a lot of talk now about the press abusing its privileges and of government restraints on the press. Should the press monitor itself through a public commission, as a way of preventing the government from interfering?

A. The press should be responsibility edited. But it shouldn't edit itself by law, decree or flat or anything like that. Commissions to monitor the press and things like that are artificial anyway. They never work.

Q. You have probably been the most successful political journalist we've ever had in this country. But if you had it to do over again would you have chosen a different kind of life?

A. Had I been gifted to do it—and I wish I had—I would like to have been a mathematician.

Q. Why?

A. I would have liked that kind of life. The precision, the elegance . . . there's something about it that attracts me esthetically.

Q. Did you consider the writing of books or your journalism more important?

A. I considered writing books the more important thing. I always viewed journalism as the place where I accumulated facts and information that I used for my books. Being a journalist was rather like the doctor, you know, who has to go and practice.

Q. Forty years ago you launched a new kind of column—serious political analysis—that had never been done before. But with the growth of TV and news magazines, do you think the political column still plays an important role today?

A. I think it plays an important role whether or not it's signed and presented as a column. The columnist is really a specialist writing editorials. The column is an editorial, and an editorial really should be an explanation of a fact. A good editorial is something which makes a fact much clearer.

Q. Are the newspapers performing that task adequately today?

A. No, but it's a very difficult task to perform.

END OF VIETNAM WAR—FOUNDATIONS FOR PEACE

Mr. FONG. Mr. President, I rise to express my heartfelt thanksgiving that all known American prisoners of war of the Indochina conflict have been released and that our troops are now out of Vietnam. Great credit is due President Nixon for this happy day.

Words cannot adequately express the joy that I feel not only for the men themselves, but also for the wives, children, and families of our prisoners of war. Their long and patient vigil has finally come to an end.

At this time of rejoicing, we must not and we do not forget our men who are missing in action. I hope that in the weeks and months ahead total effort will be expended by everyone to have as full and complete an accounting of our MIA's as possible. Nothing less will fulfill our duty to those brave men and their families.

In addition, praise must be given to the millions of Americans who faithfully and loyally served their country at a time when people were criticizing our involvement in behalf of the South Vietnamese and when thousands chose to desert their country. I cannot help but have the highest admiration for those brave young men and women who answered their country's call to leave their families and their jobs, and to put their futures—even their lives—on the line in an effort to assist an ally in need of help. Many have been crippled or scarred or maimed for life; many others—over

50,000—gave their full measure in serving their Nation.

TRIBUTE TO PRESIDENT NIXON

That the prisoner exchange and the return of the last of our troops from Vietnam have been successfully accomplished is due in large measure to President Nixon. When the other side balked, he remained firm and resolute. When the other side refused to reveal the names of all the POW's, he insisted in full disclosure and full release of the men.

All Americans can be thankful that our Nation has in the White House a man of exceptional courage and fortitude and perseverance. He has demonstrated over and over again that he cannot be bluffed or intimidated. As a result, our men have been brought safely home.

As we give thanks for the safe return of our men and for the end of America's military involvement in Vietnam, we also say a prayer that peace will come to all Indochina.

However, in view of numerous cease-fire violations since the agreement went into effect 2 months ago, there is a cause for concern that the fragile cease-fire will be broken. Obviously, peace will not be restored to Indochina if the signators to the Agreement on Ending the War and Restoring Peace in Vietnam do not live up to the provisions of the cease-fire document. I earnestly hope and pray that all parties to the agreement will realize the advantages to making the ceasefire work far outweigh the costs of resuming old hostilities.

President Nixon is to be commended for carrying out his pledge to end the Vietnam war as soon as possible in a way that will not invite future Vietnams.

Merely ending the war by withdrawing our troops as some suggested:

Without any foundation on which to build lasting peace;

Without provisions for the prompt release of all American prisoners of war and a full accounting of the missing in action;

Without safeguards to provide supervisions of the peace agreement;

Without guarantees that the people of South Vietnam would be given the opportunity to determine their own future;

Without these and other provisions which fulfilled our mission in Vietnam—would have made a mockery of the sacrifices that millions of Americans made, including the supreme sacrifice of over 50,000 lives, in behalf of the people of South Vietnam and their right to self-determination.

President Nixon's strong resolve and determination to make the American sacrifices meaningful—and not in vain—resulted in an agreement that can bring peace with honor in Indochina. If all the parties to the accord live up to it, there can be peace in war-torn Indochina for generations to come.

INSURING LASTING PEACE

Mr. President, although large-scale fighting has ended—with lesser attacks constituting violations of the cease-fire agreement still taking place—there is much more that we must do to insure that the peace will be a lasting one. As President Nixon stated in his television address to the American people:

> We must recognize that ending the war is only the first step toward building the peace.

With the major fighting now over, we can concentrate on not only assisting the people of Indochina, but on reuniting the American people and healing the wounds that have been building up over the years.

Mr. President, I am mindful of the fact that no piece of paper or formal agreement can wash away overnight the hatred, distrust, and bloodshed that have been accumulating for the past generation. However, I am confident that if all the parties to the agreement carry out their responsibilities and duties in an honorable and sincere manner, the future can be a bright and peaceful one.

As Dr. Henry Kissinger, President Nixon's capable and dedicated national security adviser, wisely observed at one of his briefing sessions for reporters:

> It will be our challenge in the future to move the controversies that could not be stilled by any one document from the level of military conflict to the level of positive human aspirations and to absorb the enormous talents and dedication of the people of Indochina in tasks of construction, rather than in tasks of destruction.

NIXON DOCTRINE FOR PEACE

As the thorn to better relations and détente between the United States and the Communist world is removed, we can now make a more objective appraisal and analysis of the Nixon doctrine—the foundation and guidepost for our country's foreign policy for the 1970's.

In his address to the United Nations General Assembly on September 18, 1969, President Nixon stated:

> It is not my belief that the way to peace is by giving up on our friends or letting down our allies. On the contrary, our aim is to place America's international commitments on a sustainable, long-term basis, to encourage local and regional initiatives, to foster national independence and self-sufficiency, and by so doing to strengthen the total fabric of peace.

Since taking office, President Nixon has demonstrated his conviction that a world order for peace requires a strong but redefined role for America. The President has repeatedly expressed his belief that as the leader of the free world, the United States needs to strengthen its relations with allies and friends and evoke their commitment to their own future and to the international system.

The Nixon doctrine, therefore, seeks to reflect the folowing realities of the 1970's:

That America must continue to play a major role in international affairs;

That our friends and allies can and should assume greater responsibilities for the preservation and advancement of the free world;

That the change in the strategic relationship among the nuclear powers calls for new doctrines and new approaches; and

That the emerging polycentrism of the Communist world presents different challenges and new opportunities for the evolution of a relatively peaceful world order.

ALL NATIONS MUST WORK FOR PEACE

There cannot be a realistic structure of peace unless other nations help to fashion it. Indeed, in the recognition of this basic fact lies both its hope and its pitfall. The structure of peace cannot be built except by the willing hands—and minds—of everyone.

In this new, dynamic era unprecedented challenges and opportunities beckon the nations and leaders of the world to set aside doctrine and focus on a common goal—world peace and cooperation. A new global partnership could promote a consciousness among all to work for the world's interests instead of narrow national interests.

PRESIDENT NIXON OUTSTANDING LEADER FOR PEACE

At this time in history our country is fortunate to have a leader of President Nixon's caliber at the helm in the White House—a man who has recognized the historic opportunity to seize the creative possibilities of a pluralistic world and to turn the changes of the last generation into new avenues for peace.

In his second annual Presidential review of the U.S. foreign policy, President Nixon made perfectly clear what his administration planned to do in international affairs:

> We must begin with the vision of the world we seek, to infuse our actions with a sense of direction. We need a vision so that crises do not consume our energies, and tactics do not dominate our policies.

Mr. President, historians will undoubtedly give the Nixon administration high marks for its performance in international affairs during the President's first term in office—a performance that truly reflects his credo that crises should not be allowed to exhaust our resources, and tactics should not preponderate our policies.

MAJOR ACHIEVEMENTS FOR PEACE

By starting with proper vision and by making painstaking preparations, the Nixon administration has been involved in some historic and dramatic developments. These are:

Vietnam settlement.—The signing of a cease-fire agreement in Vietnam enabled us to see peace with honor come to Vietnam. This agreement made it possible for first, the release of all American prisoners of war held throughout Indochina; second, the fullest possible accounting of all those who are missing in action; third, the withdrawal of all American forces from South Vietnam; fourth, an internationally supervised cease-fire; fifth, a guarantee for the people of South Vietnam of the right to determine their own future, without outside interference.

Had we cut and run in Vietnam as many had advocated, President Nixon would not have been able to transform the spirit of the international community into one of accommodation and compromise. To wash his hands of the most unpopular war our country has ever waged would have been easy for the President to do, especially since it was not a war he started but a war he inherited. However, he chose to face the lonely vigils, the difficult decisions, the up-and-down emotions of the American people, and the anguish that accompanies the exercise of such immense responsibilities. It is to America's credit that, despite strong criticisms at home

and abroad, she did not abandon an ally; and it is to the President's credit and to the credit of the late President Johnson that they had the courage to persist in the pursuit of an honorable peace agreement.

Breakthrough with the Peoples Republic of China.—The end of President Nixon's first term in office saw the dramatic turn in Sino-American relations from hostility toward normality.

Upon assuming the Presidency, one of the great challenges that Richard Nixon faced was to redirect America from a collision course with the Peoples Republic of China to a pragmatic relationship opening the doors of both countries to trade, commerce and political dialog. In a matter of 4 short years, President Nixon has ended a quarter of a century of unyielding and inflexible hostility on the part of both countries toward each other. Fragile as the historic breakthrough is, this rapprochement between the most powerful nation and the most populous nation in the world could have greater significance for future generations than any other single act of the administration. It represents a necessary and giant step toward the creation of a stable structure for world peace.

Improved relations with the Soviet Union.—The Nixon administration has succeeded in creating a new momentum in the search for more constructive rapport with the U.S.S.R. through a series of concrete agreements which contribute to the lessening of tensions and the improving of relations.

Guided by the desire to place Soviet-American relations on a more stable and constructive foundation, and mindful of their responsibilities for maintaining world peace, the Soviet Union and the United States adopted on May 29, 1972, a document entitled: "Basic Principles of Mutual Relations between the United States of America and the Union of Soviet Socialist Republics." Among the agreements that were reached which will intensify bilateral cooperation in areas of common concern, as well as in areas relevant to the cause of peace and international cooperation, are the following: Limitation of Strategic Armaments; Commercial and Economic Relations; Maritime Matters: Incidents at Sea; Cooperation in Science and Technology; Cooperation in Space; Cooperation in the Field of Health; Environmental Cooperation; and Exchanges in the Fields of Science, Technology, Education and Culture.

Mr. President, at a time when all Americans are rejoicing over the return of our POW's and the final withdrawal of American forces from South Vietnam, it is only appropriate that attention also be focused on the total design of the Nixon doctrine and what it has accomplished over the past 4 years.

There were times when people strongly questioned the wisdom of the President's actions and policy regarding our goals and objectives in Vietnam. However, despite great pressures from his critics and many lonely vigils, President Nixon steadfastly refused to yield to his diehard detractors. He knew that if North Vietnam's aggression against South Vietnam went unchallenged this would mean that the extraordinary relaxation of tensions within the international community of nations would never have taken place.

Although this historic change is encouragingly underway, the transition is far from completed. During this difficult but important period, the task of maintaining a balance abroad and at home will test the capacity of our leaders and the understanding of the American people.

Now, more than ever, if the President's critics will restrain their doomsday rhetoric and give the President's peace plan a chance to bear real fruit, we will be able to bring in a new era of cooperation, good will, and peace.

Mr. President, let us all support our country's efforts to help create an environment that will be conducive to peace and the normalization of relations among all nations of the world—an environment that can nurture peace for generations to come.

TIMELY ACTION TO COORDINATE FEDERAL DRUG LAW ENFORCEMENT

Mr. PERCY. Mr. President, President Nixon sent to Congress yesterday Executive Reorganization Plan No. 2 of 1973. I welcome this as another affirmative step in the President's continuing effort to overhaul the executive branch and better coordinate existing programs and functions.

This plan strengthens the attack on illicit drug traffic and manufacture by realining current Federal law enforcement functions. The President has keenly discerned several ongoing problems in drug abuse law enforcement and has submitted this plan to overcome those difficulties now.

Under the provisions of the Executive Reorganization Act of 1971, either House of Congress can disapprove this Reorganization Plan within 60 days, otherwise it becomes effective. Senator RIBICOFF has already announced that he will hold hearings in the Executive Reorganization Subcommittee of the Government Operations Committee. As a member of this subcommittee, I have participated in a 3-month study of the current drug enforcement efforts within the executive branch. Many of the problems which this study has uncovered would be alleviated shortly after implementation of the plan.

Specifically, the President's proposal clarifies the diffuse responsibilities of the Department of Justice and the Treasury Department by consolidating all drug law enforcement functions in Justice. The Bureau of Narcotics and Dangerous Drugs would be abolished as a separate institution within the Justice Department. Approximately 300 special agents, presently assigned to the Bureau of Customs, would be transferred to a new agency within the Justice Department—the Drug Enforcement Administration.

Thus, all principal investigative and law enforcement functions, some of which have been under the auspices of the Treasury Secretary, will be vested in the Attorney General. Also transferred to the control of the Attorney General would be all law enforcement functions and resources of the Office of Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and the funding for drug law enforcement research presently carried on by the Law Enforcement Assistance Administration.

The Treasury Department will assume responsibility for conducting ports of entry inspection of all goods and persons entering this country. This function is currently divided between Justice and Treasury, each conducting separate inspection procedures with differing priorities. With the Immigration and Naturalization Service now to be transferred to Treasury, the result will be a uniform border protection policy conducted solely by the Bureau of Customs.

During the last few years, the problem of drug abuse throughout the world has multiplied by a hundredfold. Federal Government reaction to this mushroom effect has been to keep pace, but the effort has been uncoordinated in several important respects. Federal spending on programs to combat and treat drug abuse has increased nearly 10 times since 1969, but currently nine Federal agencies perform related drug law enforcement functions. Seizures of contraband narcotics throughout the world have almost tripled in the last year alone, but illicit drug manufacture is estimated to have increased at an even faster rate.

This country's effort in combating illicit drug traffic has suffered due to overlap and an ineffective coordination of agency resources. It is imperative that our combative procedures be streamlined, along the lines proposed by the President, so we may keep pace with the rapidly growing sophistication employed by world drug traffickers.

The lack of adequate interagency communication of vital intelligence information is another problem which I hope will be substantially relieved when this plan goes into effect. Intelligence data gathering sources and responsibilities are spread throughout several Federal agencies. For all too long, the right arm of this network has been unaware of what the left arm has been doing. Each of the two cabinet departments involved in the reorganization will now have specific and distinct functions in this regard.

Just last week the National Commission on Marihuana and Drug Abuse issued a report based on 2 years' study of the Nation's drug crisis.

In making its recommendations for a more effective drug policy, the Commission concluded that the current Federal response has tended to perpetuate the problem. The report cites interagency rivalry and the lack of coordination at both the local and Federal level as among the primary difficulties with our current drug abuse effort. However, the members of the Commission further stated that "when such responsibility is clearly defined and delegated, such bureaucratic difficulties are much less likely."

This is precisely the course of action the President has proposed. Although the Commission report recommends the creation of a new Federal agency to ad-

minister all drug law enforcement and treatment and prevention, I do not believe that this is the best course to follow at this time—as indeed Senators HUGHES and JAVITS indicated in their judicious dissents on this issue. The Special Action Office for Drug Abuse Prevention, established statutorily last year in the Executive Office of the President, currently oversees all major Federal programs for drug abuse treatment, rehabilitation, education, and research. The Special Action Office, guided since its inception by the very capable leadership of Dr. Jerome Jaffe, has made remarkable progress during its short existence. Disbanding this group and coupling treatment with law enforcement within a single agency would for now only compound the bureaucratic problems we are already experiencing.

The President's proposal will eliminate the problems the Commission addresses without the cost and confusion which a totally new, independent agency would entail. The restructuring clearly outlines the duties and responsibilities of all the participants in our continuing struggle against drug abuse. The President is to be commended for his foresight and personal commitment to this effort.

WHO SPEAKS FOR CONSUMERS?

Mr. RIBICOFF. Mr. President, in today's Washington Post, Mr. Hobart Rowen has written an excellent analysis of the reasons for the present high prices of food products. As the article points out, Secretary Butz seems to be a good advocate for current price levels. But who speaks for consumers—who is arguing for lower prices? The answer is no one, because there is no consumer protection agency.

Mr. President, this article is another demonstration that the consumers of America need a consumer protection agency to speak for them in the departments and agencies of Government.

I ask unanimous consent that Mr. Rowen's article be printed at this point in the RECORD.

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

FOOD PRICES: PAYING NOW FOR PAST MISTAKES

(By Hobart Rowen)

Secretary of Agriculture Earl Butz and others who oppose price controls on food products argue that it's all a question of supply and demand. The artificiality of controls, they suggest, will merely bring about shortages and black markets.

We must suffer the thing through, they say, until the good old free market system, stimulated by high prices, increases producers' incentive to put more food on the table.

Well, where were Mr. Butz and Co a year or two ago?

The real answer, and it was supplied with great candor by none other than Economic Council Chairman Herbert Stein, is that they had forgotten all about the free enterprise system, and were concentrating on getting the farmer to the polling place where he would vote Republican.

Before the White House mafia descends on Mr. Stein, let me hasten to say that he didn't put it in just that language.

But in briefing the press on the worst cost of living data in 22 years, Stein conceded that "one or two years ago," the Administration had not foreseen the extent of demand for agricultural products.

"Now," he said—referring to the desperate attempts to boost farm output—"we have a policy more conducive to the production of farm products than we had (then). . . . I would sound silly if I said we had forecast the situation correctly."

It is true that unfavorable weather conditions, including a corn blight in 1972, and the extraordinary demand from abroad have contributed to the rise in farm prices.

At the same time, the rise reflects the earlier policy of the Nixon Administration. Net farm income declined in 1970 after reaching the highest level in 20 years in 1969. Looking ahead to the 1972 election, the administration became anxious about the farm vote.

The 1971 Economic Report of the President, at a time when the President was saying that "free prices and wages are the heart of our economic system," was duty bound to report the following:

"To some extent, the rise in these (crop) prices was a consequence of Federal cropland adjustment programs, which had diverted substantial acreage from production in the past two years, and the large stocks of commodities built up earlier were thus somewhat diminished."

By early August, 1972, Butz knew the dimensions of the Soviet grain purchase. But as farm expert John A. Schnittker (a former Agriculture department Under Secretary in the Johnson Administration) pointed out in recent Congressional testimony, Butz as late as October wanted a conservative corn crop target. Then, in December, he announced a restrictive program for feed grains that had to be junked in January.

So the Nixon Administration record in the whole area runs from poor to dismal, and one is entitled to view with a jaundiced eye the bland assurances that everything that should be done is now being done, and that price controls would only mess things up.

Reasonable persons can differ about the long run impact of price controls. But there just can't be any doubt that controls would put an end to the present unacceptable level of skyrocketing food prices and put more meat in the supermarkets.

That much is conceded by David Stroud of the National Meat Board. But he contends that pig farmers and cattle breeders who have been urged lately by the administration to stimulate their production and who will—he insists—deliver more meat by the end of 1973, would quit under price controls and return to the old scarcity policy.

No one ever explains why this should be so. The attitude of the authorized spokesmen for the meat industry, such as Mr. Stroud, seems to be that the livestock farmer has gotten a bum rap in the distribution of national income since the end of World War II, and no one should interfere now, because for the first time, he is getting what's coming to him.

There is no reason why the livestock producers should not get a reasonable price for their meat, with controls in effect. If rising demand is there—and this is the element on which Mr. Butz puts most of the blame—it should be able to sustain good prices for heavy marketings over a long period of time, assuring a prosperous time for farmers.

Price controls now, for three or four months, with encouragements rather than discouragements to production, are needed to shoot down the soaring price balloon.

THE FUTURE OF SHIPS

Mr. BEALL. Mr. President, earlier this year I introduced S. 797, the "Bicentennial Advanced Technology Transportation Systems Demonstration Act."

This proposal would authorize a demonstration high-speed land and water during the bicentennial. On December 7 of last year hearings were held on this proposal. During this hearing, we heard from the Navy with respect to their utilization of high-speed marine vessels. In the January issue of Sea Power there is an interesting article entitled "An Attempt to Determine the Future of Ships."

Because of the interest in the Congress in high-speed transportation systems, 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:

AN ATTEMPT TO DETERMINE THE FUTURE OF SHIPS

(By James D. Hessman)

Chief of Naval Operations Admiral Elmo R. Zumwalt, Jr.: The SES program, represents "a technological breakthrough that offers the potential for revolutionizing naval warfare . . . [It] will change warfare at sea in ways we cannot yet fully foresee."

Assistant Secretary of the Navy (Research and Development) Robert A. Frosch: The SES will possess "at least twice what we believe to be the highest speed that we could contemplate building a submarine to go . . . [with a] best efficiency range somewhere between 80 and 100 knots. . .

"Such ships will provide a greater advancement in surface ship capabilities than any in the last century, and hold a potential for revolutionizing naval warfare."

Director of Defense and Research Engineering John S. Foster, Jr.: "We don't look on this as a small thing at all. . . It is an extremely critical experiment in an attempt to determine the future of ships."

Vice Admiral Jerome H. King, Jr.: "[This is] a very exciting thing. It is an area of technology that we must exploit to the fullest."

Zumwalt again: "We believe the potential for [changing] the whole nature of warfare at sea is so great—it is like nuclear propulsion—we ought to go forward [with the SES program]."

The enthusiasm of the speakers—all of the above quotes are from testimony before the House and Senate Appropriations Committees during hearings on the fiscal year 1973 Defense Department appropriations bill—is understandable. They were talking about the Surface Effect Ship, or SES, which in its various future configurations could, among other things:

Literally run rings around a submarine, thus greatly diminishing if not completely eliminating the Navy's aggravating and long-standing ASW problem.

Serve as a super-fast PT boat, darting in from the shallows to deliver a knock-out punch against enemy ships operating in protected waters.

Deploy as a "mini" aircraft carrier, suited with a mix of helicopters, V/STOL (vertical/short takeoff and landing) and fixed wing aircraft, and capable of making the run from the East Coast of the United States to the Mediterranean in a day and a half—or from San Diego to Japan in two days.

Operate as a multi-purpose amphibious vehicle, scooting over shallow water, marshes, and swamps to drop troops and cargo not on the beach, but at staging areas far inland.

THIRTY HOURS TO EUROPE

Potential commercial applications of the SES are similarly mind-boggling. Commander Alfred Skolnick, Director of Technology in the Naval Material Command's SES Project Office (headed by Captain Carl J. Boyd) pointed out in a 1968 monograph that "transport for large volumes of high-value-per-ton cargo, always a problem for aircraft, [could]

be handled smartly by the surface effect ship and delivered, for example, on a *New York-to-Southampton run in less than 30 hours* [emphasis added].

"Passenger capability, ferry service, island hopping, transport of perishables, and numerous other applications are easy to perceive; roll-on and roll-off capabilities and containerized cargo enhance the vision," Skolnick said, adding, perhaps unnecessarily, that "The effect upon ship construction opportunities for existing yards and aggressive aerospace companies is clear, once feasibility of the concept is demonstrated."

Other experts agree with Skolnick. A 1969 SRI (Stanford Research Institute) study gets down to cases with an "actual realistic schedule" setting forth SES sailings "at the same day and time each week to achieve consistent scheduling from the standpoint of the shipper."

The "balanced schedule" wherein specified numbers of ships could maintain a consistent weekly service is laid out by SRI as follows: "[T]wo ships could provide a three-sailings-a-week service each way between New York City and one of . . . three ports in northwestern Europe (Tilbury, Goteborg, or Rotterdam) . . . Japan could be served by two SESs with two sailings each way one week and three the next, or by four [SESs] with five sailings each week."

Other uses are possible. Studies have been underway for some time on an Artic Air Cushion Vehicle (ACV—one of the two major SES subcategories) which could operate with equal facility over the ice cap, open ocean, or Arctic tundra—in the latter case, without causing damage to the delicate tundra vegetation, a matter which has been a prime concern of the ecologists.

Also in the offing are short run SES cargo and passenger systems—possibly using U.S. inland and coastal waterways to ease urban traffic congestion.

THREE CENTURIES OLD

Despite the hyperbole of enthusiasts, the SES is not really a "revolutionary new concept." It is more "an idea whose time has come," as Skolnick points out in another 1968 article (co-authored by SESPO's Z. G. Wachnik) published by the American Society of Mechanical Engineers: "Waterjet [one of several possible SES propulsion systems] is the oldest known type of mechanical propulsions for ships. Patents were granted to Toogood and Hayes in England in 1661, reproposed by Benjamin Franklin in 1775, and actually applied by James Rumsey in 1782, when waterjets were used to propel an eighty-foot passenger boat on the Potomac between Washington and Alexandria."

But if the idea is not new, it was never before feasible on a large-scale basis. Now, with the dramatic advances in metallurgy, marine propulsion systems, and other technologies which have taken place in the last quarter century the time has come, say marine engineers, to get on with the program.

All SES vehicles literally ride on air, but the way they do it makes a difference. The Category I or "aerostatic lift" vehicle is supported by a cushion of air which is constrained in one way or another beneath the vehicle. The Category II or "aerodynamic lift" vehicle would get its support from aerodynamic lift provided by the vehicle's forward motion—which would cause air to pass over (and under) the upper and lower surfaces of SES "wing" components. Category I vehicles can hover, but Category II vehicles, which depend on their transit speeds to develop lift, cannot. Future SES vehicles may make practical application of aerodynamics principles, but current studies assume that, in Skolnick's words, "for multithousand ton SES, air propulsion is unrealistic." Present and prospective test programs are postulated on the assumption, therefore, that aerostatic lift will be "a basic vehicle design feature."

Other studies conducted over the past 12 years by various U.S. government agencies—principally the Navy and the Commerce Department—indicate the most practical aerostatic lift systems for future SES vehicles of the size planned for military and commercial application are those utilizing waterjet propulsion or supercavitating propellers (fully or partially submerged). Both systems use rigid sidewalls—running fore and aft on either side of the ship—and bow and stern seals, or flaps, to produce a CAB (Captured Air Bubble) effect. The waterjets or propellers, located at the after end of the sidewalls, provide the propulsion which enables the SES to ride the captured air bubble at speeds which could reach, in some theoretical studies at least, as high as 180 knots or better.

FAST SHIPS, SLOW TORPEDOES

It is the prospect of such never-before-attainable superspeeds, of course, which so excites senior Navy and Defense Department officials. A closer look at some of the possible combatant ship applications tells why:

In the destroyer mode—2,000 tons or so—a 100-knot SES would restore the combat advantage to the surface ship for the first time since the advent of nuclear propulsion. With several LAMPS (Light Airborne Multi-Purpose System) ASW helicopters aboard, the SES destroyer could patrol and control several hundred square miles of sea, moving in from miles away to destroy a remote contact within minutes. Cruise missiles might provide the submarine some attack capability but the destroyer likely could outrun any torpedo launched against it. (SES cargo ships, of course, would not need destroyers to convoy them; they could rely on their own speed for protection.)

On November 10 the Navy awarded four contracts—to Aerojet General ($2.6 million); Bell Aerospace ($3.0 million); Litton ($2.7 million); and Lockheed ($2.3 million)—to do preliminary designs of a 2,000-ton surface effect prototype ship which presumably could be used, somewhat larger and with several modifications, as an SES destroyer.

The patrol boat SES could hide along the coast line or even—in a "hovercraft" configuration (using a flexible "skirt" rather than rigid sidewalls)—on land. Such craft would have limited range, but a few of them armed with torpedoes and/or cruise missiles could easily control the choke points of vital waterways and deny access to enemy shipping. Two 100-ton SES vehicles built for the Navy by Aerojet General and Bell Aerospace as test beds for multithousand ton SESs have already demonstrated the feasibility of smaller-sized combatant SESs. (Tests indicate, it should be noted, that hydrofoils probably are more efficient than SES craft in the lower tonnages; they are, in fact, expected to be the Navy's patrol boats of the future.)

As a small aircraft carrier or Sea Control Ship (SCS) the 10,000- to 20,000-ton SES could be the end-of-century successor to present day 100,000-ton attack carriers, which Congress is understandably reluctant to replace at a price tag of $1 billion per ship. For the same cost the Navy could have several SES carriers with three times the speed and, if nuclear-powered, virtually unlimited range. The SES would carry fewer but more capable aircraft. The high speed of the SES carrier would be sufficient in itself to permit launch and recovery of aircraft: catapults and arresting gear could be eliminated, a consideration which would hold down the cost, size and complexity of both the carrier and aircraft carried. Present naval aircraft must be extremely rugged to withstand the shock and strain of catapult launches and arresting gear landings. SES carrier aircraft could be appreciably lighter, and thus would be able to fly higher, faster, and farther than their heavier forebears. The SES carrier is still a long way over the horizon, however. As Defense's Foster told the Senate Defense Appropriations Subcommittee last year: "While we might in the future want ships of 20,000 tons or more, we feel at this time 2,000 tons is as far as we can push it on an experimental basis."

TIPTOE THROUGH THE TUNDRA

More immediate—and soon, perhaps, a reality—will be 160-ton amphibious assault landing craft ACVs being developed for the Navy by, once again, Aerojet General and Bell Aerospace. The AALCs will be true amphibians, able to move over the water, through the surf, and onto the beach at speeds up to 50 knots, or five times as fast as World War II landing craft. Payload will be about 60 tons.

The Army and the Defense Department's Advanced Research Projects Agency (ARPA) also are deeply immersed in ACV/hovercraft technology. The Army's Voyageur Air Cushion Vehicle—developed and built by Bell Aerospace Canada—successfully completed its first ship-to-shore military transport trials in October during exercises off Fort Story, Va., near Norfolk. The Naval Ship Research and Development Center headquartered at Carderock, Md., is ARPA agent for a program to develop an Arctic Surface Effect Vehicle (SEV) which will be capable of carrying a variety of cargo, say NSRDC officials, "through ice rubble and snow at minus 65 degrees Fahrenheit as well as the open ocean and tundra quagmire in summertime at speeds averaging 60 knots."

Other countries have not been idle. The British are particularly active in the hovercraft field. The Navy's Frosch noted in his Defense appropriations testimony that 200-300 ton SES vehicles capable of carrying 250-300 passengers provide regular passenger service between Norway and Copenhagen. Lockheed's James G. Wenzel last month told the Senate Commerce Committee's Subcommittee on Surface Transportation—during hearings on Bicentennial Transport demonstrations—that "Commercial SES are proven. . . There are 11 small craft of this type now in worldwide service which have logged over five million fatality free passenger miles with a high mechanical realiability." And SESPO's Skolnick, referring to a 1966 article in Navy (now Sea Power), says "Recent interest has also been demonstrated by the Soviet Union; the obvious speed advantages of SES over submarines make them an attractive anti-submarine warfare platform which the Russians apparently intend to exploit."

As is always the case with "revolutionary new concepts" there have been problems with the SES program, and there undoubtedly will be many, many more. The test schedule for the 100-ton vehicles already has experienced a seven-month slippage. The Commerce Department has dropped out of what had been a 50–50 partnership with the Navy in conducting an SES R&D program—but only because commercial SES is less urgent, and can ride piggyback on the still ongoing naval program, now 100 percent Navy funded.

Numerous problem areas identified by the SESOC (Surface Effect Ships for Ocean Commerce) Advisory Committee have been arbitrarily classified into "crucial," "important" and "improvement" categories. A few examples of each:

Crucial—A reliable collision avoidance system is mandatory; better stability and control criteria are needed; effective flexible understructures must be developed; the problems of overloading sea conditions, waves of unusual height, and unforeseen structural failures must be solved.

Important—"Highly efficient, high powered, light-weight propulsion systems capable of continuous, reliable, and maintenance-free operation without efficiency degradation in the marine environment" must be developed; further exploration of materials "with regard to rupture, stress corrosion, cavitation erosion, and other special properties" is necessary.

Improvement—Means must be developed to reduce port delays to a minimum; special facilities at terminals "to accomplish fueling, servicing, and maintenance" will be required; special habitability problems must be identified and resolved.

FOCH AND J. P. JONES

Most if not all of these problems, staggering as they seem, fall into the "engineering" category, which means, SES program officials say, that "we know the problems *can* be solved; what we don't know is how." The test program on the 100-ton vessels—which Dr. Foster says will involve about 5,000 individual subsystem tests per vehicle, plus about an additional 160 "test events" involving the "whole SES system"—undoubtedly will resolve numerous problems (but find still more). At the present time, despite all the obstacles, known and unknown, which still must be hurdled, said one SES official, "we're closer to the SES carrier than the Wright Brothers were to the C–5."

Less optimistic persons find solace in the following from Robert D. Heinl's admirable *Dictionary of Military and Naval Quotations:*

"What can you conceive more silly and extravagant than to suppose a man racking his brains, and studying night and day how to fly?" William Law, 1728.

"That's good sport, but for the Army the airplane is of no use." Ferdinand Foch, 1910.

But most Navy men, not only those involved in the SES program, would prefer instead to follow the lead of John Paul Jones, who in a letter to le Ray de Chaumont in November 1778 said: "I wish to have no connection with any Ship that does not sail *fast,* for I intend to go *in harm's way.*"

JAMES THOMPSON, U.S. ATTORNEY

Mr. PERCY. Mr. President, James Thompson, the U.S. attorney in the northern district of Illinois, has shaken up the politics of Chicago in ways few men before him have ever duplicated. He has brought a new vitality to the U.S. attorney's office and a new spirit to Chicago. Once everyone assumed that corruption was a political fact of life, which, like the weather, everyone talked about but no one did anything about. But now there is a renewed faith in the Government's ability to root out corruption.

For the first time in the lives of many of the people of Chicago, "equal justice under law" is not a joke. Jim Thompson has been looking into the nooks and crannies of city hall, the statehouse, and every other place where there is a possibility of corruption by public officials. The list of those he has prosecuted successfully is an impressive testimony to his ability and his determination to do his job.

There are many crimes which society abhors. Robbery deprives a person of his possessions; murder robs someone of his life. But corruption in office has an equally harmful effect on society because it robs society of its faith in its elected officials. Jim Thompson's crusade to eliminate this corruption has helped to shore up the lagging faith in our system of government, especially in Illinois.

Mr. President, I ask unanimous consent that an article from the April 2 edition of Time magazine, which describes the career of Jim Thompson, who I had the honor to recommend as U.S. attorney, be printed in the RECORD.

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

[From Time magazine, Apr. 2, 1973]

ILLINOIS—TROUBLE IN DALEYTOWN

In all his 20 years as boss of Chicago's Democratic machine, Mayor Richard Daley has seldom been so troubled. His most illustrious protégé, former Governor and now Federal Judge Otto Kerner, has been convicted of bribery, conspiracy, income tax evasion, mail fraud and perjury (TIME, March 5). Possibly even more damaging to the machine, one of Daley's oldest political associates, Edward Barrett, was recently convicted of bribery, mail fraud and tax evasion. Since 1955 Barrett had been Cook County clerk, an influential office that carries rich patronage powers. The clerk's office does everything from dispensing birth certificates to buying and operating voting machines—always an interesting function in Cook County.

The man most responsible for indicting both Kerner and Barrett, and shaking the once stubbornly secure Democratic domain, is James ("Big Jim") Thompson, 36. A coolly sagacious but easygoing 6-ft. 6-in. bachelor, he calls himself a "middle-of-the-road" Republican. In the 17 months that he has been U.S. Attorney for the Northern District of Illinois, Thompson has prosecuted scores of mostly Democratic politicians and city employees on a variety of federal charges. Among those indicted by Thompson and his aides are: 81 precinct workers, charged with vote fraud; eleven employees in the Democratic-controlled county assessor's office, charged with offenses that include bribery, tax evasion and mail fraud; and 40 Chicago policemen, charged with extortion of "protection" money from various tavern owners and storekeepers.

A federal grand jury is looking into evidence of even more corruption. Thompson says that the possibly illegal dealings involve race-track stockholders and some Illinois legislators, both Democrats and Republicans. He vows that other criminal indictments will be forthcoming. As he recently promised Attorney General Richard Kleindienst: "I'm going to kick ass until I get rid of the crooks."

Thompson, a Chicago native, became fascinated with criminal law while studying at Northwestern University. He taught the subject there for five years and co-authored two books. At the request of Senator Charles Percy, President Nixon appointed Thompson to the U.S. Attorney post.

Before getting the job, Thompson was acting U.S. Attorney and then first assistant to William Bauer, who quit to become a federal judge. Because they were the first Republicans in nine years to hold the top federal prosecution post in Northern Illinois, Bauer and Thompson had considerable incentive to look into the shenanigans of local Democratic administrations. They also got plenty of help from the Justice Department, which raised their budget, enabling the attorney's office to increase the staff of lawyers from 23 to 73. Many of the scrappy young lawyers whom Thompson recruited were his former Northwestern students, and they were hired on the basis of merit, not because of their political affiliations.

Unlike many Democratic predecessors, Thompson went far beyond the routine prosecution of kidnaping, mail fraud, income tax evasion and draft dodging. He put together a special division with units to handle matters as diverse as official corruption and civil rights violations. Last year the civil rights staff checked out more than 250 complaints of police brutality, mainly in black neighborhoods. Investigations prompted by Thompson's office led to the first guilty verdict ever handed down in the Northern District against a Chicago policeman on charges of a civil rights violation. Thompson's office recently filed suit charging that the Chicago Fire Department discriminates against blacks and Spanish-speaking people. The suit and the conviction of the policeman did much to enhance the U.S. Attorney's credibility in the city's minority communities.

To speed the prosecution of consumer fraud, Thompson has formed a special "Public Protection" unit. "The goal," he says, "is to establish a federal presence in the consumer-fraud field so that the shylock merchant knows that he's got another pair of eyes looking over his shoulder." He says that the unit will keep a close watch on the ghettos, "where people get ripped off the most."

To get political corruption indictments, Thompson has made shrewd use of the immunity statutes. Witnesses, who would otherwise have faced prosecution, testified freely. The most damaging testimony against County Clerk Barrett came from a Philadelphia businessman who was given immunity and admitted that he had bribed Barrett.

Partly as a result of the corruption indictments, Mayor Daley has been increasingly criticized by rank-and-file Democrats. Several weeks ago, he called in heads of city department and issued an ultimatum: either be loyal to Daley or be forced out. Some Democratic chieftains, noting that Thompson is increasingly talked about as a candidate for the mayor's job when Daley steps down on corruption is politically motivated. The attorney convincingly denies the accusation. "I can't go out and hire Republicans to pose as defendants simply because I'm criticized," he says. "How in the world are you going to find Republican corruption in a city that has been under one-party rule for 50 years?"

NEW DIRECTION NEEDED IN FARM POLICY

Mr. McGEE. Mr. President, in the February 1973 publication of the Rocky Mountain Union Farmer, there appeared an editorial entitled "New Direction Needed in Farm Policy."

The writer notes that—

Agriculture—and the nation—needs a publicly-developed set of food and fiber objectives, short and long range; then legislation that stretches toward those goals. Assumably, healthy agriculture industry producing quality food at the lowest reasonable price would be among these goals. An examination and improvement of the inconsistencies and inefficiencies in the marketing system would probably be included.

Our current design is one of non-planning. . . .

The editorial writer offers what I feel to be an intelligent assessment of current farm policy and what direction this Nation should be taking in order to continue to assure all Americans of an adequate supply of quality food and fiber.

I ask unanimous consent that the editorial be printed in the RECORD.

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

NEW DIRECTION NEEDED IN FARM POLICY

Dozens of news items and opinion pieces have been written and spoken since the Christmas-time cuts in farm programs.

The agricultural press has been cautious, but much of the conventional public media have been on a high horse cheering the end of "hand-outs" and special treatment of the nation's farm sector.

It shows only their poor understanding on the nature of farm programs.

Farm policies are the nation's food and fiber policies and warrant our full attention. Now some of the farm programs are weak in structure and have been subject to abuse—which makes a total defense of them impossible. But instead of whipping up public imagination over a few million farmers, let's look at it from the long-range necessity of

feeding and clothing a few hundred million people:

Agriculture—and the nation—needs a publicly-developed set of food and fiber objectives, short and long range; then legislation that stretches toward those goals. Assumably, healthy agriculture industry producing quality food at the lowest reasonable price would be among those goals. An examination and improvement of the inconsistencies and inefficiencies in the marketing system would probably be included.

Our current design is one of non-planning. Only a few farm programs aim at basic agricultural problems; many treat the symptoms of illness. Every three years Congress passes a new agriculture act, every four or eight years a new president has different ideas about what is good for farmers. Agriculture people themselves get defensive, feel threatened, and fail to improve and update existing farm programs. This history of non-planning has driven people off the land with little to show for a life's work, adds tremors of decay to Rural America, and forces more problems and population on an uncoping urban America.

Now we're seeing broader manifestations of the problem. Rising food prices in the supermarket, shortages in certain areas, indications that the present marketing and handling system is entering convulsions brought on by inefficiency and old age.

The Administration movement toward a so-called "open market" is a paved road to outright disaster. It is an aggravation of what is already weak in agriculture.

Hopeful the nation-wide controversy over the problem will inspire agriculture and the public to new and decisive action and legislation.

Part of the necessary solution lies in reinstatement of programs *until* new decisions are made. Times change and needs change, but totally eliminating existing structure is nihilism.

Rural electrification and associated communication are critical to the future of Rural America. But adjustments may be necessary for those areas that have changed from essentially rural economy to mixed or urban.

Conservation programs for land, water, air and the total environment are essential if we seriously intend to pass on to our children a better nation than we inherited.

Price support and market stabilizing programs for commodity producers can be changed *if* we move into improved systems of production and consumption stabilization. The flowery language of open market proponents sound good only to those who habituate Las Vegas casinos and have sufficient money to survive market chaos. It is not an answer; it is a foolish gamble.

Good solutions are hard to come by and difficult to implement, but some answers are available:

1. Remove the potential food-shortage gamble through national legislation establishing a market-protected food reserve. Not one as large as the early 60's, but large enough to prevent hunger from stalking America. It must be protected for strategic use and not used as a government whip on the annual market.

2. Establish national legislation allowing producers, if they choose, to bargain with processors for price, volume, and conditions of sale. Such a system would provide incentives for a constant flow of food to the consumer; stability of the market and economy, and a practical level of income to the producer. Such techniques could assume many existing USDA functions and actually reduce bureaucracy. National food objectives would be incorporated into the structure while restoring the farmers' role in the marketplace. Such a system would provide even greater incentives for efficient skill among farmers, and with less of the "redtape" everyone objects to now.

3. International trade agreements could be entered which would stabilize the farm economy and aid the U.S. balance of trade. Good farm prices throughout 1973 can only happen if there are poor harvests in much of the world.

World food trade is annually expanding, of course, but the U.S. has no working arrangement with other exporting nations and is engaged in cut-throat competition, even with neighbors such as Canada. It is not necessary. World food objectives and agreements must supersede nationalistic gambles for high and inconsistent profit. There is a difference between competing for profit on transistor radios and the supply of food and clothing.

Some answers exist, therefore. But public and governmental understanding is not adequate. Rural people are cautious about supporting these proposals because they're new, and immediate benefit lies in restoration of existing programs. Understandably, they will not let go with one hand until the other hand has a grip on a better system. That's why renewing existing farm programs is a prerequisite to advancement.

Reaching toward solutions such as these would move this nation ahead of the hassle over "hand-outs." It would move agriculture into a new era, with the more positive goal of feeding the nation and much of the world.

GENOCIDE CONVENTION

Mr. JAVITS. Mr. President, on March 13, the senior Senator from North Carolina, Mr. ERVIN spoke at length on the Genocide Convention. Because his statement has raised questions about the wisdom of ratification, I felt it should be answered at length. At my request, the Department of State has prepared an analysis and rebuttal of these obligations to the Convention, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks. I hope it will be useful to other Senators in answering constituent mail since there appears to be an organized and widespread effort to circulate misinformation about the agreement.

Also I ask unanimous consent that an article in the American Bar Association Journal of February 1972 by Arthur Goldberg and Richard N. Gardner entitled "Time to Act on the Genocide Convention," be printed at the conclusion of my remarks. This article by the former Supreme Court Justice and U.N. Ambassador and the Columbia Law professor is a comprehensive refutation of arguments against the Convention and should be read by every Senator.

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

POINT-BY-POINT REBUTTAL TO SENATOR ERVIN'S ARGUMENTS ON THE GENOCIDE CONVENTION

1. Senator Ervin argues that the Treaty is deficient in that it does not embody the real meaning of the term "genocide". He believes that the term contemplates the complete wiping out of a designated group.

Answer: It is entirely legitimate that the term "genocide" be defined in the Genocide Convention for the purposes of that Convention. "Genocide" was a new term and the definition in the Convention represented the international consensus on its meaning. It seems futile to look beyond that for the "true" meaning of the term.

The proposed understanding of the Senate (Executive Report No. 93–5) clarifies the distinction between genocide and ordinary crime by making clear that a requisite for the crime is an intent to destroy a national, ethnic, racial, or religious group by one of the genocidal acts specified in the Convention in such a manner as to affect a substantial part of the group concerned.

2. Senator Ervin argues that, whether or not the provisions of the Convention are self-executing, they would immediately supersede all state laws and practices inconsistent with them and thereby deprive the states of the power to prosecute and punish in their courts acts condemned by articles II and III of the Convention.

Answer: The Convention is clearly non-self-executing in view of the requirement in Article V that the contracting parties enact the necessary implementing legislation. The proposed declaration (Senate Executive Report No. 93–5) would make clear that the Executive Branch had to await enactment of implementing legislation by the Congress before it could deposit an instrument of ratification, thus making the United States a party to the Convention. If, therefore, there is supersession of any inconsistent state laws, it will be by the federal legislation, not by the Convention. It is difficult to imagine in what way any existing state law or practice could be inconsistent with the Convention.

The enactment by Congress of legislation implementing the Genocide Convention need not automatically preclude the states from prosecuting the acts proscribed by the Convention. Whether or not a Congressional Act preempts an area of law depends on the intent of Congress. If, as could be reasonably argued, Congress did not intend completely to fill this area of law, states would be free to continue to act in this area. To ensure that states would still have such freedom, the Congress could provide in its implementing legislation that nothing in the legislation should be construed as indicating an intent on the part of Congress to occupy, to the exclusion of state or local laws on the same subject matter, the field in which the provisions of the legislation operate. Draft implementing legislation contained in the appendix to Senate Executive Report No. 93–5 does just that.

3. Senator Ervin argues that ratification of the Genocide Convention would have a drastic effect on our system of our criminal justice because many crimes which are now crimes under state law could, with the addition of an allegation with respect to intent, be made federal crimes. This, he argues, would create a situation where it would be uncertain whether it was appropriate to go to a federal or state court, and would allow for dual prosecution of defendants.

Answer: The intent requirements for the crime of genocide are set forth in Article II. In order for genocide to be committed, an act must be directed against the individuals involved *qua* members of a particular group, and there must be a specific intent to destroy the group as such in whole or in part. It would be reasonably difficult to prove this intent element in ordinary homicide cases, and it is unlikely that the United States attorneys would institute a large number of unfounded prosecutions. If an unfounded prosecution were instituted, federal criminal procedures provide many safeguards to ensure that the prosecution would be dismissed. Since the standard is so stringent, it is not reasonable to argue that a major incursion into areas of state law would occur.

4. Senator Ervin raises a series of objections based, on the one hand, on the alleged ambiguity of certain terms in the Convention, and, on the other hand, on the procedures in the Convention for ensuring its application.

a. Senator Ervin believes that the term "mental harm" in Article II(b) of the Convention is incomprehensible.

Answer: "Mental harm" means—and this has been made clear in the Senate Foreign Relations Committee's proposed understanding—permanent impairment of mental faculties. Thus, before a charge can be sustained, it must be proved that permanent

impairment of mental faculties in fact occurred and that the defendant brought about this injury with the specific intent of destroying one of the protected groups. This is reflected in the draft implementing legislation. Thus, the standard is rigid enough to protect against frivolous allegations of genocide.

b. Senator Ervin suggests that, under Article II(b) of the Genocide Convention, state or county officials, who refuse to give a member of one of the four designated groups the amount of welfare benefits being desirable, may be prosecuted for genocide.

Answer: Article II(b) of the Convention provides that one of the ways of committing genocide is by "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part." This provision is aimed at conditions of life inflicted upon the group which are meant to cause death or grave bodily injury. Generally speaking, the provision covers "slow death" mesaures. (See Pieter N. Drost, *The Crime of State—Genocide*, pages 86–87.) Denial of adequate welfare benefits is of a completely different magnitude than measures calculated to bring about slow death. In addition, the requisite intent to destroy in whole or in part the members of a group would be lacking.

c. Senator Ervin argues that the provision of Article III(c), which makes direct and public incitement to commit genocide punishable, might deprive public officials and citizens of the United States of the right of free speech.

Answer: Under current law, while mere advocacy of illegal activities may well be protected by the First Amendment, direct and public incitement to commit legal activity is surely not protected. See e.g., *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969). Incitement crosses the bounds between protected and unprotected speech. The provisions of the Genocide Convention therefore do not violate the Constitution. Moreover, were there any conflict, the First Amendment clearly would control. *Reid v. Covert*, 354 U.S. 1 (1957); *Geofroy v. Riggs*, 133 U.S. 258 (1890).

d. Senator Ervin asks what is meant in Article III(e) by "complicity in genocide."

Answer: The prohibition against complicity is clearly aimed at accessoryship in the crime of genocide, as defined in Article II (not the other genocidal acts listed in Article III). When Congress enacts implementing legislation for the Genocide Convention, it will not be necessary to enact a special provision implementing Article III(e) because accessoryship in federal crimes is already outlawed by the United States Code. 18 U.S.C. §§ 2, 3 (1970).

e. Senator Ervin argues that Article VI imposes upon the Congress an implied commitment to support the creation of an international penal tribunal.

Answer: In more than twenty years since the Convention was adopted no international penal tribunal has been created. While one was proposed at the time of the drafting of the Convention, this proposal has long been dormant and there is no reason to suspect that it will be revived. If such a court were proposed in the future, Senate advice and consent would at time be necessary for the United States to adhere to the treaty establishing the court and accept its jurisdiction. The Convention clearly would not require the United States to accept the jurisdiction of such a court.

f. Senator Ervin fears that Article I of the Genocide Convention would require the United States to go to war to prevent the crime of genocide.

Answer: Article I confirms the principle expressed in Resolution 96(I) of the United Nations General Assembly that genocide is a crime under international law in time of peace or in time of war. The parties to the Convention undertake to prevent and punish the crime in the manner set forth in subsequent articles of the Convention. Aside from this declaration, the article has no substantive effect, the main operative provisions being contained in Articles II–VII.

5. Senator Ervin argues that the Genocide Convention would make American soldiers fighting abroad triable in the courts of our enemies for killing or seriously wounding members of the enemies' military forces.

Answer: First, it should be pointed out that combat actions of American troops against enemies do not constitute genocide. For example, it is difficult to conceive that acts committed by U.S. troops in Vietnam could fall within the definition of genocide in Article II. The article requires an "intent to destroy, in whole or in part, national, ethnical, racial, or religious groups, as such." Our involvement in Vietnam was to help the South Vietnamese defend themselves and therefore acts committed against other Vietnamese would not constitute genocide.

Of course, American soldiers who are captive in the country of an enemy of the United States could be subjected to prosecution by the enemy country for the crime of genocide regardless of whether the United States has ratified the Genocide Convention. Although we would feel such treatment entirely unjustified, we would be powerless to do anything about it other than to protest to the country or to the UN. The action of the Senate, in giving its advice and consent to ratification, would therefore have no relevance to this question.

6. Senator Ervin argues that if the Genocide Convention is ratified and legislation is passed implementing it, the executive branch would be under the duty of enforcing both the provisions of the Convention and the implementing legislation.

Answer: Senator Ervin is correct, but this observation is no argument against ratifying the Convention or against adopting the necessary implementing legislation.

7. Senator Ervin dislikes the fact that the Genocide Convention provides in Article IX the disputes between parties relating to the Convention's "interpretation, application, or fulfillment" shall be submitted to the International Court of Justice. He believes this provision nullifies the Connally and Vandenberg reservations to the jurisdiction of the Court. He further argues that the matter is a domestic one and that existing United States laws in this field are adequate.

Answer: Article IX is an entirely appropriate provision. The United States has, in many cases in its treaties, provided that disputes relating to interpretation, application, and fulfillment of a treaty shall be referred to the ICJ. Recent examples where the Senate approved a similar provision are the Convention on the Privileges and Immunities of the United Nations (1970), the Refugee Protocol (1968), and the Supplementary Slavery Convention (1967). A list of treaties with a similar provision is included in the 1970 hearings at page 215.

Article IX does not nullify the Connally or Vandenberg reservation. The Connally Amendment, or self-judging aspect of our domestic jurisdiction reservation, could be employed to prevent the International Court of Justice from deciding a case brought against the United States based on our 1946 across-the-board acceptance of compulsory jurisdiction to any international legal dispute under paragraph 2 of Article 36 of the Court's Statute. The Vandenberg reservation, or multilateral treaty reservation, could prevent jurisdiction under the same paragraph of the Statute in cases arising out of a multilateral treaty where all the parties affected by the decision are not parties to the case or the United States has not specifically agreed to jurisdiction. These reservations could not, however, be invoked under Article IX of the Genocide Convention since the basis for the Court's jurisdiction would be paragraph 1 of Article 36 of the Statute, which gives the Court jurisdiction to decide disputes "specifically provided for . . . in treaties and conventions in force." Article IX of the Convention does have the effect of avoiding the application of the reservation in the extremely small class of potential cases that may arise from unresolved differences over the interpretation, application, or fulfillment of the Convention.

CONCLUSION

Entering into a treaty concerning the prohibition of the crime of genocide is entirely proper. On both moral and practical grounds, the commission of genocide, involving as it must mass action, cannot help but be of concern to the international community. An indication that this is so is the fact that 76 nations have subscribed to the proposition that genocide is an international crime. Similarly, Articles 55 and 56 of the UN Charter illustrate that the protection of fundamental human rights is a matter of international concern.

No one asserts that the physical acts of violence denounced by the Genocide Convention are not also punishable under existing laws of the United States and of its several states. What implementing legislation for the Genocide Convention would do would be to set a higher standard—to make clear that under domestic laws the United States considers genocide abhorrent and attaches severe criminal sanctions to the crime.

TIME TO ACT ON THE GENOCIDE CONVENTION

(By Arthur J. Goldberg and Richard N. Gardner)

It is now more than twenty-five years since the United Nations first took up the question of the prevention and punishment of the crime of Genocide. On December 11, 1946, the General Assembly unanimously adopted Resolution 96(I), which affirmed "that genocide is a crime under international law" and requested the Economic and Social Council to draft a genocide convention. Two years later, on December 9, 1948, by Resolution 260A(III) the General Assembly unanimously approved the text of the Convention on the Prevention and Punishment of the Crime of Genocide.

Seventy-five countries now have ratified the Genocide Convention. The United States is the most prominent U.N. member that has not. One reason for our country's failure to ratify—very possibly the principal reason—has been the opposition of the American Bar Association recorded in a decision of the House of Delegates on September 8, 1949.

Since 1949, however, sentiment within the Association has changed. At the Midyear Meeting of the House of Delegates on February 23, 1970, a proposal to reverse the 1949 position and to place the American Bar Association on record in favor of the Genocide Convention failed by a vote of 126 to 130. Still more significant, every Section and Committee of the Association having specialized competence in the subject matter has come out in support of ratification of the Genocide Convention during the last few years: the Section of Individual Rights and Responsibilities, the Section of International and Comparative Law, the Section of Criminal Law, the Section of Judicial Administration, the Section of Family Law, and the Standing Committee on World Order Under Law.

Ratification of the Genocide Convention also has been endorsed by a number of past Presidents of the Association, including Bernard G. Segal, William T. Gossett, Charles S. Rhyne and Whitney North Seymour; by the Chairman of the Standing Committee on Federal Judiciary, Lawrence E. Walsh; by Solicitor General Erwin N. Griswold and by many other leaders in the Association.

Two distinguished members of the Associa-

tion, Eberhard P. Deutsch and Alfred J. Schweppe, however, appeared on behalf of the Association to testify in opposition to the Genocide Convention in hearings held before a Senate Foreign Relations Subcommittee on March 10, 1971, and presented the legal objections that have been raised against the convention.[1] Given the almost evenly divided vote in the House of Delegates and the support for the convention from relevant specialized Sections and Committees of the Association, we believe that it is appropriate to present the different viewpoints now existing in the Sections and Committees.

The authors of this article appeared at the Senate hearings on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties (a committee of fifty-two national, civic, religious and labor organizations) and presented legal arguments in favor of the convention.[2]

The full Senate Foreign Relations Committee reported favorably on the convention by a vote of 10 to 4 and recommended that the Senate advise and consent to ratification. After carefully reviewing the arguments, the committee concluded:

"We find no substantial merit in the arguments against the convention. Indeed, there is a note of fear behind most arguments—as if genocide were rampant in the United States and this Nation could not afford to have its actions examined by international organs—as if our Supreme Court would lose its collective mind and make of the treaty something it is not—as if we as a people don't trust ourselves and our society." [3]

REPORT OF SENATE PROVIDES AUTHORITATIVE REFUTATION

We believe the report of the Senate Foreign Relations Committee provides an authoritative refutation of the legal arguments opponents of the Genocide Convention have employed to justify their opposition for nearly a quarter of a century.

We present here a point-by-point rebuttal of the legal arguments against the convention, drawing from our testimony to the Foreign Relations Committee as well as the committee's own report, in the hope that it may clarify the legal issues and contribute to speedy and favorable action by the Senate.

1. *The convention that the Constitution prevents ratification of the Genocide Convention because genocide is a "domestic" matter is without foundation.*

In his testimony to the Foreign Relations Committee, Mr. Deutsch declared himself fully in agreement with the decision of the United States to vote in favor of the General Assembly resolution on genocide of December 11, 1946: "Standing foremost as a world leader in the protection of individual rights, she could do no less." But he added that "having joined in such a declaration as to a matter *which lies, ultimately, within the domestic sphere of each of the world's nations*, the United States has gone far enough" (italics supplied). The italicized language is clearly incompatible with statement in the General Assembly resolution that "genocide is a crime under international law". Mr. Deutsch's extensive quotations from Resolution 96(I) neglected to include this key provision.

Nowhere in his testimony did Mr. Deutsch explain his conclusion that genocide is a "domestic matter". His reasoning on this general issue may be found, however, in a report which he prepared in 1967 as chairman of the American Bar Association's Standing Committee on Peace and Law Through United Nations. It is there stated that a convention deals with "domestic" matters when it deals "with the relation between a state and its own citizens".[4] But this is not the relevant constitutional test.

As the Supreme Court declared in *Geofroy v. Riggs* 133 U.S. 258, 267 (1890), the treaty-making power may be exercised on any matter "which is properly the subject of negotiation with a foreign country". The United States is a party to numerous international agreements relating to the activities of its own citizens within the United States (and therefore "domestic" under Mr. Deutsch's definition) because those treaties nevertheless deal with matters appropriate for international negotiation. Examples include treaties on narcotics,[5] public health [6] and nature convention,[7] and the Supplementary Convention on Slavery, which Mr. Deutsch initially opposed on the ground that it also dealt with "matters essentially within the domestic jurisdiction of the United States." [8]

In the words of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year, of which retired Supreme Court Justice Tom C. Clark was chairman: "Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States . . . It may seem almost anachronistic that this question continues to be raised." [9]

What is "properly the subject of negotiation with a foreign country" and, therefore, a valid subject of a treaty is something the Senate has an obligation to determine in each case. We do not take the position that the executive branch can make any matter "international" by putting it in a treaty. But the question should be determined objectively in the light of the current interests of the United States in an interdependent world and contemporary concepts of international law—not on the basis of notions that may have been appropriate to a different historical era.

By any objective standard, genocide is a matter of international concern and is, therefore, an appropriate subject for the exercise of the treaty-making power. In our shrinking world the massive destruction of a racial, religious or national group in one country has its impact on members of this group in other countries, stimulates demands for intervention and inevitably troubles international relations. The fact that the United Nations General Assembly unanimously declared genocide to be a crime under international law in 1949 and that seventy-five members of the United Nations are parties to the Genocide Convention (including, to name just a few, such democracies as the United Kingdom, Canada, France, Mexico and the Scandinavian countries) is further evidence that genocide can no longer be considered a matter wholly within domestic jurisdiction. As was said by the Senate Foreign Relations Committee: "On both moral and practical grounds, the commission of genocide, involving as it must mass action, cannot help but be of concern to the community of nations."

2. *The contention that the Genocide Convention would alter the balance of authority between the states and the Federal Government is unfounded.*[10]

The Constitution by Article I, Section 8, specifically gives Congress the power to "define and punish . . . offenses against the law of Nations". Genocide is an offense against the law of nations and is thus within the power of Congress to outlaw. Moreover, the power of the Federal Government in this field has been confirmed in the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965. The Association's Section on Individual Rights and Responsibilities said in its report: "Ratification of the convention will add no powers to those the Federal Government already possesses."

3. *The contention that ratification of the Genocide Convention would subject American citizens to trial in foreign countries like North Vietnam on trumped-up charges of genocide is wholly false.*[11]

There is nothing in the Genocide Convention that would provide warrant for charges by North Vietnam that our prisoners of war, being held under conditions in violation of the Geneva Convention, are guilty of genocide. This is a matter of great concern to the authors and, of course, many Americans regardless of their views about the war in Vietnam. As the Senate Foreign Relations Committee pointed out in its report, however, Hanoi can make trumped-up charges of genocide against our servicemen who fall into their hands with or without reference to the Genocide Convention. In the words of the committee: "It is reality that American prisoners of war in North Vietnam could now be charged by the Hanoi government for war crimes or genocidal acts on whatever trumped-up charges Hanoi wishes to make. Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of the convention."

As to the possibility of extraditing Americans from the United States to North Vietnam or other countries for acts of genocide allegedly having occurred there, it should be remembered that under the Genocide Convention, extradition would take place only in accordance with laws and treaties in force. We have no extradition treaties with North Vietnam. Nor do we make such treaties with countries whose legal systems do not afford basic procedural safeguards. We do not grant extradition in any event unless a prima facie case is established against the accused and unless the accused will be afforded by the requesting state the due process provided by our own law.

Finally, the Genocide Convention, in accordance with an agreed interpretation of Article VI which is contained in the relevant U.N. committee report, "does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State." [12] The Foreign Relations Committee expressed itself as fully satisfied on this point but recommended an understanding to this effect to remove any possible uncertainty. The Nixon Administration has further indicated that any agreements we make covering genocide will assert the right of the United States to refuse to extradite an accused if he is standing trial in the United States or if our Government elects to try him itself. [13]

4. *The argument that ratification of the Genocide Convention would subject the United States to irresponsible charges of genocide arising out of Vietnam, our treatment of American blacks or other situations is without foundation.* [14]

Here again, ratification of the Genocide Convention does not alter the present situation to our disadvantage. Even in the absence of our ratification, there is nothing to prevent a country from making baseless charges of genocide against this country in the U.N. If anything, ratification would improve our position, because the convention requires an "intent to destroy, in whole or part, a national, ethnical, racial or religious group as such".

The tragic events in Vietnam and the terrible loss of life, both military and civilian, that has occurred there do not meet this definition, whatever other domestic legal consequences may flow from allegedly illegal acts there. The treatment of the black community in the United States, which admittedly has suffered widespread discrimination for may years, also does not fall within the definition. In both cases the necessary intent to destroy a racial or ethnic group as such is missing.

As the Senate report indicates, ratification of the convention would, if anything, help us rebut these charges by subjecting our behavior to a precise legal definition of genocide.

5. *The argument that provision for the settlement of disputes by the International*

Footnotes at end of article.

Court of Justice would override the Connally Amendment and unreasonably limit our sovereignty is without substance.[15]

The Connally Amendment applies only to our acceptance of Article 36(2) of the court's statute, the so-called optional clause providing for compulsory jurisdiction across the board. Cases arising as a result of our adherence to the Genocide Convention would fall under Article 36(1) of the court's statute, which covers the court's jurisdiction as provided for in specific treaties. The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court of Justice as is contained in the Genocide Convention. Among these treaties are the Supplementary Convention on Slavery, the Antarctic Treaty, the Statute of the International Atomic Energy, and the Convention on the Privileges and Immunities of the United Nations ratified in 1970.

This provision for the settlement of disputes over the interpretation of the Genocide Convention does not unreasonably limit our sovereignty. Our interests are better served by having any charges of genocide against us considered in a judicial forum like the International Court of Justice than in more politically motivated forums. Of course, by this provision we do undertake a commitment to subject ourselves to third-party judgment in a limited sphere, as do the other parties to the convention. This exchange of commitments may be found in many treaties to which we have become a party. Where the exchange of commitments serves our national interest, as it does here, it provides no valid basis for objecting to the treaty.

It should be noted that the Soviet Union and other countries have ratified the convention subject to a reservation that they do not accept compulsory reference to the International Court of Justice. As a result, the United States will be in a position to invoke these countries' reservations in its own behalf to defeat the court's jurisdiction if a case charging genocide should be brought against us by those countries.

6. *The argument that various provisions in the convention—"in whole or in part", "mental harm", "direct and public incitement to commit Genocide"—are loosely drafted and potentially harmful to our interests is without foundation.*

Words in a statute or treaty are not self-interpreting. They must be read in the context of other provisions and in the light of the legislative or drafting history. The hypothetical interpretations of the Genocide Convention advanced by the critics are invalidated by the language of the convention itself and by the records of the negotiation.

Thus, "in whole or in part" does not mean that the killing of a single individual, profoundly deplorable as any killing is, becomes genocide.[16] As the negotiating history makes clear, substantial numbers must be involved, and for the definition of genocide to be satisfied the acts of homicide must be joined by a common intent to destroy the group. The understanding recommended by the Foreign Relations Committee to confirm this point is wholly consistent with the drafting history.[17]

"Mental harm", in turn, would not support propaganda charges of harassment of minority groups, as charged by some critics,[18] because mental harm becomes an element of genocide only when done with an intent to *destroy* a group. Moreover, as the negotiating history shows, this provision was inserted for the narrow purpose of prohibiting the permanent impairment of mental facilities, as through the forcible application of narcotic drugs. Once again, the understanding recommended by the Foreign Relations Committee is wholly consistent with the drafting history.

"Direct and public incitement to commit genocide" does not cover constitutionally protected speech.[19] It covers incitement which calls for the commission of mass murder, which is actionable under our Constitution as in other countries. As the Supreme Court declared in *Brandenburg* v. *Ohio*, 395 U. S. 444 (1969), "the constitutional guarantees of free speech and free press do not permit a State to forbid or prescribe advocacy of the use of force or of law violation *except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action*" (emphasis added). In any case, as was stated in *Reid v. Covert*, 354 U.S. 1 (1957), no treaty can override a provision of the Constitution, and there is no doubt that the legislation passed in implementing the Genocide Convention must be interpreted in accordance with the First Amendment.

7. *The contention that ratification of the Genocide Convention would subject American citizens to trial before an international penal tribunal is without foundation.*[20]

Article VI of the convention provides that persons charged with genocide shall be tried "by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction". This part of Article VI, perhaps regrettably, is a dead letter. No such international penal tribunal has been established, and there is no negotiation under way to create one. If such a tribunal were established, action by the Senate would be required, either in the form of advice and consent to ratification of a treaty or action on legislation, before the United States could accept its jurisdiction.

Finally, it should be underlined that the International Court of Justice has no criminal or penal jurisdiction and considers only cases involving states, not individuals.[21]

8. *The argument that the convention does not define genocide as having been committed "with the complicity of government" is no objection to ratification.*[22]

The convention is directed at "persons" whether they are "constitutionally responsible rulers, public officials or private individuals." Each government is committed under the convention to punish such persons. There is no reason why such individuals should not be held responsible for genocidal acts, even without government complicity.

9. *The argument that the Genocide Convention abolishes the defense of "superior orders" is without foundation.*[23]

The convention says nothing about a possible defense of "superior orders", but it is significant that the convention includes "intent" as an element of the crime of genocide. An authoritative review of the drafting history on this point summarizes the matter as follows:

Ordinarily it would seem that no intent could be ascribed to persons merely fulfilling superior orders; intent implies initiative. However, superior orders would not be a justification in such cases where the guilty party was not only a tool of his superiors but participated in the "conspiracy to commit Genocide." Guilt could likewise be established in a case where, although acting under orders, the person was in a position to use his own initiative and thus act with the intent to destroy the group. The non-inclusion of a proviso relating to superior orders thus leaves the tribunals applying the Convention the freedom of interpreting it in accordance with the domestic legislation and the specific circumstances of the case.[24]

10. *The argument that the omission of "political" groups makes the Genocide Convention worthless is unpersuasive.*[25]

It is inconsistent for those who criticize the convention on the grounds that it subjects the United States to too much interference in its domestic affairs to complain at the same time that it fails to cover "political groups". In any event, the absence of one kind of group from the convention is no reason not to protect the groups that are covered.

RATIFICATION OF THE CONVENTION WOULD BE IN OUR BEST INTERESTS

We find the objections against ratification of the Genocide Convention to be without substance. The arguments in favor of ratification, on the other hand, seem to us compelling.

Our adherence to the Genocide Convention can make a practical contribution to the long and difficult process of building a structure of international law based on principles of human dignity. It will put us in a better position to protest acts of genocide in other parts of the world and will enhance our influence in United Nations efforts to draft satisfactory human rights principles.

We do not say that our adherence to this convention will work miracles. It may not bring very dramatic benefits in the short run. Let us remember, however, that none of the great documents of human civilization produced instant morality—not even Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run. We believe the same may be true of the Genocide Convention, if we only give it a chance.

GENOCIDE CONVENTION OUTLAWS REPUGNANT ACTION

The Genocide Convention outlaws action that is repugnant to the American people and to our constitutional philosophy. We should not decline to affirm our support for principles of international law and morality in which we believe. Our country was founded on a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today, as is reflected by the report of the Foreign Relations Committee supporting the convention. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose.

FOOTNOTES

[1] *Hearings on the Genocide Convention Before a Subcomm. of the Senate Comm. on Foreign Relations*, 92d Cong., 1st Sess. 12–54 cited hereafter as 1971 *Hearings*. The testimony of Mr. Deutsch was virtually identical to his article with Orie L. Phillips, *Pitfalls of the Genocide Convention*, 56 A.B.A.J. 641 (1970).

[2] 1971 *Hearings* at 107–137.

[3] SEN. EX. REP. No. 92–6, 92d Cong., 1st Sess. (1971), cited hereafter as SENATE REPORT.

[4] *Human Rights Conventions, Hearings Before the Senate Comm. on Foreign Relations*, 90th Cong., 1st Sess., Part 2, 70 (1967).

[5] 1912 Convention Relating to the Supression of the Abuse of Opium and Other Drugs (I. S. 612): 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs (T. S. 863); 1953 Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of the International and Wholesale Trade In, and Use of Opium (T.I.A.S. 5273).

[6] World Health Organization Regulations No. 1 (T.I.A.S. 3482), as amended (T.I.A.S. 3482 and 4409), and World Health Organization Regulations No. 2 (T.I.A.S. 3625), as amended (T.I.A.S. 5156, 4420, 4823, 4896, 5459 and 5863).

[7] 1940 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (T. S. 981).

[8] *Human Rights Conventions and Recommendations*, Draft of Proposed Report for Consideration by Section and Committee, April, 1967.

[9] For another example of confusion as to the relevant constitutional test, see Raymond, *Don't Ratify the Human Rights Conventions*, 54 A.B.A.J. 141 (1968). Mr. Ray-

mond, evidently unaware of the treaty cited in note 7, takes the view that the United States can make treaties on the protection of wildlife only when birds fly from one country to another.

[10] This contention appears in the appendix to Mr. Schweppe's statement to the Senate subcommittee. 1971 *Hearings* at 71, although it is not in Mr. Deutsch's testimony.

[11] This contention appears in the testimony of Mr. Deutsch, 1971 *Hearings* at 20, 37–39.

[12] See ROBINSON, THE GENOCIDE CONVENTION—A COMMENTARY 83–84 (World Jewish Congress, 1960), containing citations to the drafting history on this point.

[13] *Genocide Convention, Hearings Before a Subcomm. of the Senate Comm. on Foreign Relations*, 91st Cong., 2d Sess., 45–46 (1970), testimony of George Aldrich, Deputy Legal Adviser, Department of State.

[14] This argument is made by Mr. Deutsch, 1971 *Hearings* at 18, 31–33.

[15] This argument is made by Mr. Deutsch, 1971 *Hearings* at 22, 46.

[16] This claim was made by Mr. Schweppe, 1971 *Hearings* at 61.

[17] 1971 SENATE REPORT at 1, 6, 18. ROBINSON, *supra* note 11 at 63.

[18] Mr. Deutsch, 1971 *Hearings* at 18–19, 33–34.

[19] As charged by Mr. Deutsch, 1971 *Hearings* at 45.

[20] This contention is made by Mr. Deutsch, 1971 *Hearings* at 21, 40–45.

[21] One of the exhibits submitted by Mr. Deutsch stated incorrectly that under the Genocide Convention the "U. N. World Court" would "hear cases of alleged incidents of physical or mental 'genocide' committed by individuals. . . . The accused in such cases would not be protected by the Bill of Rights." 1971 *Hearings* at 50.

[22] This argument is advanced by Mr. Deutsch. 1971 *Hearings* at 17–18, 30–31.

[23] This argument is made by Mr. Deutsch, 1971 *Hearings* at 39–40.

[24] ROBINSON, *supra* note 11 at 72–73.

[25] This argument is made by Mr. Deutsch, 1971 *Hearings* at 19, 35–36.

COL. ROBERT CRANSTON, RETIRING COMMANDER OF AFRTS

Mr. CRANSTON. Mr. President, I rise to pay tribute to Col. Robert Cranston, Commander of the American Forces Radio and Television Service in Hollywood. Colonel Cranston, who incidentally is not related to me, is retiring from the Army after 30 years of active duty.

Colonel Cranston has had a long and distinguished career in broadcasting, serving with AFRTS since its inception during World War II. Currently, as head of the facility's production center, he is responsible for programing 166 radio stations and 55 television outlets overseas. His vast experience and know-how have earned him the respect and admiration of leading motion picture, broadcasting, and recording executives with whom he deals on a daily basis. Colonel Cranston has been particularly instrumental in securing the release of first-rate, current television shows for airing to our servicemen and women stationed on land and sea all over the world.

His success may be summed up by the fact that he has always geared his efforts to the young enlisted personnel, knowing that since many were away from home for the first time, they would appreciate hearing and viewing the kinds of entertainment to which they were accustomed back in the States. That is the prime purpose of AFRTS. And that is what Colonel Cranston has worked toward.

I congratulate Colonel Cranston on his accomplishments, both to the Defense Department and to our country. And I extend to him my very best wishes for an equally productive career as a civilian in the years ahead.

HOMECOMING FOR LAST TROOPS AND PRISONERS

Mr. DOLE. Mr. President, today is a proud day for America and a happy occasion for all its citizens. Our Nation takes pride in having achieved an honorable end to our involvement in the Vietnam conflict—and end which maintains the validity of our commitment to an ally and which achieves the goals established by three Presidents. And we join in happy thanksgiving for the safe return of our men who were held as prisoners of war for so many long years. We have known this day was coming for 2 months, now, since the signing of the Paris peace agreement in January. But it is still difficult to believe after so many years with so much death and loss, and division that the Vietnam war is now in the past, a chapter in history.

2-MONTH ANTICIPATION

The last 2 months have been a moving and meaningful period—a time of relief from the tensions and frustrations which plagued our people for more than a decade. First, came the long-awaited agreement in Paris; then release of the prisoners. Perhaps the tension and anxiety actually mounted between the signing in Paris and that first flight from Hanoi to Clark Air Force Base in the Philippines. Our prisoners were supposed to come out; the agreement was sealed. But would North Vietnam and the NLF comply? Would they live up to this commitment after having broken so many others? Would the men be well? Who knew; who could tell?

So we waited and watched our television screens in the early hours of that February morning when the big C–11 from Hanoi finally touched down at Clark.

And then Capt. Jeremiah Denton walked off the plane to salute our flag—straight and proud and free. And then he stepped to the microphones and said:

We are honored to have the opportunity to serve our country under difficult circumstances. We are profoundly grateful to our Commander in Chief and to our Nation for this day. God bless America.

"God bless America." With these words the tension was broken; the burden and anxiety began to lift. And time after time—as the 557 former prisoners have landed at Clark and we have followed the reunions with their families throughout the United States—the sight of them and the sound of their happy, proud voices have been the most refreshing and rewarding experiences in this Nation's recent memory.

MUST REMEMBER MIA'S

But in this time of rejoicing for our returned men and relief at the end of our involvement in the conflict, we must keep alert to the more sobering, but no less crucial situation of some 1,300 men who are classified as missing in action.

Their situation was clearly illustrated by the unexpected but highly welcome news of the last prisoner of war to be released.

This news began with a confused statement from the Vietcong that they would also be releasing a captive named "Robert Wheme." No such name had appeared on any previous prisoner lists, and our forces had no record of any individual with this name. However, a check of the birth date released with the name revealed that "Robert Wheme" is really Army Capt. Robert T. White of Williamsburg, Va.

No word had been heard from him or about him from the other side since his observation plane was downed by ground fire in the Delta region south of Saigon on November 15, 1969. He had not written his family. He was not on the January lists handed over in Paris. He had, however, been carried in prisoner status on our rolls following verification of his capture.

THE LAST POW

As a story in this morning's paper reports, his wife had never lost faith or given up hope that somehow he was alive—somewhere. And of course we can all understand the relief and joy Mrs. White must have felt when she learned of her husband's safety and forthcoming release.

HOW MANY OTHERS?

But how many other Captain Whites are among the 1,300 MIA's and others who we still list as POW's throughout North and South Vietnam, Laos, and Cambodia? Of course we cannot expect that all of them are alive. Some surely died in combat, aircraft crashes, or while being held captive. But as Captain White's case shows, some may be alive; they may be prisoners. And we must fulfill our obligation to them through insistence on our rights to verification, information and inspection as provided in the Paris agreements.

And we know that others who have not been identified by the other side as captives or casualties while prisoners at one time were alive and well. One powerful reminder of this fact was a full-page advertisement in the December 19, 1972, New York Times. Sponsored by VIVA, the organiaztion which made POW–MIA bracelets a universal symbol of concern for these men, it recounts the story of S. Sgt. David Demmon. Sergeant Demmon was listed as missing in action for 5½ years before his captive status was verified and he became a known POW. However, for all this time the Vietcong have refused to acknowledge holding him, and his family has not heard from him.

There are questions about other men, and there are other families who wait and agonize over a question no one can answer.

FULLEST DEDICATION

Of course our Government is fully dedicated to providing the answers to these questions. Every effort has been made at the highest levels to obtain concrete information and detailed explanations. Our verification center in Thailand is ready

to swing into full-scale operation to investigate every known aircraft crash, every rumor and possible recollection which might lead to some solid evidence of a man's capture or his place of burial. And the effort will not be slackened until the last possible attempt is made to determine the last facts and provide the scintilla of evidence that can be obtained.

MEMORABLE DATE

Today is, of course, a memorable date in our history, and nothing can detract from the significance it holds for the last troops as they depart Saigon and the last group of prisoners as they touch down on free soil once again. They all have earned our utmost respect and lasting gratitude for their service, sacrifice, and dedication.

But as we mark today as the end of our involvement in Vietnam and the completion of the POW's release, we must also maintain our support for those whose fates have not yet been ascertained—the 1,300 who are still missing in action.

The bracelets which many of us still wear cannot yet be removed, and we cannot allow our relief and joy at the return of these first 557 to diminish our dedication to seeing the most complete and thorough verification of those who are still MIA.

The strength and courage and untiring commitment of millions of Americans, and other millions around the world, were major factors in obtaining the prisoner's releases. I believe that same force can be—must be—focused even more sharply now on the verification of our MIA's. For, until that verification and accounting is complete, the Vietnam conflict can never be said to have been completely ended.

RISING FOOD PRICES AND THE BEEF BOYCOTT

Mr. McGEE. Mr. President, in advance of the planned boycott of beef next week, I would like my colleagues to study the remarks of a ranchwife from my own State of Wyoming—Mrs. Gail O'Haver of Sundance.

Writing in the February 1973 edition of the Rocky Mountain Union Farmer, Mrs. O'Haver gives us an insight into a side of this issue for which very little attention has been devoted.

The planned beef boycott certainly will not affect the supermarkets, the chain stores, the wholesaler, and all those people in between the rancher and the meat counter. Once again, the rancher will be the object, or the victim, of efforts to drive meat prices down.

While I share the concern of the consumer over rising food prices, I think it would behoove us to view this problem realistically. I do not see organized boycotts against the housing industry, the automobile industry, the clothing industry, or any other industry in which there are also skyrocketing prices. I think it is unfair in many ways to single out the rancher or the farmer as a vent for our frustrations over rising prices.

I believe it is also worth noting that the farmer and rancher are also entitled to a fair return for their labors. The farmer and rancher have not been getting this return for the past 20 years. Yet, they are entitled to enjoy the same quality of life as everyone else.

I ask unanimous consent that Mrs. O'Haver's article be printed in the RECORD.

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

RIDICULOUS PROBLEMS CITED BY RANCH WIFE

(By Gail O'Haver)

The city housewife looks at a piece of fresh American beef all packaged ready to cook and exclaims at the price, "This is ridiculous!" and slams it back in the meat case.

There's a good many ranchers and farmers that think it's ridiculous that she thinks it's ridiculous.

It's ridiculous that the producer gets only 40¢ of the food dollar that the consumer spends. The producer pays out 30¢ in expenses, leaving only a dime for his labor, investment, management, and income taxes.

The producers' percentage would be even less if records could be kept of food that consumers eat at a restaurants. There seems to be no fall-off of the amount of "eating out" and big juicy steaks continue a favorite on the menu.

Beef prices are not so high they are ridiculous—they have always been so low they were ridiculous.

The President is busy promising cheaper food prices by putting more land into production, removing import quotas, and making other crippling cuts into the farmers' livelihood. We know from experience higher labor costs are one of the main reasons for food prices to go up; and we know lower farm prices for food and fiber means "broke" ranchers and farmers with no money to spend in local stores and businesses.

Keep in mind that we farm housewives too, go to the stores and buy much of our food at the same prices city housewives do.

Most business investments expect a return of 12 to 16 percent. It takes 6 to 10 percent return from any business to make it attractive from the investor's point of view. Even the bank will pay 5¾ percent interest and that sure beats feeding cows on a cold winter day. Imagine what would happen if ranchers and farmers stopped being "next year" creatures—always hoping for better crops, less loss, less expense, and better prices—"next year."

Does the city housewife think it is ridiculous that many workers get $10 to $15 per hour and hardly any below $3.62 per hour? They need as little as 6.9 minutes to 18 minutes to earn a pound of nutritious American beef.

Would the city housewife think it's ridiculous that a tractor costing $3,300 in 1955 costs $5,800 now? And a combine costing $5,900 in 1955 goes for $13,000 now? We do.

It is also ridiculous that we must face uncontrolled waves of imports since quotas have been lifted. If ranchers and farmers are to continue to keep this nation the best fed, consumers must pay enough for our products to give us and the people who work for us as fair return for our labors.

Farmers and ranchers don't want pity, just a chance to share equally in the rising national prosperity and to earn a fair return on their investments and efforts.

Instead of asking "Why are food prices rising?" consumers should be asking "How can they manage to raise food for prices so low in light of the low prices they receive for their products?"

Does the same city housewife think it's ridiculous that our highways are jammed with the working man vacationing with his family in new campers, trailers, tents, boats, motorcycles, and snowmobiles?

Well, we think it's ridiculous when she comes to the food store and expresses dissatisfaction over small increases in food prices.

So much has been and is being said and written about the elimination of farm programs that I shouldn't go into it, but I wonder why our government spends so much rebuilding enemy countries, on foreign aid, on defense and other programs, and then suddenly a program to help preserve the environment for *all* the people must be scrapped?

If American consumers would devote the same energy and time protesting the extravagance of the government as they have over food prices, their savings would be considerably more.

It is time we as farm and ranch people stopped feeling apologetic and fight for farm programs and "subsidies" that help preserve this land, water and air that is so precious to us all. And never, never should we feel apologetic about the prices we're finally getting for some of our food products.

THE PRESIDENT'S DRUG ENFORCEMENT REORGANIZATION PLAN

Mr. JAVITS. Mr. President, the reorganization plan which President Nixon sent to Congress yesterday represents a major step toward the strengthening of the capability of our law enforcement agencies to deal with the magnitude of illicit drug trafficking in the United States and abroad. It represents a continuing determination of the President to end bureaucratic rivalries which have in the past undermined enforcement efforts in the drug area.

As the ranking minority member of the Subcommittee on Executive Reorganization, I will urge my colleagues to give this important proposal expeditious consideration. Senator RIBICOFF, our distinguished chairman of the subcommittee has indicated his intention to hold hearings on the plan and on bills which both he and I have introduced to deal with this same problem.

The plan is a good one and deserves the support of every Member of Congress. I note with satisfaction that in preparing this plan, the administration has responded to the suggestions of both Senator RIBICOFF and myself that a more effective role for the Federal Bureau of Investigation in drug enforcement matters is warranted, proper, and urgently necessary Particularly, I am pleased that the President has restated his determination to deal more effectively throughout the Federal Government with the terribly difficult and sophisticated problems of international narcotics trafficking.

As I previously pointed out in connection with the introduction of my bill, S. 1138, I believe it is critically important that we have more effective government-wide coordination of drug related law enforcement activities, not only among agencies located within the Department of Justice, but also among those located in other agencies, most particularly the Internal Revenue Service, the Department of State, and the Central Intelligence Agency. I commend the administration for making this commitment.

There is a great deal more that must be done.

We need more careful evaluation of

law enforcement efforts at all governmental levels, particularly in terms of quality of cases and real impact of effort.

We must build more relevant and useful data and intelligence capabilities both at the Federal and local levels.

We must expand the use of mobile joint Federal, State, and local task forces of law enforcement and other personnel to reduce trafficking.

We must strengthen bilateral agreements with individual "drug source" nations aimed at more effective international control of illicit narcotics trafficking.

We must have a comprehensive review by the Justice and State Departments of our existing extradition treaties dealing with drug offenses with a view toward expanding the scope of extraditable offenses and facilitating the extradition process.

We must have more effective Federal efforts designed to impact with greater effect upon the problem at the local level.

Mr. President, I commend the President for his proposal.

PROBLEMS OF THE FARMER IN THE STATE OF NEW YORK

Mr. JAVITS. Mr. President, I ask unanimous consent that a letter from Agway, Inc., detailing many of the important problems concerning farmers in my State be printed in the RECORD.

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

AGWAY, INC.,
Syracuse, N.Y., March 2, 1973.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: As chief executive of Agway, a diversified purchasing and marketing organization owned by 110,000 farmers in 12 Northeastern states, I am deeply concerned with the serious challenges facing our country in the 70's.

The forces at work that threaten to undermine our nation's vitality take no pause—nor can we, who are dedicated to the principle that vitality springs from hope and hope from opportunity. It is my belief that the highest form of security for an individual or a nation lies in a climate of rationally guaranteed opportunity.

Agriculture has consistently shown its ingenuity in this regard by improving its productivity to a point where plentiful high quality food is taken for granted by an entire nation for the first time in history.

I understand and appreciate that in your high office the task is immense, the pressures strong, and the issues often clouded. I do ask that you consider with me a few concerns simply stated that often become obscure.

(1) Inflation.—Directly correlates to spending more than income. The biggest loser to this insidious attack on our domestic monetary security is nearly always the one who can least afford it and is least responsible for it. There are definite limits to the amounts a family, a business or a government can spend without incurring serious consequence.

Since the Federal government by size of deficit and its influence on the supply of money is the prime contributor to this destructive trend, I ask your consideration and support of ways to search out efficiencies of operation and to achieve the discontinuance of outmoded programs after proper review.

(2) Realistic resource planning—The complexity of our society and the increasing interrelationship among broad issues of resource allocation suggest an immediate need to establish long range, practical national policies in the areas of energy, transportation, agriculture and the environment. American farmers have a great stake in the optimum and efficient utilization of these resources.

(3) Understanding our economic system—The present trend is for proportionately fewer people to be directly involved with the production of goods and services. Consequently, understanding of where our money initially comes from in relation to GNP tends to diminish significantly. This lack of understanding seriously endangers our society in that it allows negative prejudices regarding our system of economics to develop based on emotion and misinformation rather than fact.

An example of this is the fact that it is not generally known that Northeastern farmers are as gravely affected as the individual consumer by the high prices and shortened supplies resultant from such national problems as balance of trade, energy shortage and transportation limitation.

In view of the problems created by this broad lack of understanding, it is my feeling that our nation's leaders should direct themselves to the task of taking the appropriate steps to insure an informed general public.

We who represent Northeast agriculture have great faith in our form of government as well as in our economic system of private enterprise.

We know that the leadership qualities which brought you to your present position will serve you well in making the many difficult decisions which lie ahead.

We believe that the time is upon us to exercise responsibility through bipartisan cooperative action in dealing with those broad issues that affect not only your constituency but the nation.

Sincerely yours,

RONALD N. GODDARD.

EMERGENCY LOAN PROGRAM

Mr. KENNEDY. Mr. President, yesterday the Senate adopted overwhelmingly the House version of H.R. 1975 to restore the emergency loan program for farmers. The bill included the Bergland amendment which is critically important to the farmers of 555 counties in 28 States across this country, including all 14 counties in the Commonwealth of Massachusetts.

On January 18, over 300 farmers in western Massachusetts met in Spencer to protest cutbacks in agricultural programs. The farmers at this meeting signed a petition to the President to extend the emergency loan program which had begun in September, but ended in December before most of them had a chance to qualify for the program.

On February 6, I telegrammed the Secretary of Agriculture to express my concern over the cutback of assistance programs under the Farmers Home Administration including the elimination of the emergency loan program. I ask unanimous consent that a copy of that telegram be inserted in the RECORD.

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

FEBRUARY 6, 1973.

Hon. EARL L. BUTZ,
Department of Agriculture,
Washington, D.C.

MR. SECRETARY: Massachusetts farmers are seriously disturbed over administration's cancellation of Farmers Home Administration programs and other measures desperately needed to insure the livelihood of rural Americans.

I refer specifically to the rural environmental assistance program which has for many years offered farmers an incentive to carry out environmental projects on their land: the Farmers Home Administration emergency loans designed for individuals who have suffered losses from natural disasters: and to cutbacks in the school milk program. In addition, the Farmers Home Administration, primary source of mortgage credit to rural homeowners, has been instructed to cut off all subsidized loans effective January 8.

I share the disappointment and disillusionment of many inhabitants of small towns and rural areas who feel the Administration has failed in its commitment to those Americans who earn their living from the land.

In view of these announced cancellations and cutbacks, I feel that alternate solutions must be found to assist these distressed farmers. I would be happy to arrange a meeting between your representatives and the farmers of Spencer, Massachusetts, to this end and I look forward to hearing from you as soon as possible.

With best wishes.

EDWARD M. KENNEDY.

Mr. KENNEDY. Mr. President, the Department of Agriculture responded that extension of the emergency loan program would be possible if legislation were enacted which eliminated the forgiveness clause and which established a reasonable interest rate. The legislation which the Senate passed and which I fully supported accomplished these objectives.

The Congress has by an overwhelming majority recognized the critical situation for those counties across the country which had been designated by the Secretary as qualifying for emergency loans where natural disasters had adversely affected farming operations. These 555 counties were not given the 18-day period from December 27 to January 15 to apply for emergency aid and many of them had not yet made application though they were relying on the availability of emergency assistance. Every county in Massachusetts was seriously affected by the announcement: Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester.

On September 8, 1972, the Secretary of Agriculture declared the counties of Massachusetts disaster areas qualifying for disaster relief. As of March 16, 1973, 804 loans under this program had been approved for farmers in Massachusetts totaling $4,894.404. The designation for disaster relief followed upon excessive rainfall from early spring in 1972 aggravated by the effects of Hurricane Agnes and accompanied by wind and hail storms.

Mr. President, many of the other 5,000 farmers in Massachusetts have protested the cutoff of the loan program on December 27; and it is clear that many of these would have qualified for assistance if they had time to make application. H.R. 1975 passed by the Senate yesterday will give them an additional 18-day period during which to apply;

and I am delighted that this program which I fully support was extended for those farmers hurt by natural disasters in Massachusetts and across the country.

CONGRESSIONAL BUDGET PROCESS

Mr. CRANSTON. Mr. President, I believe that Congress and the President must come to grips with the urgent need to balance overall spending with expected revenues. Frankly, I think the Congress and the President have lost control of expenditures. Countless Californians have expressed to me their deep concern over the prospect of further governmental ravages of their earnings and their savings. They feel caught in a fiscal vise through no fault of their own. I believe our Nation's taxpayers have every right to demand a ceiling on spending. This is what I supported in 1972 when the debt ceiling bill, H.R. 16810, was before the Senate.

I firmly believe that it is the responsibility of Congress as representatives of the people to set budgetary priorities and impose a spending limit. I have joined with Senator PERCY and Senator BYRD of Virginia in introducing a bill, the Legislative Budget Act, S. 846, that would create a permanent, systematic procedure for setting a spending ceiling, determining priorities and revenues, and for controlling expenditures.

I am supporting the budget ceiling bills on the floor today which contain a proportionate limitation on cutting of programs by the President, because the above extension budgetary reforms cannot be enacted in time to affect spending levels for fiscal year 1974. I view what we are doing today as only an interim step to control Federal spending and reassert Congress' role in the appropriations process for the coming year. It is my hope that Congress will take further steps regarding the fiscal 1974 budget to insure that Congress fits all appropriations within a sensible spending ceiling, thereby making all the decisions itself—as it should.

Executive discretion to take unilateral action to impound funds and discontinue programs without being subjected to congressional approval has reached crisis proportions and created havoc across the Nation. For this reason I support the position that the President be required to cut all programs by the same percentage to remain within the budget ceiling as set by Congress, but the cuts cannot exceed 10 percent. Any cuts above this percentage would have to be approved by Congress. Certain programs must be exempted from these cuts, because they are "uncontrollable" budget items.

The power of the purse is the fundamental power of Government. The Founding Fathers framed the Constitution deliberately to keep this power out of the hands of the Executive—placing it instead in the Congress as as to prevent one-man government. This is what a constitutional democracy of three independent coordinate branches with defined, limited powers is all about. I stand firm behind the principle that we must balance the budget, and that Congress, having raised the revenues, must exercise the responsibility to decide among the various competing programs the priorities of the Nation.

RISING PRICES

Mr. MONTOYA. Mr. President, as is true in all parts of the Nation, the citizens of my State, New Mexico, are viewing with increasing alarm the spiraling rise in prices, and particularly in food prices. This concern was clearly stated in an Albuquerque Journal response to a recent statement by Herbert Stein, Chairman of the Council of Economic Advisers, that the administration is "prepared to move," but that "It is not clear that the best move would be to reintroduce the formalities of phase II." The editorial expressed concern that what really is "not clear" is whether the administration is truely prepared to move in any effective direction.

There is little wonder that this concern is growing. We know, for example, that the overall cost of living as measured by the Consumer Price Index, rose 0.8 percent last month alone, the greatest 1-month increase since the Korean war 22 years ago. Grocery store food prices rose 2.4 percent—2.4 percent in 1 month. Meat prices were 13 percent higher last month than a year ago. The story goes on. Since phase III and during the 3 months ending February 1973, grocery store food prices have risen at a seasonally adjusted annual rate of 20.3 percent. Meats, poultry, and fish prices have risen at an annual rate of 38.7 percent, and fruits and vegetables at an annual rate of 13.2 percent.

Higher prices are also hitting Americans where they live. During the last 3 months, the cost of fuel and utilities has risen at an annual rate of 8.5 percent. Rents have gone up at a 5.4-percent annual rate during the same time interval. Then there has been the totally uncontrolled rise in lumber prices that has placed new housing out of reach for many American families. A businessman in my home State tells me, in addition, that lumber prices have become prohibitive and that quotation on future delivery is virtually impossible.

Relief for the consumer does not appear to be near; for wholesale prices—the retail prices of tomorrow—are also on the rampage. Prices for all commodities in February were 8.2 percent above a year ago. Those for farm products were 25 percent higher.

Food-price changes are, of course, in large part due to the varied forces at work in the market; and, given tight supply conditions in many of our key products, one might well question the action of the administration when on January 11 it placed most sectors of the economy under a purely voluntary system of controls. Indeed, administration policies in many instances contributed to current shortages.

It appears, based on testimony before the Subcommittee on Consumer Economics of the Joint Economic Committee, that President Nixon and his advisers have no well thought-out plan for the future to stop the price spiral. In fact, they warn of continued price hikes. Inflation is a cruel taxer, falling disproportionately upon those with low and with fixed incomes. It is time to stop inflation. It is time to restore order to our economy.

RISING LUMBER AND PLYWOOD PRICES

Mr. SCOTT of Pennsylvania. Mr. President, the administration announced yesterday a number of steps it is taking to relieve the current problems associated with rising lumber and plywood prices. I am certainly hopeful that the action taken will soon lead to a significant decrease in the price of lumber and wood products, which in turn will be reflected in lower housing costs.

Representative DAVID MARTIN, of Nebraska, and I on March 20, brought to the President's attention the fact that rising lumber and plywood prices can add $1,200 to the cost of an average new house. Administration moves are designed to roll back these costs.

The problem is relatively simple in economic terms. There is an enormous demand and an inadequate supply. The Japanese are buying huge quantities of logs for their own housing boom—and the domestic supply is reduced. The Government's own timber reserves are not being used to the fullest capacity—and the domestic supply does not increase. I believe the only way to meet the problem is to increase the supply to match the demand. The administration is now moving in that direction.

First, the administration is proposing to increase the internal supply of timber and lumber, in the realization that the Government's forests, in contrast to private forest lands, must serve as the primary source of our wood products. From the Forest Service lands this year, 11.8 billion board feet will be sold. This represents an increase of 18 percent over last year's sales of Government-owned timber.

Second, the administration is consulting with the Japanese Government to explore the possibilities of decreasing U.S. log exports through the discovery and utilization of new markets, such as Canada and the Soviet Union. The Japanese Government is expected to instruct its importers on the situation in the hope that some favorable adjustments can be made.

Mr. President, I regret that we have to add "lumber" to the list of existing Washington crises. It need not stay on the list for long if Government, private industry, and our allies work hard at a solution. The key point here is an increase in supply. Federal land is available and I have no objection to a reasonable harvest of timber. My only concern is that there be an absolute requirement that for every tree taken, one is planted in its place. We simply must have an ambitious reforestation program if American generations to come are to benefit from our timber resources.

REPORT OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA REGARDING OVERSIGHT ACTIVITIES

Mr. EAGLETON. Mr. President, in accordance with section 118(a) of the Leg-

islative Reorganization Act of 1970 I am pleased to report that the Committee on the District of Columbia during the 92d Congress engaged in the following oversight activities.

Oversight hearings were held on the District of Columbia correctional system; drug addiction and treatment; the operation of the bus company; election reform; the future use of R. F. K. Stadium; teachers pay; the solid waste disposal program of the District of Columbia; and veterans unemployment problems, focusing especially upon Vietnam veterans.

In addition, the General Accounting Office was requested to report on the following matters:

First. Investigating the right of set-off of moneys which had been due D.C. Transit for subsidies of schoolbus fares as against payments that were owed the city for track removal undertaken by the Highway Department which were to be billed to D.C. Transit under its charter;

Second. Audit of expenditure of funds by Public Schools of the District of Columbia with the view to assuring that systematic internal controls are being developed which will facilitate sound financial management practices;

Third. Report on the cost of stopping all work on incinerator No. 5 as of November 1, 1971, including paying all penalties for terminating work on the project; and the moneys committed to this project but not expended as of November 1;

Fourth. Request to monitor the work of the internal audit division of the D.C. Government to insure that all Federal requirements are met in their audit of D.C. public school system to determine whether there are any deficiencies in the expenditure of funds by that school system during fiscal years 1970 and 1971. Also requested report as to GAO's view of the audit after its completion.

Finally, the staff of the committee held a series of discussions with the officials of the D.C. Government regarding such matters as the effective operation of the zoning system; the revision of the personnel system; the operation of the police department during the May Day confrontations; revision of the D.C. income tax system; and the operation of the health delivery system in the District of Columbia.

JOHN A. KOSKINEN

Mr. RIBICOFF. Mr. President, fortunate indeed is the Senator with a capable and loyal staff. The keystone of this staff is the administrative assistant. The administrative assistant must organize the office and manage procedural matters. He must be the clearinghouse for ideas and suggestions from constituents. He must oversee casework and deal with the executive branch and with State and local governments. He must be an adviser on world affairs and still be knowledgeable about the problems of each constituent with the huge Federal bureaucracy. He must be a legislative analyst, a public relations specialist, a seasoned politician and a public official all at once. Being administrative assistant means being the first in the office in the morning and the last to leave at night. It means receptions after work and breakfast meetings before. In short, being administrative assistant to a Senator is a tough assignment. It is not the job for a person frail in spirit or constitution.

In my 10 years in the Senate, I have been fortunate in that my three administrative assistants have been very capable men and close personal friends. Jon Newman, my first administrative assistant, is now a Federal judge. Wayne Granquist, my second AA and the manager of my 1968 reelection campaign, is the president of one of Connecticut's leading banks. These are both extraordinary men who went on to assume responsible, challenging roles in their communities. Today, I am announcing that my present administrative assistant, John Koskinen, is going on to a new career.

John Koskinen, who joined my staff as AA in May of 1969, is one of the most brilliant, enterprising, highly motivated men I have ever known. I have never been associated with anyone with a greater capacity for hard work and all-around brilliance. In addition he is the most organized man I know. John also demonstrated—time after time after time—a flawless sense of good judgment. That is an unbeatable combination—hard work and good judgment—and John has it in abundance. He thinks clearly. He writes well. He runs the office efficiently. He comes to work to work. John can field any position and homer every time he comes to bat.

Born June 30, 1939 in Cleveland, Ohio, John Koskinen began building a record of achievements as a young man. He was a national merit scholar and the State public speaking champion while attending Ashland Senior High School in Ashland, Ky. He graduated magna cum laude in physics from Duke University in 1961. His accomplishments included membership in Phi Beta Kappa and being nominated by his university to be a Rhodes scholar.

At Yale Law School, John earned an LL.B. cum laude and was note and comment editor of the Yale Law Journal and was admitted to the Order of the Coif. He was awarded a Yale Law School grant in international law, studying from September 1964 to June 1965, at Cambridge University, Cambridge, England.

Returning to the United States, John went to work as a law clerk to Judge David L. Bazelon, chief judge, U.S. Court of Appeals, Washington, D.C. In August of 1966, he joined the Los Angeles law firm of Gibson, Dunn & Crutcher where he worked until August of 1967 when he was named special assistant to the Deputy Executive Director of the National Advisory Commission on Civil Disorders. In April of 1968, John joined the staff of New York City Mayor John Lindsay, serving as his legislative assistant for congressional affairs with an office in Washington, D.C.

John is an elected member of the executive committee of the Yale Law School Association; a member of the Bar Associations of the U.S. Supreme Court and the States of California and Connecticut; and is the area chairman of the Duke University Alumni Fund.

John and his wife, Patricia, and their son, Jeffrey, live in Washington and New Haven.

John Koskinen has been a close friend and advisor to me for the past 4 years. His administrative skills and his valued counsel will be missed. Mrs. Ribicoff and my entire staff wish him Godspeed success and a full constructive life.

INTERVIEW ON ECONOMIC RELATIONS WITH JAPAN

Mr. JAVITS. Mr. President, I was recently interviewed by a special correspondent for the Japanese newspaper Yomiuri Shinbun on the subject of United States-Japanese economic relations. I feel it might be beneficial to the Members of Congress if they were to see the depth of interest in this subject in Japan. Accordingly, I ask unanimous consent that the text of the interview be inserted in the RECORD.

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

UNITED STATES-JAPAN ECONOMIC RELATIONS? FIVE-POINT PROPOSAL INCLUDES LIBERALIZATION: NEW TRADE BILL IS THE ONLY WAY

(By Special Correspondent Takahama)

An influential Republican (dove faction) Senator. A native of New York, age 68, born in 1904. Graduate of New York University. After practicing law in New York he became a special assistant to the Chief of the Chemical Warfare Service, U.S. Army. Served in the Congress as a Representative, and was elected attorney general of New York. Elected to the United States Senate in 1957; presently serving his third term. He is currently a member of the Senate Foreign Relations Committee and the Joint Economic Committee, and his views, therefore, carry weight in foreign policy matters and international economic affairs. He first visited Japan in 1956, then later again in 1970 and 1971. He has made wide contacts with key Japanese government officials, economists, and students. In the Senate, he is known as one of the leading Japan specialists. He was among the first to approve reversion during the 1971 Okinawa Reversion Deliberations. [End of biographical sketch].

President Nixon will soon submit a new trade bill to Congress, which remains cool towards Japan as protectionist sentiment continues to increase. Accordingly on [Feb.] 28th the Yomiuri correspondent interviewed Senator Javits, on questions dealing with currency reform and U.S.-Japan relations in the wake of the recent yen float. In this context, Senator Javits emphasized that the yen float is merely the first step toward improving U.S.-Japan relations. As measures which Japan must undertake, he proposed five items: (1) A "bona fide" liberalization of trade and capital; (2) Currency reform with surplus nations, and a fixed yen rate based responsibility borne by balance-of-trade on "clean float;" (3) Joint strategy with the EC (European Community); (4) Increasing Japanese investments in the United States; and (5) Economic assistance to the developing countries, particularly in Asia.

Senator Javits considers the new trade bill as the only way to prevent stiffer protectionist legislation, and favors the idea of granting the President the authority to raise tariff rates. However, he is opposed to indiscriminate imposition of import surcharges.

Earlier in Japan, Secretary-General Hashimoto of the Liberal Democratic Party (LDP) said in a speech at the International Economic Meeting sponsored by the Yomiuri, "Despite the economic power that Japan represents, she has not been given an appropriate role in international society." To that

statement, Senator Javits countered with a strong rebuff, "In order for Japan to achieve that position, Japan must first realize her role as a responsible member of international society and conduct herself accordingly." He requested that Japan provide capital for economic assistance to the developing countries. It is noteworthy that he said, "And this is not to be provided in an imperialistic manner as during World War II."

The questions and answers with Senator Javits are as follows.

Q. Japan has been accused of hoarding foreign currency, and thus contributing to the unrest in international monetary transactions. However, now that Japan has embarked on floating the yen, how do you evaluate this?

A. The yen float is a good initial step toward improvement of U.S.-Japan relations. But the question is whether Japan is going to conduct a clean float without government intervention. A dirty float makes no sense at all. How strong the yen really is depends on actual market conditions. But whatever may be said, the fact that a trade imbalance of 4 billion dollars exists cannot be tolerated by the United States. If the imbalance were to continue indefinitely, even I, a free trade advocate, must consider resorting to protectionist measures.

To arrive at such a situation is perilous for Japan which relies on the United States to absorb one-third of her exports. There are five steps which must be taken now to prevent this:

1. Establish a new international monetary agreement in place of the now collapsed Bretton Woods formula. In this new agreement, a country with a surplus in the international balance of payments will be obligated to adopt an adjustment mechanism with deficit countries under international supervision. It is essential to reach a settlement along the line of the U.S. proposal presented at the IMF General Meeting in September of last year.

2. Japan must take realistic steps in trade and capital liberalization. Based on our experience up to now, Japan has liberalized only on the surface, and in reality there are many restrictions still in force. The important thing is liberalization from a spirit of sincerity. This will prove beneficial to both United States and Japanese consumers.

3. Japan and the United States should cooperate in opening the door to the EC. Only then will Japan be able to obtain fair treatment.

4. Japan should actively invest in the United States and elsewhere.

5. Grant long-term loans to developing countries by using the strength that Japan possesses. But this must not be done in an imperialistic manner as during World War II which Asian countries fear. As a consequence, the penetration of the U.S. market will also be eased. At any rate, Japan is now a world success, and must be willing to carry out her responsibilities.

Q. The United States has devalued the dollar for the second time in a 14-month period. Some say that this has hurt America's pride. . . .

A. I don't think so. Even Christ did not fear poverty. America is not poor at all. The dollar is as strong a currency as ever. But we have chosen humility instead of pride. This can be done because, as before, we are great and strong in productivity, and brimming over with power.

Q. Will the effects of the dollar devaluation be felt immediately?

A. The devaluation of the dollar should be construed as allowing us a little more than a year's time for a basic reform. But don't place too great a hope on it. Of course, it can be said that owing to this, the situation will turn for the better. However, we are on the brink of danger. If a currency crisis erupts once more, it may be much worse than now. We are only buying time now.

Q. Compared to the 360 yen to one dollar era the yen has been upvalued approximately 36%. In Japan, some say that this is enough . . .

A. This problem cannot be resolved in a clear-cut manner as in a mathematical formula. It is enough for the moment to say that the money market will decide the actual value. Finally, it will be up to each country to decide the rate of exchange on an individual basis.

Q. President Nixon is trying to incorporate into the trade bill not only the authorization to lower but also to raise trade barriers. Isn't this carrying trade protectionism too far?

A. That is absolutely necessary. The reason is that it is the only way to prevent enactment of stiffer protectionist legislation. It is necessary for Congress to retain its veto power lest this authority be abused.

SENATOR JAVITS OPPOSES IMPORT SURCHARGES

Q. Representative Wilbur Mills, a Democrat (Chairman of the House Ways and Means Committee) has been vigorously pushing for import surcharges. Do you agree?

A. I am opposed to it. The import surcharge has nothing to do with what is vital for America at the present, and would lead to indiscriminate restraints. Rather, it is more important to have the authority to take retaliatory steps against the offending country. Two years ago, the President imposed an import surcharge, but that was done only as an emergency measure.

Q. There is criticism that the reason the dollar has weakened is that the American people don't work. Has this type of attitude weakened the international competitive position of U.S. goods?

A. That's a misunderstanding. It is not that the American people are not working hard. It is a fact that only some people waste manpower. For example, there are too many diesel trainmen on American railroads. Also within labor unions, job classifications are so narrow that a man with a certain job classification is prohibited from working in another capacity. In that sense, I recognize the need for raising work incentives. In Japan, the workers have a strong sense of loyalty to their job. In order to increase this sense of loyalty, it is necessary for us to promote such measures as old age security, profit sharing system in industries, and stock ownership plans.

JAPAN'S POSITION SPEAKS FOR ITSELF

Q. In Japan, one hears that the international position of Japan remains very low, in spite of her economic power. As a matter of fact, in a recent speech, at the Yomiuri-sponsored economic talks, Secretary-General Hashimoto of the LDP said, "Japan has not even been invited to participate in the Paris talks, and, moreover, cannot become a member of the U.N. Security Council. For Japan to be so isolated is not desirable for the world economy or for peace." What do you think about this statement?

A. Both the United States and Japan have begun to normalize relations with China. Both countries do not intend to make normalization mutually unprofitable. Rather, an opportunity has been created whereby good relations can be maintained by cooperating even in matters concerning China. Speaking about Japan, Japan has been able to promote her diplomacy from an independent standpoint without compromising with other countries. That many Japanese have decried the need for political power commensurate with Japan's economic power, is worthy of consideration. On that score, the point made by Secretary-General Hashimoto strikes at the truth. What can be clearly said is that Japan, without having her political responsibility in international society recognized by other countries and busy only in amassing money, must not only manifest her intentions of making contributions to the world, but should give proof of it. When her political responsibility measures up to her powerful economic role, it is then for the first time that the world will recognize Japan's real strength. Moreover, Japan's dream would be fulfilled. At that moment, Japan will find an eminently good friend, in the United States.

Q. It appears that the Emperor may visit the United States sometime during this year. What do you think?

A. I believe it would be a wonderful thing. I believe that for U.S.-Japan relations, there is nothing better than having as many Americans as possible see the Emperor with their own eyes, and listen to him talk.

EXTENSION OF REGULATION Q—RATE CONTROL ON INTEREST PAID BY FINANCIAL INSTITUTIONS

Mr. SPARKMAN. Mr. President, as the Senate knows, the Subcommittee on Financial Institutions—Committee on Banking, Housing and Urban Affairs—has just completed hearings on a series of matters important to the financial institutions of this Nation.

One of the subjects of the hearings was whether or not and for how long the Congress should extend Regulation Q, the provision that authorizes rate control on interest paid depositors of financial institutions.

John E. Horne, former Chairman of the Federal Home Loan Bank Board and now Chairman of the Board of Investors Mortgage Insurance Co., a private mortgage insurer of conventional home loans, submitted a concise statement explaining why he thinks the rate control act should be extended for a minimum of 2 years behind its scheduled date of expiration this June. I commend his statement to you, and ask unanimous consent that it be printed at this point of my remarks.

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

INVESTORS MORTGAGE INSURANCE CO.,
Washington, D.C., March 22, 1973.

Hon. THOMAS J. MCINTYRE,
Chairman, Subcommittee on Financial Institutions, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate the opportunity to submit this brief statement in connection with the hearings by the Subcommittee on Financial Institutions on the extension of existing interest rate control authority.

As you know, this authority was established in its present form by an Act of Congress in September, 1966. A most significant and essential feature provided under the Act is that which makes possible the payment to savings depositors of thrift institutions a slightly higher rate of interest than that paid to savings depositors of commercial banks. It was my honor to be Chairman of the Federal Home Loan Bank Board at that time, and thus I know from experience that the legislation was timely and indeed quite necessary.

In fact, without such a rate differential provision in the Regulation Q legislation passed in 1966 and its implementation by appropriate agencies of the Government, the viability of the thrift industry, which is composed of savings and loan associations and mutual savings banks, would have been jeopardized. Moreover, the volume of home

building which had already reached a perilously low level would have been further reduced.

Congress has acted wisely since the Fall of 1966 in extending Regulation Q in the form then adopted. More than any other one thing, this farsighted provision accounts for the sensational growth of the thrift industry these last six years—an industry which now has more than $300 billion in assets—and its ability to supply approximately two-thirds of the funds invested in housing accommodations. Unquestionably, without Regulation Q as now structured the almost unbelievable growth of the savings and loan and the mutual savings banks industries would not have been possible. And neither would it have been possible to reach the unprecedented volume of more than 2 million housing units annually, excluding mobile homes.

For several reasons, the thrift industry cannot now compete with commercial banks for savings without Regulation Q as presently structured and administered. For example, the investment authority of the thrift industry is far less flexible or diversified. Moreover, the composition of its portfolio is largely in long-term mortgage instruments and thus not subject to quick turnover and higher income opportunities. Because of these and other conditions, the thrift industry cannot adjust to rapid changes in the interest income paid by other investment sources. Since banks are their best known and potentially their most vigorous source of competition for savings, members of the thrift industry must continue to be shielded from unbridled or unrestrained interest rates paid to bank depositors. The American Bankers Association has taken cognizance of this logic and has recommended a two-year extension.

As I have indicated, there are sources other than banks that frequently pay higher interest rates to investors than can the thrift industry. Such instruments as Government bonds, corporate issues, Government agencies, etc., are examples. These, though, are not always easily available to or understood by the general public. Moreover, Congress has provided some protection to the thrift industry by setting a minimum in certain cases on the size of the investment instrument the investor can purchase. Too, the rate of interest or dividend varies from time to time depending upon money market conditions.

Currently, however, these competitive sources appear to be an increasing threat to the thrift industry in capturing savings. Interest on short-term Government bonds has risen rapidly. Surveys show that business expenditures for plant and equipment will rise sharply during the year. Continued and exorbitant inflation is a grave concern and can inhibit savings if not offset by increased salaries to wage earners.

All these factors make for uncertainty in the volume of savings for the year, in the type of investments savers will engage in, and in the availability of funds to meet even our minimum housing needs. These conditions also threaten to force up the interest rates paid by home buyers. Indeed, this has already happened during recent months.

Thus, it would appear to be imperative that Congress extend Regulation Q, and preferably for a minimum of two years. If other legislation that might be considered later in this Congress should necessitate any changes in the two-year extension, and that seems doubtful, the necessary adjustments can be made. Already there are so many disturbing uncertainties faced by financial institutions and the home building industry, it seems wise and proper that all appropriate steps be taken to provide stability to the thrift industry and to prevent repetition of that frightening experience termed disintermediation which we suffered in two of the last five years of the 1960's.

Respectfully,

JOHN E. HORNE,
Chairman of the Board.

John Horne did an outstanding job as Chairman of the Federal Home Loan Bank Board. He brought the savings and loan industry through a stage of its most trying and significant history since the early 1930's. He restructured the legislative foundation to enable the industry to meet its greatly expanded obligations to provide the bulk of housing funds during the coming decades; and he otherwise fulfilled the duties of his office in a highly ethical and satisfactory manner.

To give you some idea of the needed reforms and changes made possible by enabling legislation passed during his membership and term as Chairman of the Board. I ask unanimous consent that this partial list of the alluded to accomplishments be made a part of the RECORD.

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

PARTIAL LIST OF ACCOMPLISHMENTS

1. The structure of Regulation Q in a manner to enable the thrift industry to pay a higher interest rate on deposits than commercial banks.

More than any other one thing, this arrangement accounts for the tremendous net savings inflow to the thrift industry during the past six years.

2. Legislation authorizing service corporations, with authority left with the Board to determine the activities of such entities. This eliminates the necessity of passing new legislation every time the Board approves a new activity for a service corporation.

3. The receivership law which gives the Federal Savings and Loan Insurance Corporation (FSLIC) the right to take over the assets of a disappearing association when the depositors have been paid off. Prior to this law, there were growing examples of successful efforts to prevent the merging of a sick association, and of authorities other than FSLIC becoming the receiver of the assets with little or no protection for FSLIC.

4. The Financial Institutions Supervisory Act which enables the Board to do case-by-case supervision and thus to liberalize rules and regulations for the industry. This legislation also empowered the Board to prevent or stop an unsound practice without having to cancel insurance of accounts of an association. The advantages to the industry of this new Board authority are far-reaching in scope.

5. The Savings and Loan Holding Company Act, not to impair appropriate holding company activities but to prevent abuse and crippling by a handful of such companies of their savings and loan subsidiaries. This Act has benefited the entire industry, both holding companies and individual associations.

6. The authority for associations to invest required liquidity in a multiplicity of items rather than just in Government bonds. Now the required liquidity may also be invested in Government agencies (FNMA, FHLBB, TVA, Export-Import Bank, etc.); bank CD's; municipals; bankers' acceptance, etc. This provides greater opportunity for earning on liquidity and also a more flexible liquidity posture.

7. The right for associations to offer a variety of savings accounts, both in passbook and certificates, in order to appeal to various desires of savers. The ability to compete for savings is thereby greatly strengthened.

8. The right to make loans in the mobile home field.

9. The right for insured associations to sell debentures.

10. The right for associations to make consumer or equipment loans on numerous items that go into furnishing a home.

11. An increase in the amount that can be loaned for home improvement.

12. A 50% increase in the level of insurance of savings accounts.

13. The right for associations to invest in urban redevelopment areas, including equity investments.

14. The authority to make educational loans.

15. The change in terminology from share accounts to deposits, and from dividends to interest. This change enables the thrift industry to be more competitive with commercial banks.

16. Legislation to increase the percentage of an associations' investment in multiple apartment units and other commercial properties.

17. The authority for savings and loan associations to invest up to 1% of their assets in associations and housing activities in foreign countries. These loans carry a 100% AID guaranty.

18. Authority for the Board and for each District Federal Home Loan Bank to erect or otherwise acquire its own office facilities.

A matter not requiring legislation but of tremendous importance to the savings and loan industry is the agreement Horne's Board reached with the Federal Deposit Insurance Corporation (FDIC) to issue identical insurance regulations. This agreement officially established for the first time that FSLIC for the savings and loan industry and FDIC for the banks were on par with one another. Prior to this, banks frequently advertised and otherwise claimed that FDIC was superior.

Horne's Board also began the monthly Federal Home Loan Bank Board Journal to serve as a more effective means of communication between the Board and System members.

Since leaving the Board, Horne has continued to work for the passage of legislation beneficial to the thrift industry.

Among outstanding examples is the Emergency Housing Act of 1970, which among its provisions includes:

First. The authority to establish the Federal Home Loan Mortgage Corporation—FHLMC—as a new source of liquidity for the industry, and the buying and selling of FHA, VA, and privately-insured conventional mortgages.

Second. The authority for the Federal National Mortgage Association—FNMA—to conduct a secondary market operation in conventional loans using private mortgage insurance as one of its tools. Prior to this authority, FNMA could only buy FHA's and VA's.

NATIONAL STRATEGY FOR DRUG ABUSE

Mr. PERCY. Mr. President, the national strategy for drug abuse issued yesterday by the White House represents a quantum leap forward in its candid assessment of the awesome drug problem which currently afflicts this country. It also provides a constructive agenda for action aimd at dealing with the under-

lying causes of drug experimentation and dependency.

The strategy avoids the pitfalls of posing simplistic solutions to what must be recognized as a very complex problem involving pervasive drug use by a large segment of our society. Such use can only be fully explained by reference to the political climate, customs, rituals, laws, and peer group pressures which underlie this society.

The document modestly recognizes, in its conclusion:

. . . that the problems are so diverse and that the responses cut across so wide a spectrum of human activity, that developing a totally coordinated, consistent response is an elusive goal that must be constantly pursued.

That is precisely what I, and my colleagues, Senators RIBICOFF, JAVITS, and MUSKIE, had in mind when we included the requirement for promulgation of an annual national drug strategy in the Drug Abuse Office and Treatment Act of 1972—Public Law 92-255—which I introduced in the 92d Congress and which was unanimously approved by both Houses in March of last year.

I believe that the national strategy also reflects a recognition that, in the past several years of increasing and alarming drug use, the President has acted forthrightly in conceding that a grievous situation existed and was in immediate need of priority attention. The President has personally involved himself in that effort by urging a substantial redirection of Federal drug policies—redirection organizationally, and redirection philosophically. There can be no question that the attention, effort, resources, funds, and, most important of all, the commitment that has gone into this effort represents a bold and positive response.

This is not to say that the strategy document constitutes the be-all and end-all of the Federal drug abuse effort. On the contrary, within the policy and organizational framework which has now been created and which will be furthered by implementation of the President's recently announced Reorganization Plan No. 2 of 1973, substantial issues still remain unresolved. Most of this relates to differences in the treatment versus law enforcement approaches which in the past have accounted for much of the confusion on specific issues evidenced at both the Federal and State levels.

Thus, for example, I think we must give more concerted attention to the needless upset and alienation within our society caused by untold prosecutions and jailings of young people for engaging in an activity—marihuana use and possession—which they themselves do not consider a crime and as to which the best available scientific and medical evidence to date does not justify the severe sanctions which our society imposes. Particular consideration must be given to the effect of Federal crackdowns and border seizures of large amounts of marihuana on the tendency of potential users, deprived of that relatively benign drug, to turn to far more dangerous drugs such as heroin, LSD, barbiturates, cocaine, and speed.

A second, not unrelated issue, which I believe must be given greater consideration, involves the propriety of using Federal and other undercover agents on college campuses and at gathering places for youth for the purpose of busting unsuspected drug users or entrapping them into using or selling dangerous drugs.

Further, while there is considerable factual discussion in this strategy message concerning the proliferation and use of such drugs as amphetamines and related stimulants, and barbiturates and related sedative hypnotics—including methaqualone—I personally believe that it is time to call into question the corporate morality of those ethical drug companies who collectively manufacture literally billions of these tablets. They do so with certain awareness in the face of available evidence that these drugs are being flagrantly abused, and that the potential for serious psychological and physical harm is very great.

In sum, I welcome this national strategy and commend the efforts of the President and Dr. Jerome Jaffe of the Special Action Office for Drug Abuse Prevention in providing us with a particularly valuable assessment of the drug problem in America today, and where we go from here. Because of the urgency and importance of the problem, I am hopeful that we can now move ahead with dispatch in dealing with the diverse aspects of this problem and that some of the policy issues that remain unsolved can now be addressed in short order with the same degree of candor and commitment as are expressed in this strategy.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the summary findings and observations contained in the National Strategy for Drug Abuse:

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

FEDERAL STRATEGY FOR DRUG ABUSE AND DRUG TRAFFIC PREVENTION

IV. SUMMARY

There can be no simple solutions to the problems of drug abuse, and no simple solutions are presented in this first Federal Strategy. The use of drugs for non-medical purposes in the United States in these terms. ticular drug is used in a given society is not only a matter of what that drug does but also of how the people of that society feel about what the drug does and what the majority of people want their society to be. We have reviewed the various drugs that have been and are being used for non-medical purposes is as old as history. Whether a par-

It was the clear intent of the Drug Abuse Office and Treatment Act that the strategy concentrate on those drugs covered by the Controlled Substances Act of 1970. Therefore, although our strategy acknowledges the high social costs of the use of alcohol and tobacco. these are not the foci of this analysis. An entire institute within the National Institute of Mental Health is devoted exclusively to the problems of alcohol.

Yet, our response to the use of drugs such as alcohol and tobacco that have already been incorporated into our customs, commerce, rituals, and regulations cannot, realistically, be the same as our response to those dangerous drugs that are not used by a majority of citizens, and whose use, possession, and sale are currently defined as illegal by Federal and State laws.

The history and the nature of non-medical drug use is such that the medical and social consequences of using a particular drug do not always correlate with the attitudes and use-patterns that develop. For example, the use of an artificial sweetener that, in large doses, has a cancer producing effect in some animals is prohibited, while the smoking of material that is believed to be responsible for cancer in man is not. Nevertheless, inconsistencies of our overall response should not be a justification for abandoning all efforts at developing a rational system that seeks to minimize the harmful effects of drug use.

The medical utility and the medical and social consequences of different drugs produce different patterns of misuse for nonmedical purposes. Thus, the approach to each drug necessarily involves varying degrees of legal regulation and control of availability as well as varied allocation of resources to the enforcement of drug-control laws, to the treatment of the adverse consequences of using the drug, to informing the public of the issues related to its use and abuse, and to developing the increased understanding that will help us to minimize the social costs of abuse in a modern society.

We recognize the difficulty in reaching consensus on the best approach to drug problems in general and to the use of any one drug in particular. Part of the difficulty stems from our incomplete understanding of why certain drugs are used, what factors lead from use to addiction, and what the long term consequences of use and abuse are likely to be. In reviewing the causes of drug use and addiction, some factors emerge as more critical than others. Unfortunately, some of these factors are difficult to influence through direct governmental action.

One of the most important factors determing whether a drug will be used is the availability of the drug itself—in general the use rate is directly related to availability. Another major factor is peer acceptance. While many forms of drug use are solitary behaviors, the varieties that have arisen over the past decade, particularly among young people, are highly dependent on the behaviors and attitudes at the group level. If an individual's friends are drug users or experimenters, then that individual will be much more likely to use drugs regardless of his or her family background or personal characteristics. In this sense, drug use is communicated from one person to another.

Use and experimentation are not necessarily equivalent to abuse and addiction, but should be discouraged. We have lived through times where departure from traditional values and standards, and even the breaking of law, became commonplace. Under these conditions many young people, and older people as well, experimented with marihuana, LSD, barbiturates, amphetamines, and sometimes heroin. Most of these experimenters used the drugs once or a few times and stopped. Others, for a variety of reasons, continued.

The factors associated with continued use are related to the personality of the user, as well as to family structure, the alternative behaviors that are available, and the nature of the drug being used. Some drugs are much more likely to lead to an overwhelming compulsion to continue use (addiction) than others.

Broadly speaking, there are two overlapping and interacting approaches to reduce drug use and abuse in any society. These are those efforts directed at controlling the availability of drugs (drug traffic prevention) and those activities that attempt to reduce the demand for drugs (treatment, prevention, education, research, etc.). We recognize that, without compromising basic constitutional rights, no one of the major approaches available to government—control of drug traffic or efforts at treatment and prevention—can, in and of itself, accomplish the goal of minimizing the social cost of drug abuse and drug addiction. But taken together in appropriate balance and accompanied by broad and the general public, these approaches

have proved to be effective in moving toward this goal.

In considering the drugs covered by the Controlled Substances Act of 1970, we have found the problems related to heroin addiction to be most serious and we have placed emphasis on approaches to reducing the high toll that this form of addiction exacts from our society.

Heroin is among the most addictive of the commonly used substances. The use of heroin showed a sharp rise in the mid-1960's. The number of people becoming addicted increased each year from 1964 through 1969, with each new group adding to the overall growth in the total number of active addicts. While the totals for the years after 1969 are still incomplete, preliminary data indicate that there were fewer new addicts in 1971 than in 1970 and 1969.

Over the same years, the use of marihuana has also become increasingly common. One response has been to learn more about the implications of this increase use and to reflect this information in changes in our policies. Marihuana is no longer considered as hazardous as heroin and its designation under Federal law and associated penalties for its use, possession and sale have been modified accordingly. Nevertheless, our understanding of marihuana is still very incomplete. There are some who now advocate removal of all penalties for use and possession or even total legalization. With such a change or with legalization there would undoubtedly be a substantial increase in the use of this drug. More significantly, there would be an incorporation of the drug into the customs and values of our society that in the cases of alcohol and tobacco has proved irreversible. Given the flexibility of present Federal laws relating to marihuana, no legislative changes are recommended. However, uniform codes for States that are consistent with the Federal standards continue to be recommended and encouraged.

Increases in the use rates of other drugs such as amphetamines and barbiturates and related sedatives are, as with other drugs, partly a function of their availability. Last year amphetamines and related drugs were re-classified to permit the Federal Government to set limits on their production and distribution, and the medical indications for their use were restricted. The impact of these changes on the availability of these drugs should become increasingly apparent over the next two years. The Attorney General's recommendation to reclassify selected barbiturates and related drugs, after receiving legally required concurrence of the Secretary of Health, Education, and Welfare, will permit the establishment in the near future of production and import quotas and better record keeping for these drugs.

Given the wide range of drug abuse problems and the different kinds of people who at some point require some form of treatment, it is not surprising that no single treatment or intervention approach is found to be adequate. Instead, we have set out a policy of developing a variety of treatment approaches, each with its own special advantages and disadvantages, each appealing to somewhat different groups within the heterogenous population of drug users and addicts, but each with at least one common goal—the return of former drug abusers to a useful role in society.

Some treatment approaches are more controversial than others—for example, the use of synthetic narcotics such as methadone in the treatment of chronic heroin addicts, and the use of civil commitment or other involuntary aproaches. We find that the maintenance approach may be necessary for some long-term narcotics addicts at least as an interim step toward full recovery. However, it should not be used indiscriminately or without concern for the hazards caused by illicit methadone diversion. Over the past year we have developed new regulations that will minimize these hazards without interfering with the provision of treatment.

We have launched research efforts that if successful will further reduce the hazards, increase the likelihood of successful withdrawal, and provide further alternatives to the maintenance approach.

Non-voluntary approaches to the treatment of addiction will continue to be required at least for selected groups of addicts—such treatment is currently available through the Federal government (under the Narcotic Addict Rehabilitation Act) and in several States. We have noted, however, that when the power of the court is not used to retain patients in treatment under civil commitment procedures, the results seem no better than voluntary approaches and the overall costs are considerably higher. We have, therefore, advocated maximum expansion of voluntary treatment approaches before investing substantial resources in nonvoluntary treatment systems.

The different approaches to treatment of drug addiction are not equally effective or efficient. It is the responsibility of government to determine the reasons for the differences in outcome and efficiency and, where appropriate, redirect Federal resources. Such evaluative efforts are now underway.

Until the data provide for a more precise policy, we will continue to make a variety of treatments available to those who want treatment, and we will continue our attempts to develop more effective treatment methods.

This general policy has resulted in a very balanced—or multimodality—treatment system for the country as a whole. All treatment approaches funded directly by the Federal government have grown dramatically. Over the past 18 months we have created more treatment capacity than in the previous 50 years. In programs directly funded by the Federal government, more than 60,000 people can be treated at any one time and this translates into treating more than 100,000 on an annual basis; additional thousands are treated in programs funded indirectly by the Federal government through block grants and other revenue sharing devices. The combined Federal, State, local and private capacity is estimated at more than 120,000 at any given time, an annual capacity of more than 200,000.

The use of maintenance treatment in Federally fundéd programs has approximately doubled (from 10,000 in October 1971 to 21,000 in December 1972) but non-maintenance approaches have almost quadrupled—from 10,000 in October 1971 to 39,000 in December 1972. We renew our commitment to continue the expansion of treatment until no one can say he committed a crime to get drugs because there was no treatment available. This Federal commitment requires a similar commitment on the part of State and local governments to continue their present level of support for drug treatment developed with resources under their discretionary control.

While treatment of those who become addicted to drugs is but one facet of an overall approach, it is a keystone of the strategy we have outlined. We believe that once treatment is available to all who want it, there will be substantial changes in the attitudes of courts, and of probation and parole systems. With treatment readily available, the use of drugs will no longer be viewed to the same extent as a mitigating factor in the handling of those who sell drugs or commit crimes against others.

Even so, there will be many accused of minor crimes or of simple possession of drugs whose willingness to consider treatment may not develop until they are arrested.

We have developed programs that will link the criminal justice system more closely to the network of treatment and rehabilitation programs. The linkage is TASC—Treatment Alternatives to Street Crime—which identifies drug users (particularly heroin users) at the point of arrest. If ordinarily these individuals would be released pending trial, the linkage would pemit them to be admitted directly to treatment programs. In some programs, entering and remaining in treatment may be a condition of release; in others, progress in treatment may weigh heavily in sentencing or in the decision to prosecute.

Several pilot TASC programs are operational, and more may be developed pending evaluation of present projects.

Preventive efforts should flow from an understanding of causes of excessive drug use. However, with the exception of controlling drug availability, there is little consensus about root causes and ways to effectively deal with them.

Informing the public of the risks and consequences of drug use and abuse is a responsibility of government at all levels, and of many other social institutions. But if conveying knowledge about possible adverse effects has had any substantial impact to date on the rate of experimentation or addiction, the impact has clearly been inadequate.

Many educational efforts do not have clearly articulated goals.

For example, they have not stated whether they are trying to stop all experimenting with drugs or to prevent experimenters from becoming regular users and addicts; nor have they stated whether they are intended to affect all drug use including alcohol and tobacco or only those drugs that are illegal.

Few of the efforts relying on communication of information, whether through the school systems, social institutions or mass media, have been rigorously evaluated, and where evaluation has been attempted, the data do not show significant impact.

There have been too many films, pamphlets, brochures, posters, and television spots produced by too many agencies, public and private—most of which remain unevaluated in terms of their impact for various target audiences.

Current large scale educational efforts, particularly those aimed at potential or current drug users, whether through school or mass media, must be more carefully evaluated to ensure they are not counter-productive; that they do not stimulate curiosity more than they dampen active interest.

The Federal government has directed all agencies to stop all direct production and the support of the production of new educational and mass media materials related to drug abuse until the impact of presently available materials can be better assessed. In addition, new efforts at developing an evaluation methodolgy are now underway.

Thus, we are refocusing our efforts on devising creative pilot preventive approaches with more clearly articulated goals, designed in ways that will permit objective evaluation.

It is also clear that education is not synonymous with prevention. In some situations the most effective way to reduce the social cost of drug use is to provide meaningful alternatives to the use of drugs. Other effective approaches have involved early intervention efforts that bring drug users into treatment situations before drug use progresses to addiction or becomes incorporated into the individual's values.

Once we accept the premise that a drug should not be freely available, we are obliged to take whatever steps are necessary and appropriate to limit its availability. What is necessary or appropriate is, in turn, a matter of what happens when we fail to limit availability.

In the case of narcotics such as heroin, failure to limit availability leads to increased experimentation, and this, all too frequently, leads to addiction, with its many adverse consequences. Among them are crimes committed to get money to buy drugs.

We have rejected suggestions that low cost heroin be made available in order to reduce crime, because such suggestions do not

deal with the problem of preventing more heroin addicts, and because we believe that a continued increase in the number of heroin addicts is unacceptable to the majority of the American people even if the heroin were to be distributed under medical supervision and were not associated with crime.

Reducing the availability of narcotic drugs involves us in a massive effort to control illicit traffic in narcotics at every point from its origins in the poppy fields of a dozen nations to the addict who gives narcotics to his friends. We have found no point in this chain that is significantly more vulnerable than others. To affect the entire chain requires the cooperation of other nations, vigilance at our borders, and vigorous pursuit of traffickers within our borders.

The keys to effective international narcotics control are better intelligence and better overseas law enforcement, both of which require international cooperation and a firm commitment from foreign governments to act against drug traffickers operating within their borders. United States efforts toward this end are coordinated through the Cabinet Committee on International Narcotics Control chaired by the Secretary of State. Its success, to date, is indicated by the fact that we now have cooperative drug control programs with fifty-nine foreign governments and that global seizures of heroin and morphine-base doubled during 1972.

Drug law enforcement responsibilities have been divided among the Bureau of Narcotics and Dangerous Drugs, the Bureau of Customs, the Office of Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, the Internal Revenue Service, and a number of other Federal agencies such as the Defense Department, the Central Intelligence Agency, and the Coast Guard, which have specialized drug control expertise or resources.

The combined efforts of these agencies have met with considerable success. Drug seizures and arrests are at an all time high; the price of heroine on the streets of the United States has more than doubled during the past two years; and over the Eastern half of the United States there has been a severe heroin shortage that has lasted longer than any similar shortage since the heroin epidemic began in the mid-sixties.

Much more, however, remains to be done with respect to curtailing the availability of illicit drugs. Among the most serious of our current problems is that major narcotics traffickers are far too frequently automatically released on bail pending trial without regard to their threat to the community. Furthermore, even when they are arrested and convicted, they frequently do not receive sentences appropriate to the seriousness of their crimes. Current Federal drug laws are not sufficiently stringent and have far too often been leniently applied by the courts.

The President has recommended to the Congress new legislation which would sharply reduce the availability of bail for those arrested for heroin trafficking and which would create minimum mandatory sentences for heroin traffickers and life imprisonment without the possibility of parole for major repeat offenders. We urge approval of this bill by Congress and recommend that states adopt similar legislation.

During the coming year, we plan to intensify further the effort to reduce the availability of heroin, and the Federal budget provides increased resources for the attack on illicit heroin traffic.

Coordination of the diverse activities related to drug traffic prevention poses a difficult management problem. The task are so diverse and require such a variety of resources and skills that it is impossible as a practical matter to collect them all within any one operating department.

The efforts of the seven Federal entities which contribute to the international control program will continue to be coordinated through the Cabinet Committee on International Narcotics Control.

The presently fragmented Federal drug law enforcement effort will be rationalized by the creation of the Drug Law Enforcement Administration which will report directly to the Attorney General. This agency will assume all the functions of the Bureau of Narcotics and Dangerous Drugs, the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and investigatory responsibilities of the Bureau of Customs. The consolidation will be accomplished through Congressional Reorganization Plan Number Two of 1973. Because of its central importance in securing more effective drug law enforcement, we urge the Congress to give this plan its prompt endorsement.

The Drug Abuse Office and Treatment Act of 1972 (PL 92-255) created a temporary structure (the Special Action Office for Drug Abuse Prevention) for coordinating those activities that were related to treatment, prevention, education, and research. This Act also mandated the creation of Single State Agencies that would coordinate all such activities at the State level.

Over the past year, the Special Action Office for Drug Abuse Prevention has moved to concentrate more and more of the discretionary funds for treatment, prevention, education and research into the Department of Health, Education, and Welfare and within HEW into the Division of Narcotic Addiction and Drug Abuse of the National Institute of Mental Health.

We have also taken major steps toward routing an increasing proportion of resources through the states to local programs rather than by-passing state and local government.

The objective is to move support for service projects through the state to communities as much as possible over the next several years, thus shifting responsibility for setting priorities to local jurisdictions. Communities should view drug abuse in context with their other problems and deal with it accordingly with an emphasis appropriate to local conditions.

Eventually, emphasis at the Federal level will be on research and demonstration programs in the areas of treatment, prevention, and training. The exceptions will be the programs of the Bureau of Prisons, Veterans Administration, and Department of Defense where direct care of drug users and addicts, and associated research and evaluation will continue.

The necessary coordination between drug abuse prevention and drug traffic control (both foreign and domestic) will continue to be provided by the Executive Office of the President. A new Office of Federal Drug Management is being created within the Office of Management and Budget to assist in this effort.

Much is still unkown. In every area from treatment to prevention, from control of illicit traffic to the long-term consequences of drug use, there are gaps in our knowledge.

A rational strategy should include a systematic effort to acquire the needed information. Such an effort requires the setting of research priorities. Current priorities include the efforts to measure the size and the rate of change in the drug using population, the adverse consequences of the use of various drugs, the natural history of drug use and addiction, and new approaches to treatment and early intervention, including the advantages and disadvantages of educational efforts and mass media campaigns.

Research efforts are also needed to improve our capacity to control availability. These take the form of better methods to determine the origins of samples of illicit drugs, and to gather and analyze intelligence on illicit traffic and to analyze the relationships between law enforcement activity, judicial actions, and the price and availability of illicit drugs.

Until the gaps are filled, our policies and strategies must be considered tentative and subject to revision. This first Federal Strategy is an attempt to present the background and rationale for the Federal government's policies with respect to problems of drug abuse. It recognizes that the problems are so diverse, and that the responses cut across so wide a spectrum of human activity, that developing a totally coordinated, consistent response is an elusive goal that must be constantly pursued.

This Strategy will be reviewed continuously, modified as new knowledge develops, and promulgated again within one year from the date of this report.

SENATOR DOMENICI CALLS FOR CONTINUED ATTENTION TO TECHNOLOGICAL GROWTH

Mr. HELMS. Mr. President, I rise on this occasion to commend my colleague, the distinguished junior Senator from New Mexico (Mr. DOMENICI), for a fine discussion of one of the major issues facing our Republic today.

In an address to the National Sounding Rocket Conference of the American Institute of Aeronautics and Astronautics, my distinguished colleague called for a balanced commitment to support our domestic programs, while keeping our technological growth vigorous.

I feel the speech of the junior Senator from New Mexico will be of interest to the Members of this great body.

Mr. President, I ask unanimous consent that the speech by the junior Senator from New Mexico be printed in the RECORD at the conclusion of my remarks.

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

ADDRESS OF SENATOR PETE V. DOMENICI

New Mexico's contribution to national rocket research began as far back as 1930, when Dr. Robert Goddard began firing his rockets near Roswell.

It went on to include the famous WAC Corporal in 1954, the first living things carried into space in 1951, the first tropical storm photographed from space in 1954 and the first man-made objects in space in 1957.

I consider myself fortunate to represent a state which—with 40,000 civilian, military and contractor personnel involved full time in science—can truly be said to have a great deal in common with the future of America. Because that is so, when I, as a Senator, address such a great and sustaining national concern as the advancement of science, I know that New Mexico has a vital role and a deep interest in the subject.

Today, our nation, as I see it, is dangerously reducing its research and development efforts. If we ignore this critical priority or slight it, it is my firm belief that we will repeat the historical decay of other countries, in other centuries.

It takes vision and courage to maintain a healthy economy, to keep our position in our collective productive capacity. It is world trade and to continue the growth of impossible for me to conceive that we can do these things without committing ourselves to continuous and aggressive advances in the fields of science and technology.

We are now in an era of peace. I pledge to you that I will look at everything we do in this era of peace from a historical point of view. That perspective demonstrates clearly that we have always made our greatest scientific and technological gains in our country during times of war. But if science and technology are sacrificed to peace, that peace will not bring us the abundance we desire and the solutions to our social proplems.

It is a simple fact that today's pure science is tomorrow's technology; that is the day after tomorrow's position as a trader with the world and as a solver of our own national problems.

Make no mistake about this: our country's investments in science and technology have always paid off for America. In large measure it is because of them that we rose to a position of world leadership in less than 200 years of history.

But today, some people seem to think that technology has become a dirty word. They shout, "Less money for technology; more money for social purposes."

They don't understand—or they don't want to understand—that technology is not good or bad in and of itself; it is how we *use* technology that is good or bad. After all, technology simply means pursuing and applying knowledge to solve man's problems. How, under any circumstances, can that be intrinsically anti-social?

It seems clear that what our country needs is a balanced commitment, one which will support our social action programs but will also keep our technological growth vigorous. Unless we can manage to combine these two, we cannot retain our position of importance in the world. There is little need to remind scientists of how Galileo was ridiculed and imprisoned, the Wright brothers laughed at, and automobile pioneers met with cries of "Get a horse."

There have always been men who voted against new ideas. Almost all Americans would agree that Daniel Webster was one of history's greatest senators, yet the record shows that when Congress was asked to appropriate funds to explore and settle the western part of the United States, he voted against the idea. After all, as everyone knows, the West has nothing but scrub cactus, deserts, high mountains and uncivilized savages.

Actually, when Congress voted funds to open up the western frontier, it spent ten per cent of the gross national product to build railroads through the West. At the present time we devote to opening up the space frontier not even one per cent of our gross national product. Actually, the figure is closer to one-third of one per cent, and it is declining.

It is easy to take positions against things, and most of us are all too comfortable when we are doing so. I would like to read you some language from a commission report on the evaluation of a proposal. I am sure that the approach will sound familiar to you. The report says:

"The committee judged the promises and offers of this mission to be impossible, vain and worthy of rejection; that it was not proper to favor an affair that rested on such weak foundations and which appeared uncertain and impossible to any educated person, however little learning he might have."

That is an excerpt from the report of the Talavera Commission. It was made in Spain in 1491 after consideration of a proposal by a fellow named Columbus, who wanted some financing for some kind of exploration he had in mind.

History is full of such examples, but it also teaches us that progressive societies have always invested part of their annual profit in their own future. It is axiomatic, it seems to me, that no first-rate country can ever be or continue to be first-rate unless it has first-rate science and technology.

It is equally true that you can't turn science and technology on and off as you do a faucet, depending on the state of our international and domestic crises. Technology's advance must be steady and constant, and the space program must continue to spearhead that progress.

When we stand at the peak of technological leadership, as our country does today, there are certain questions which we must ask ourselves. Have we learned anything from our past? Is it possible for us to stay at this peak? Are we in fact smart enough and capable enough to solve international and national problems and still advance technology?

I am sure that it is no mere accident of speech that leads us to refer to each new attack we mount on social problems as a War—the War on Poverty, the War on Hunger, the War on Disease. We use the word because we are conscious of the fact that it is a war which has led us to most scientific advances and to most scientific answers. Now it is our job to reach those advances and answers in a time of peace.

We can only do that if our forward motion in science and technology is on an all-encompassing base. It is true that we have made progress to stamp out polio, but we would not have done it unless we had previously developed microscopes which made it possible for cures to be discovered. Heart pacers, in our older citizens and even in children, came into being, not so much directly from an impetus to create them as from research which was done in our space program on totally different uses. The same is true of any future solutions to our environmental problems. They will not come solely from focusing our attention upon environment. They will come only if the whole body of scientific advances, so that we can then select from it those technological improvements which will in fact be the solution to these problems.

We are presently in a period of much soul-searching, considerable fear, doubt and trepidation. But these things merely show that we are mortal men, every doubt is excusable.

What is not excusable is a lack of vision and a lack of courage, at a time when greatness can only come from men of vision and of courage. To lack them would be unforgivable. If, at this juncture in our nation's history, we lack vision and courage, future generations will not forgive us—and they will be right to condemn.

LATIN AMERICAN TEACHING FELLOWSHIP PROGRAM

Mr. JAVITS. Mr. President, I have served for 5 years as a member of the National Advisory Board of the Latin American Teaching Fellowships—LATE—program of the Fletcher School of Law and Diplomacy, Tufts University. I have watched this program develop from a very modest beginning to a point today where it has 95 teaching fellows in Latin America. What has been the key to its success? The central theme has always been that LATF is responsive to educational needs that are defined—and largely financed—by the Latin Americans themselves. A number of my constituents have participated in the LATF program. They have informed me of their good experience with the LATF program.

I have been informed that both AID and the Ford Foundation are going to make some modest administrative support available to the LATF program. I welcome this continued support of this fine program.

I ask unanimous consent that a brochure on the program be printed in the RECORD.

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

LATIN AMERICAN TEACHING FELLOWSHIPS—1973–74

THE I.A.T.F. PROGRAM

Program description

Latin American Teaching Fellowships are offered by the Fletcher School of Law and Diplomacy, Tufts University. This program responds to requests from Latin American universities for junior and intermediate level faculty assistance in the natural and social sciences, engineering, business administration educational theory and administration, and law. Professors selected for the program directly assist local Latin American institutions in teaching and research. They dedicate between half and full time to their university responsibilities. The LATF professors usually fulfill one of two functions: they replace a faculty member currently studying outside the host country, or they offer courses which otherwise would not be offered due to absence of necessary expertise and personnel. Curriculum design and development within the specialized discipline is an important contribution LATF professors can make. The LATF program currently operates in the following countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay, and Venezuela.

Some of the positions currently offered by LATF carry an "internship" component. This requires the Fellow to work approximately half-time for a corporation or public agency in the host country. The LATF program is financially supported by major foundations, universities, and corporations in the United States, Canada and Latin America.

Program objectives

The objectives of the LATF program are two-fold:

(1) to assist universities in Latin America to expand and develop their teaching programs by providing highly trained instructors capable of communicating effectively in Spanish or Portuguese.

(2) to provide opportunities for teaching experience and field research to pre- and post-doctoral individuals, and to recipients of law, business and medical degrees.

An additional long-range objective of the LATF program is to improve the quality of North American university instruction relating to Latin America, by maximizing the Teaching Fellow's academic and institutional contacts while in Latin America, in anticipation of his teaching in the United States of Canada.

INFORMATION FOR APPLICANTS

Eligibility

Preference is given to applicants who have completed doctoral or professional degrees, and to doctoral candidates who have completed all degree requirements except the dissertation. There are no citizenship or age requirements. In most cases, selected candidates are required to write and speak the language of the country to which they are assigned at the commencement of their teaching period. Prior teaching experience is desirable but not mandatory.

Time commitment

LATF program positions in most cases are offered for 24 months, although both shorter and longer periods may also be granted. Departure date will be determined by the program, in accordance with university and internship arrangements.

Internships

Some LATF positions are wholly or partially self-supporting through the internship component. In most cases, the Fellow serves as a consultant or advisor to a corporation or agency in his area of competence. The host agency in turn assists in financing the LATF arrangements. Fellows should anticipate spending up to half time on teaching duties, and up to half time on internship responsibilities.

Financial stipends

The financial arrangements for each LATF position are worked out on an individual basis, depending on degrees of support from the host institution, internship payments,

other fellowship or research stipends, and other factors. Average monthly income for 1973–74 Fellows will be between $400 and $700. Incremental increases are frequently provided.

Application process

Application forms may be obtained by writing: Latin American Teaching Fellowships, Fletcher School of Law and Diplomacy, Tufts University, Medford, Massachusetts, 02155. Those applicants deemed eligible and suitable for teaching positions in Latin America will be personally interviewed by an LATF staff officer. Since final selection is contingent upon the applicant's acceptability to a Latin American university, applicants should anticipate some delays in selection notification.

L.A.T.F. ADMINISTRATION

The Latin American Teaching Fellowships program is administered and coordinated at the Fletcher School of Law and Diplomacy, Tufts University. Collaborative relations are maintained with approximately 90 major universities throughout Latin America.

L.A.T.F. Officers

Gary A. Glenn, Executive Director.
William M. Cloherty, Director of Operations.
Lizbeth Lyons, Director of Academic Affairs.
Stephen M. Johnson, Director of Latin American Operations and Representative, Colombia/Venezuela.
Jeanell Cunningham, Staff Officer for Communications and Budgeting.
Oscar F. Porter, Staff Officer for Recruitment and Selection.
Susanne D. Tiktin, Staff Officer for Liaison with Fellows and Representatives.
Janet Ballantyne, Representative, Peru.
Jan Dill, Representative, Central America and Panama.
Theodore Reutz, Representative, Argentina.
Kevin Kinsella, Representative, Mexico.
David H. Gold, Chief of Operations, Sao Paulo, Brazil.

National Advisory Board

William S. Barnes, Fletcher School of Law and Diplomacy (Chairman).
Frank W. Archibald, Southern Peru Copper Corporation.
Lawton M. Chiles, United States Senate.
Frank Church, United States Senate.
Alphonse De Rosso, Exxon Corporation.
Dante B. Fascell, Member of Congress.
Donald M. Fraser, Member of Congress.
James Goodsell, Christian Science Monitor.
Edmund Gullion, Dean, Fletcher School of Law and Diplomacy.
Jacob K. Javits, United States Senate.
Nicholas A. Libertore, Lone Star Cement Co.
Torbert H. Macdonald, Member of Congress.
F. Bradford Morse, Under Secretary General of the United Nations for Political and General Assembly Affairs.
Thomas P. O'Neill, Member of Congress.

FIXED COMMISSION RATES—A GIANT STEP BACKWARD

Mr. WILLIAMS. Mr. President, the new Chairman of the Securities and Exchange Commission announced yesterday that contrary to previous commitments to the Congress and the investing public, the SEC would not require the securities industry to lower the breakpoint for competitive brokerage rates this year. In other words, all charges for brokerage service on exchange transactions below $300,000 will continue to be fixed, and investors who do not trade in such gargantuan amounts will continue to be denied the opportunity to select and pay for the services and only the services they require.

The SEC's decision constitutes a breach of faith with the industry, the Congress and the investing public. There can be no pause in reaching the goal of eliminating fixed rates in the securities industry. They have not preserved profitability; they have not insured market liquidity; and they have not prevented market fragmentation. Quite to the contrary, fixed rates have encouraged inefficiency; they have led to a misallocation of economic resources; and they have obstructed movement toward a true central market system.

The Subcommittee on Securities had been assured by former Chairman Casey that the SEC was inexorably moving toward competitive pricing and that there would be a further reduction in April of this year. Mr. Cook, prior to yesterday, had expressed to me and to the full Senate Committee on Banking, Housing and Urban Affairs his commitment to continue this program. Therefore, I am genuinely shocked by the Commission's reversal of policy.

The Commission's decision not to reduce the competitive break point has neither solid economic data to support it nor sound policy presumptions to explain it. I am forced to conclude that it represents a capitulation, however temporary, to the forces which have consistently opposed all steps toward interjecting muchneeded competition into this industry.

Nearly a year ago the subcommittee received testimony from William Salomon, a forward-looking industry leader, who stated:

> At every move to lower the level for negotiated rates, we have been bombarded from many sides with the argument that time is needed to adjust to the change so that the impact of each downward move could be evaluated.
>
> As yet it has not been made clear what adjustments are being made by the firms who oppose negotiated commission rates. The gradual stepping down process presently underway just seems to invite the same opposition at every further downward adjustment. They say "move slowly." There haven't been any plans for adjustment brought forward. Their only aim seems to be to delay the downward movement as long as possible in the hope that it can be permanently stalled.

The resistance to competitive rates continues unabated, and the SEC decision to postpone further progress can only give heart to those who desire the perpetuation of price fixing in the securities industry.

It is appropriate to recall the Commission's own conclusion in its Statement on the Future Structure of the Securities Markets:

> Fixed minimum commissions, at least on institutional-size orders, may well make it very difficult, if not impossible, to create the central market system.

I am in full agreement as apparently is Mr. James Needham, chairman of the New York Stock Exchange. The Commission, however, seems to have lost sight of its own point, and by its decision yesterday it has inevitably delayed the startup of a true central market system within which competition can play its necessary role.

In February, when Mr. Cook was appointed chairman of the SEC, I had high hopes that he would be a vigorous chairman, able to lead the industry in the adoption of necessary reforms and modernized procedures. My hopes were reinforced 2 weeks ago, when, in a speech in New York City, Mr. Cook outlined a plan for a central market system which was thoughtfully conceived, workable, and in the public interest. As could have been expected, Mr. Cook's speech brought anguished cries from vested interests on Wall Street that his proposals would bring chaos to this country's securities markets and destroy our capital-raising capacity. Nonsense, of course; Mr. Cook's proposals for a central market system were basically the same as those contained in the Subcommittee on Securities' securities industry study report and in the recent report of the House Subcommittee on Commerce and Finance. The proposals are sound and will create for the investors of this country a fairer, more orderly, more liquid market.

But those on Wall Street whose ox will be gored by the proposals in Mr. Cook's speech are not without power and political influence—and Mr. Cook it appears is highly susceptible to pressure from such quarters. Last Friday a delegation from Wall Street visited Mr. Cook. It is my understanding that they voiced their displeasure with his speech. His reversal of policy on Commission rates appears to have been the direct result of this visit.

Mr. Cook's willingness to compromise established Commission policy in order to appease Wall Street bodes no good for public investors and the integrity of our market system. This action makes more clear than ever the responsibility of Congress to legislate the final abolition of fixed pricing in the securities industry. I believe we can and should act promptly.

SOVIET COPYRIGHT LAW

Mr. McCLELLAN. Mr. President, on March 26 I introduced S. 1359 to amend section 9 of the Copyright Act in response to recent developments in the Union of Soviet Socialist Republics. According to the information currently available there is reason to believe that the Soviet Union may intend to use its adherence to the Universal Copyright Convention as an additional means of suppressing the circulation of works by dissident Soviet authors.

The New York Times of March 28 contains an article from Moscow reporting a statement issued by a group of distinguished Soviet intellectuals to the effect that the Soviet membership in the Universal Copyright Convention could be used to deprive Soviet authors of their rights. In an open letter to the United Nations Educational, Scientific, and Cultural Organization they wrote:

> It would be impermissible that censorship should now acquire the possibility of operating on an international scale supported by the Geneva Convention.

The Wall Street Journal of March 29 in its lead editorial entitled "From Russia With Vengeance" states that it concurs in the view that the Soviet membership in the Universal Copyright Convention "was aimed primarily at suppressing for-

eign publication of underground works by Russian authors critical of the regime."

I am pleased that the Wall Street Journal has endorsed the legislation which I sponsored earlier this week. The Journal editorial concludes with advice which is appropriate to all our understandings and arrangements with the Soviet Union. It states:

It is important to enter such agreements with a clear understanding of the regime we are dealing with, rather than entertaining naive expectations that Moscow is finally more interested in international cooperation than in ideological advantage.

In view of the growing interest in this subject, I ask unanimous consent that the articles from the New York Times and the Wall Street Journal be printed in the RECORD.

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

[From the Wall Street Journal, Mar. 29, 1973]

FROM RUSSIA WITH VENGEANCE

Two months ago, when Soviet Russia announced its intention to abide by terms of the Universal Copyright Convention, we expressed skepticism about Soviet motives. We would have liked to join the optimists who viewed the Moscow announcement as an example of Russia's growing maturity and responsibility, but we were worried that the underlying reason for the Soviet turnabout was bound up in the broader purposes of Russian ideology.

We feared that the Soviet announcement, saying it will become a party to the convention effective May 27, was aimed primarily at suppressing foreign publication of underground works by Russian authors critical of the regime. Unhappily, it seems clear that our fear was well taken.

Just recently the Kremlin unveiled Decree 138 of the Supreme Soviet, passed only days after the announcement that it would agree to the copyright convention, saying the pact will apply to all Soviet works—even those not published "but found on the territory of the U.S.S.R. in any objective form." The decree is clearly directed at *"samizdat,"* that clandestine literature that comprises serious Russian literature today, much of which naturally protests the oppressive Soviet regime.

Under this law, a writer could be prosecuted if he admitted authorizing foreign publication of his work. If he denied authorizing foreign publication, as Nobel Prize Alexander Solzhenitsyn denied authorizing foreign publication of two of his major works, Russia could bring legal action against the foreign publisher for violating the copyright convention.

In return for acquiring this club with which to batter dissident intellectuals in the guise of international legality, Russia will give up very little. For years Moscow pirated literary works and compositions at will, picking and choosing from among the world's creative output in order to satisfy domestic propaganda purposes.

Not only did it publish such works without paying royalties (except in a few cases making token payments in rubles spendable only in Russia)—it also distorted much of what it did pilfer, changing dialogue, altering characters and subverting plot. Recently, David Rabe, author of "Sticks and Bones," wrote to the Russian producers of an unauthorized production of his play, protesting the distortions. He wrote, "I feel that you and your entire cast and crew spend the two hours of your performance each night spitting in my face."

When it signs the copyright convention, Russia presumably will have to end such distortions and it can no longer pirate foreign works. And there is always the possibility Moscow may in fact do so, although it will mean reversing a policy that is now deeply ingrained. But there would seem to be no lack of Russian writers capable of grinding out their own propaganda productions. And if Moscow has to get by on home-produced distortion, that will be little enough price to pay for silencing those intellectuals whose eloquent voices are still being heard beyond the grave dug for them by their Soviet jailers.

The board of the American Association of Publishers recently announced that members intend to fulfill the spirit of the copyright convention, as expressed in its preamble, ensuring respect for the rights of the individual. And the Authors League of America properly has urged Congress to change the U.S. copyright law to disallow claims to copyright control by any foreign government, a move that would prevent Moscow from using American courts to enforce its claim over the works of Soviet authors.

As a separate discussion on this page today suggests, it probably is in America's interest to try to reach agreements with Russia on a whole range of technical, cultural and trade arrangements; but each such pact must be weighed on its own merits. It is important to enter such agreements with a clear understanding of the regime we are dealing with, rather than entertaining naive expectations that Moscow is finally more interested in international cooperation than in ideological advantage.

[From the New York Times, March 28, 1973]

SIX SOVIET INTELLECTUALS WARN OF DANGER IN MOSCOW'S ACCEPTANCE OF WORLD COPYRIGHT LAW

(By Hedrick Smith)

Moscow, March 27.—Six Soviet intellectuals, including the physicist Andrei D. Sakharov, warned today that Soviet adherence to the International Copyright Convention could be used to deprive some Soviet authors of their rights rather than to protect them.

"It would be impermissible that censorship should now acquire the possibility of operating on an international scale supported by the Geneva Convention," they declared in an open letter to the United Nations Educational, Scientific and Cultural organization.

On Feb. 27 the Soviet Government formally notified UNESCO of its intention to adhere to the copyright convention beginning May 27. Subsequently, the Government published an amendment to Soviet copyright laws tightening control of foreign publication of Soviet writings by requiring that foreign copyrights be granted only through an official Soviet agency.

Western specialists immediately noted that this would open the way for the Soviet Government to take legal action against such iconoclastic writers as Aleksandr I. Solzhenitsyn for allowing foreign publishers to print works that Soviet censors would not pass.

They also suggested that the new law would provide Moscow with grounds for filing suit against Western publishers who printed works of Soviet authors on the basis only of personal authorization, though it is not clear whether the Soviet case would stand up in Western courts.

In any event, both Western and Soviet observers saw the Government's move as a step to try to shut off the flow of dissident writings published in the West. The letter today was the first publicized warning from Soviet citizens about the potential dangers of the move.

The letter of Mr. Sakharov and the others, including two writers who have encountered official pressure for having privately permitted publication of their works abroad, asserted that Soviet censorship had always been "extremely rigorous" and in recent years had become "even more harsh and arbitrary."

If in the past Soviet censorship had had the force of international law through the International Copyright Convention, the letter warned, "world culture would have been deprived of many remarkable works" by the poets Anna Akhamtova, Boris Pasternak and Aleksandr T. Tvardovsky, by Mr. Solzhenitsyn and Aleksandr Bek and by "other writers, composers, painters, historians and publicists."

The letter asserted that a peculiarity of the Soviet system of state monopoly in foreign trade raised special problems for Soviet authors.

"The international concept of copyrights implies that this right is purely a personal one that the author may transfer to any publishing house, theater, movie studio and so on," it said. "Governments may and must protect copyrights of their citizens but not appropriate them. In the special conditions of our country the law on the monopoly of foreign trade would be transformed into a power that limits and even suppresses international copyrights of Soviet citizens."

The six signers said that while they approved of the Soviet move on the whole as a potentially significant contribution to the cause of free exchange of information and cultural rapprochement among people, they felt it their duty "to express several apprehensions."

They said that their apprehensions were sharpened by the publication of the amendments to the Soviet copyright law published on Feb. 28.

THE OTHER SIGNERS

In addition to Mr. Sakharov, the signers include two other members of the committee on Human Rights—Igor Shafarevich, a mathematician, and Grigory Podyapolsky, a geophysicist; two writers, Alexander Yalich and Vladimir Maxemov, and Alexander Voronel, mathematician.

Both Mr. Galich and Mr. Maximov have been under official pressure because of publication abroad of works that have not been passed by censors here.

Mr. Galich, a well-known screen writer, was expelled from the Writers Union more than a year ago, reportedly for refusing to disavow publication of a Russian émigré publication of politically controversial songs attributed to him.

Mr. Maximov reportedly feared expulsion from the Writers Union after the publication in the West of his novel, "The Seven Days of Creation."

MUSKIE SPEECH CALLS FOR GET-TOUGH POLICY WITH DETROIT

Mr. BIDEN. Mr. President, there has been much discussion recently of the feasibility of meeting the requirements of the 1970 Clean Air Act. This is a matter which deserves the thoughtful consideration of all of our citizens. Senator EDMUND MUSKIE, chairman of the Senate Subcommittee on Air and Water Pollution, responded today to the critics of this act who have suggested that the act be amended and that Congress and the public have asked too much from the automobile manufacturers. I believe that Senator MUSKIE has presented his argument cogently and that the points that he has made should be carefully considered.

Senator MUSKIE pointed out that:

The industry has had the opportunity for a decade to clean up the automobile with only general supervision from the Federal Government. These minimal controls now appear to have been inadequate . . . The harsh truth is that German and Japanese auto companies have developed more new

control technology and have contributed more to the protection of America's health than have General Motors, Chrysler and Ford.

In reference to the auto manufacturer's response to the Clean Air Act requirements for the development of a clean car, Senator MUSKIE said that:

Apparently American auto companies have decided to substitute politics for engineering and public relations for technological progress.

Because the auto manufacturers have made no secret of their intentions to seek a change in the law, Members of Congress should examine carefully what Senator MUSKIE had to say:

Any proposed amendments to the Clean Air Act must improve our capacity to ensure that the goals of the Act are met . . . The Congress will have to consider imposing standards of engine design, performance and fuel economy, and we will need to examine the arguments for improving the competitive structure of the industry.

I ask unanimous consent that the full text of Senator MUSKIE's remarks to the Environmental Writers Association be printed in the RECORD at this point.

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

REMARKS BY SENATOR EDMUND S. MUSKIE

Fifty years ago, the first Henry Ford wrote an autobiography that set out the principles he said had guided him to success. "All that I have done," he wrote in *My Life and Work*, "is to endeavor to evidence by works that service comes before profit and that the sort of business which makes the world better for its presence is a noble profession."

The mass-produced automobile, the creation of Henry Ford's genius, has made the world better. Cheap, rapid transportation has broken down distinctions of class, of geography, of wealth. It has opened up opportunities that now extend into a space and a future we can only dimly imagine.

But America—the most advanced and dependent automotive society in the world—has now reached a time of testing with the automobile. We are faced with the fact that the private car involves grave public risks. We are being forced to examine what Henry Ford put down as a truism: "The machine is the symbol of man's mastery of his environment."

The examination has now reached a critical phase in the issue of standards for automobile exhaust emissions. The question is before the Environmental Protection Agency. It is before the auto manufacturers. It is before the Congress, and it is before the public.

A few weeks ago I discussed the problem with the heads of Ford, Chrysler and General Motors. Today I want to set out my views to you and ask you to reflect on the choices America must make and the forces at work to determine their resolution.

While the immediate problem is the question of extending for one year the deadlines on auto emission levels set by the 1970 Clean Air Act, it is necessary to begin this discussion with some of the background of that legislation. As the principal author of the Act, I am anxious to put on the record the concerns that must govern the implementation of the law.

This year Americans will buy 11 million new trucks and cars. They will spend over $40 billion with the U.S. auto manufacturers whose activity now constitutes roughly one-fifth of our economy. Americans will receive, in return, the means to get to and from their jobs, their schools, their families, and their recreation, the vehicles to carry their goods from maker to buyer and the machines to till their farms and harvest their crops.

Essential as the automobile is, however, its costs must be weighed. One is the cost in fuel—65 billion gallons of petroleum products just for private cars in a year, and 40 percent of all our petroleum consumption committed to use in motor vehicles. Another is the cost in health—the area I will concentrate on today.

Using air quality data of the Public Health Service, whose validity was only recently reaffirmed by new studies by EPA's National Environmental Research Center—we have to conclude that the automobile is a danger to the Nation's health. This year, automobile exhaust will account for two-thirds of the carbon monoxide, half of the hydrocarbons and two-fifths of the nitrogen oxide that pollute our air. And that pollution will be concentrated in our great cities.

The NERC report reached the following conclusions:

PARTICULATE MATTER

"All recent evidence has strengthened the research base upon which the Administrator made his judgment. Thus, the present standards are not deemed unreasonable and it is not recommended that they be changed at this time."

PHOTOCHEMICAL OXIDANTS

"In light of old and new evidence to date, the present primary national air quality standard for photochemical oxidants of 160 ug/m³ (1.08 ppm) maximum concentration for one hour is reasonable. The evidence does not warrant a different standard."

NITROGEN OXIDES

"Based on . . . existing health intelligence, the margin of safety provided by the primary NO_2 standard of 100 ug/m³ (0.05 ppm) is adequate . . . Present evidence does not compel us to suggest a change in the existing standard."

CARBON MONOXIDE

"In view of [the] relatively small margins between present standards and observed health effects, it does not seem that existing standards are unduly restrictive and it does not seem prudent that they should be raised. Although the margins are relatively small, the carboxyhemoglobin levels that will result from adherence to the standard is sufficiently close to background, that no lowering of the standard is recommended either."

The EPA data, when applied to the urban concentration where more than 70 pecent of America's population lives, prove the existence of a clear and present danger to health. In 67 metropolitan areas automobile-related pollution produces a level of air quality which is considered unsafe. In many of these cities, emissions from motor vehicles are responsible for 80 percent of the urban air pollution.

In Baltimore, for instance, motor vehicles produce 96 percent of the carbon monoxide which, on city streets where children live and play, often goes higher than 50 parts per million. Ten parts of carbon monoxide per million dulls thought. One hundred parts per million brings on dizziness and headaches. One thousand parts per million kills.

And the situation in Baltimore is not exceptional. On North Capitol Street, just a few blocks from the Senate Chamber, the carbon monoxide levels often rise to 100 parts per million, twice the maximum health limits for factory workers' safety. In Chicago, the standard of 48 parts of carbon monoxide per million in any one hour is exceeded 48 times a year, and the eight-hour standard is breached 713 times annually. In Washington itself the eight-hour standard is violated 99 times a year.

Of course, one of the worst hit areas in the Nation is the Los Angeles Basin. And it is from there that the pressure has grown for a national response to a problem that never was simply a local concern.

In the fifties, California legislated a requirement that the development of workable pollution control mechanisms—add-on devices—must be followed by the installation of those devices on vehicles sold in that State. By 1964, California was able to certify that three independent manufacturers had developed functioning add-on devices, and the State then required their installation on 1966 model cars.

For years the auto manufacturers had been saying the technology necesary for such emission control was not available. They also argued that the law was unnecessary as they could clean up motor exhausts without such pressure. But within weeks of California's firm stand, they announced they had the means to comply without resorting to add-on devices.

Nevertheless, they opposed the decision of the Congress in 1965 to set Federal standards, applied in 1968, for exhaust levels from new car engines. In 1967, Congress made the Federal standards preemptive over those individual states had set. The Congress made an exception only for California and in return for the preemption of State laws, Congress insisted that Federal controls be sufficiently strict to protect areas with the worst pollution problems.

Studies by the Public Health Service showed that the law was not producing the desired air quality results. The automobile industry was making little progress in developing either a clean conventional engine or a viable alternative. The Nixon Administration called auto and oil industry officials to a White House meeting in 1969, and from that session emerged an agreement for stiffer emission standards in 1975 and a set of goals for clean cars by 1980. These goals and standards, however, fell short of the real requirements. Because of the used car problem, they would not have removed automobiles as a major contributor to air pollution until 1990.

The Congress found the timetable too slow. The Clean Air Act of 1970 required instead that the White House goals be made standards and that they be applied in 1975 and 1976. The Act required in 1975 a 90 percent cut below 1970 emission levels of hydrocarbon and carbon monoxide and set for 1976 a 90 percent reduction below the 1970 levels of emissions of nitrogen oxide.

That Congressional determination rested on four considerations.

First, we weighed the necessity of protecting public health against the disputed facts of economic or technical feasibility, and we decided that public health could no longer be compromised by these lesser considerations.

Second, we insisted on independent monitoring of the facts the manufacturers had, until then, nearly monopolized the true measure of their own efforts and of the technology available to them.

Third, we provided that the deadlines could only be extended by one year and only by the Environmental Protection Agency. It could grant the delay after a finding that the standards were not technologically feasible, that the manufacturers had made a good faith effort to comply, that the National Academy of Sciences could find no available alternatives and that an extension of one year would serve the public interest.

Finally, we established the principle that as long as America could not live without the automobile, it required an automobile it could live with. The burden of producing such a car—without specific inhibitions on the kind or size of engine—was left with the industry itself. And so long as the industry did not want to be told how to manage that burden—so long as the industry insisted that the internal combustion engine should not be abandoned, that the car or engine size need not be restricted, or that no specific fuel economy should be required—it was enough to tell them simply that it had to be done. So we set standards for performance, not for design.

Nearly three years have passed. And now

the auto manufacturers are asking for both the one-year extension and for a relaxation of the law itself.

They say the public health data on which the 1970 determination rests are "arbitrary."

They say the danger is not so great as to require such strict reductions in emission levels.

They say that existing technology cannot effect such reductions.

They say the technology that could do the job would cost too much.

And, they say, it would produce a car that consumed more fuel with less drivability; a car that would not sell.

So the issue is joined. It is appropriate that we examine the conflicting claims and the available evidence. The evidence is detailed and technical. Complicated as it may be to present, it is still essential to understand.

The reports issued during the last several weeks by the National Academy of Sciences and by the Environmental Protection Agency provide the kind of information we need to evaluate the results of the industry's efforts. The information is discouraging.

It indicates that the industry has attached more importance to preserving the internal combustion engine than to finding the best and most effective means of meeting the standards.

It strongly suggests that the industry has failed to seriously consider alternative engine systems as an approach to solving the automotive emissions problems and meeting the statutory deadlines.

The reports of both the National Academy of Sciences and the Environmental Protection Agency conclude that the 1975 standards for hydrocarbons and carbon monixide emissions might be met by using catalytic, add-on systems coupled with the internal combustion engine (ICE)—the approach followed by each of the major domestic manufacturers.

The reports also indicate that the standards can be met by using alternative engine systems, the Wankel rotary engine, the diesel engine, or the stratified charge engine—the approach followed by several foreign manufacturers such as Mercedes-Benz, Honda, and Mazda.

But now the domestic manufacturers argue that the passage of time has eliminated the alternative engine approach to meeting the 1975 standards as far as they are concerned.

With respect to the 1976 standards for nitrogen oxides, both reports conclude that the prospects are still hazy; but both reports also indicate that the prospects for meeting those standards with the alternative engine system are clearly better than are the prospects for success with the catalytic, add-on systems.

Most importantly, however, the NAS report also compared the catalyst and alternative engine approaches in terms of cost, durability, and fuel economy. These comparisons make clear the price the public will have to pay for the industry's decision not to develop alternative engines. The Report states that the dual catalyst system pursued by the domestic manufacturers "is the most disadvantageous with respect to first cost, fuel economy, maintainability, and durability. On the other hand, the most promising system—the carbureted, stratified-charge engine—is superior in all these categories."

According to Philip Handler, President of the Academy, the high costs for the catalyst systems are dominated by the fuel penalty associated with such systems. "These costs," he said, "in dollars and in depletion of fuel reserves, are so great that they should serve as a national incentive to hasten the development of reliable lower-cost alternatives to the dual catalyst system as a solution to the problem of emissions control."

But those prospective costs do not appear to have had that effect. Neither the higher costs to the consumer nor the greater drain on our energy resources has discouraged the U.S. auto manufacturers from choosing the catalyst patch-up over alternative engine systems. And the public will pay the price for that choice. The harsh truth is that German and Japanese auto companies apparently have developed more new control technology and have contributed more to the protection of America's health than have General Motors, Chrysler or Ford.

In the midst of compiling this record with respect to the 1975 and 1976 standards, the companies have repeatedly ignored and violated current requirements of the law. Some of the most flagrant violations occurred in 1971 when Ford shipped 200,000 cars to their dealers in violation of the law, and in 1972 when Ford committed 350 separate criminal violations of the law for which it recently paid a $7 million fine.

Several other companies are involved in an action which began in March of 1972 when EPA sent a memorandum to all the auto manufacturers stating the clear intent of the Clean Air Act that vehicle certifications granted by EPA would apply for only one year. EPA stated: "The statutory language limits to 365 consecutive days the period of time (production period) during which a manufacturer may produce individual models."

EPA revealed on June 19, 1972, that despite this clear direction, ten auto companies planned to produce models under 1972 certifications for periods longer than 365 days. The ten auto companies were: Alfa Romeo, Avanti, Chrysler, Citroen, Ford, General Motors, Lamborghini, Maserati, Mercedes-Benz, and Nissan.

EPA chose not to enforce their March directive, but instead wrote a new memo saying that a year is not 365 days but is any "model year" the auto companies choose to make it. Thus, the manufacturers' preferences prevailed over the clear intent of the Congress.

The most outrageous violations were reported in July, 1972. EPA learned that auto makers were installing emission control devices on 1973 cars which would shut off automatically under many normal driving conditions.

Specifically, it was reported that emission control systems would shut off when the engine is idling, when the outside air temperature was below the minimum test level of 68 degrees, or when major accessories such as air conditioning units were operating. None of these faults were discovered during regular EPA testing because the manufacturers had rigged their cars so that shutoff devices would not be discovered by EPA's tests. And when EPA ordered the removal of these devices in January of this year, the auto makers protested that their production schedules would be disrupted.

We have examined what the industry has done. Let us now look at what they are saying.

Apparently, American auto companies have decided to substitute politics for engineering and public relations for technological progress. The past several months have seen the beginning of a major effort on their part to discredit the requirements of the Clean Air Act and the basis on which it was enacted.

In questioning the basis of the law, for example, General Motors has spent thousands of dollars for special canned presentations, including a slide show and accompanying speeches, in which the Clean Air Act standards are called "arbitrary," "unrealistic," and "overkill." General Motors' memory is very short; the standards in the Act were virtually identical to standards to which the auto industry agreed at the White House meeting in November, 1969. These standards were further supported by extensive studies discussed during hearings on the Clean Air Act in 1970, and have been confirmed again by the studies of the National Environmental Research Center.

Chrysler recently sent to their dealers a slide show, a speech, and pamphlets attacking the Clean Air Act. In the pamphlet, Chrysler argues that "nature produces up to fifteen times more of the automotive emissions than man." That is not the whole story according to Reid A. Bryson of the University of Wisconsin's Institute for Environmental Studies:

"It is true that nature produces more carbon monoxide than man does, but not in the high concentrations that are found on city streets. Nature does produce more hydrocarbons than man, but not in high concentrations in the air. In fact, we burn naturally produced hydrocarbons in our automobiles, but we concentrate the wasted part in the air of our cities. It is totally meaningless to argue that because nature produces more carbon monoxide over the whole world (including the oceans, which are a major source) that concentration of 80–110 ppm in some sections of our cities are of no consequences. The methane produced by a herd of flatulent elephants in Africa has nothing to do with whether there is too much hydrocarbon in the air of Washington, D.C. The argument is even more absurd than telling the condemned man in the electric chair not to worry because lightning kills far more people every year."

And a recent Chrysler newspaper advertisement tells us that: "The automobile industry has not been asleep. We were working hard to reduce harmful emissions from cars some twenty years before the Clean Air Act." Chrysler apparently has forgotten that the auto industry was sued by the Justice Department in 1969 for an illegal conspiracy to suppress the development of emission control technology. "The automobile manufacturers", said the Justice Department, "collectively did all in their power to delay [the] research, development, manufacturing, and installation of control devices from 1953 through the middle 1960's."

The industry has made three principal arguments in attacking the requirements of the law:

First, the companies have argued that the 1975 and 1976 standards will lower the fuel efficiency of new cars, require greater fuel consumption, and substantially worsen the energy crisis. According to the NAS, the catalyst approach the industry has chosen over the alternative engine approach will involve increased fuel consumption. But the truth is that we pay even greater fuel penalties in exchange for vehicle size and accessories than for pollution control devices. And there is no need to pay any fuel penalty at all for emissions control, according to the NAS; in fact, two of the alternative clean engine systems—the diesel and the stratified charge—are more fuel efficient than the 1973 internal combustion engine.

The Environmental Protection Agency has described in detail the relationship between fuel economy and pollution control devices, vehicle size and accessories. Their report indicates that automatic transmissions involve a 5–6 percent fuel penalty, emission control systems an average penalty of 7.75 percent, and air conditioners an average penalty of 9 percent (up to 20 percent on very hot days); vehicle weight increases over the past few years have caused penalties of up to 150 percent.

The second major argument which the industry has advanced is that the technology to meet the 1975–76 standards does not exist. It is the same argument that has been made every time new automotive emission standards have been considered over the last fifteen years; and every time, when the crunch has come, new technology has appeared.

The truth is that the technology *does* exist; we just don't know whether it exists for the domestically manufactured internal combustion engine. General Motors mass produces a diesel car in Europe which meets the 1975 standards. Mercedes-Benz, Mazda

and Honda expect to meet the 1975 standards without serious effects on current performance levels with the diesel, the Wankel and the stratified charge engines, respectively. In fact, EPA has said that Honda will meet the 1975 standards with fuel economy 12 percent better than comparable 1973 vehicles, and that Mercedes will meet the 1975 standards with fuel economy 75 percent better than conventional 1973 vehicles. Honda has also publicly stated that they expect to meet the 1976 standard. In addition, a Mercedes-Benz diesel apparently has been tested and found to meet the 1976 standards.

The *third* argument is that plant closures will be inevitable unless the government relaxes the enforcement of the law. Thus, the industry is trying to use the livelihoods of hundreds of thousands of workers as a huge bargaining chip in its struggle with the government.

But the truth is that if plant closures should be threatened it will be because of bad business decisions of company management, not requirements of the Clean Air Act.

That is the context in which the manufacturers are petitioning for more time. In light of the past performance of the auto industry in resisting, evading, and circumventing laws to control automotive emissions, I hope that the Administrator of the Environmental Protection Agency will examine the manufacturers' request with at least the same degree of skepticism which has marked the manufacturers' approach to the law. In any event, we all must examine carefully the implications of the industry's apparent failures or limited success, and consider the possibility of even stricter controls on automobile design and performance.

The Administrator of EPA is confronted with a difficult task. In deciding whether or not a one-year extension is warranted, the law requires that the industry show that control of technology is not available, that good faith efforts have been made, that an extension would be in the public interest, and that the National Academy of Sciences has not found available alternatives.

The public interest determination will not be easy.

It will require more than an analysis of the impact of the possible suspension of operations of one or more manufacturers.

It will require more than an analysis of the impact of delayed introduction of new models, or of the impact of importing platinum for catalysts from Russia or South Africa, or of the impact of an imperfect technology on energy consumption.

Any test of the public interest must also include an evaluation of what the public can buy in exchange for a one-year extension.

The industry asserts that a commitment to catalytic systems to meet a 1975 deadline is not in the public interest. They urge an extension of time to perfect the catalyst system.

The Administrator must go beyond that premise. He should determine whether the industry's emphasis on catalysts has forced a direction which is not in the public interest, and whether there is any real possibility that a one-year extension will in fact facilitate the development and application of alternative systems.

The industry has argued that an extension would provide time to develop more fuel-efficient control technologies or engine systems. The Administrator must determine whether or not that can in fact be the result of an extension.

The industry has argued that an extension would provide an opportunity to improve the durability, reliability, and drivability of the new vehicles. The Administrator must determine whether or not an additional year can in fact achieve that purpose.

In short, the Administrator must determine not just what the industry says it *hopes* to do, but what the industry is willing to *commit* itself to do. If the Administrator finds that the law does not permit sufficient flexibility to pursue *those* kinds of commitments, he should make appropriate recommendations to the Congress.

The auto companies have indicated that they intend to seek a change in the law regardless of the Administrator's decision on the pending extension request.

As far as I am concerned, any change in the law will be even more sharply focused on what must be done to achieve a clean car.

What this country is entitled to is a fuel efficient, clean car which is durable, drivable, and economical. That must be the objective of the industry.

Until now we have attempted to reach that objective by setting performance standards for the industry rather than design standards. We have depended on their evaluations of their own technology. But, now we have learned that our reliance on the industry was mistaken.

When the auto manufacturers argued against Federal adoption of California's auto emissions standards in 1964–65, the Managing Director of the Automobile Manufacturers Association argued that "controlling potential pollutants at the engine, instead of with accessories added to the exhaust pipe, would in the long run, prove to be technically most sound and economically most feasible." In other words, the industry told us that engine design changes were preferable to add-on devices such as catalysts. But in 1973, in asking for an extension of the 1975–76 deadlines, the manufacturers are making the opposite argument. Yet they have never seriously explored alternatives to the internal combustion engine.

In light of this reluctance, the Congress must consider what alternative engine systems are available, what their possibilities and limitations are, how much it would cost. In this connection, the Congress will have to consider imposing standards of engine design, performance and fuel economy, and we will need to examine the arguments for improving the competitive structure of the industry.

Any proposed amendments to the Clean Air Act must *improve* our capacity to ensure that the goals of the Act are met.

We may have to allow States such as New Jersey and California, which have developed responsible emission control programs on their own, to assume a greater role in controlling emissions from automobiles operating within their boundaries.

We may have to upgrade the Federal role in supervising the development and manufacture of devices relating to the emission control systems.

We may have to broaden the prohibition and criminal penalties under the Act to deter any alterations of emission control systems—not merely those performed by manufacturers or their dealers.

And, finally, we will have to assure that auto workers are not victimized by irresponsibility in the executive offices.

We come back then to what Henry Ford said about his "noble profession". In another portion of his autobiography he spoke of "something sacred about a big business which provides a living for hundreds and thousands of families", and he said, "continuance of that business becomes a holy trust."

But he added the following words: "The employer is but a man like his employees and is subject to all the limitations of humanity. He is justified in holding his job only as he can fill it."

The top officials of the American automobile industry rightly maintain that the health of their industry is crucial to the Nation's prosperity. That reality does not put them beyond the law, nor does it justify their dictating the terms on which they will operate.

Over the past half century this industry has demonstrated ingenuity and enterprise in fashioning an automobile which both whetted and catered to the consumer's appetite for comfort and convenience. We have asked it to assume the high responsibility of turning that same capability to the service of the country's health.

And what is their response?—They are saying that the disease is not grave enough to warrant the costs of cure. And, using their enormous weight in the productive sector, they appear to be issuing all of us an ultimatum. They say, in effect, that the price of protecting public health from air pollution is an unthinkable dislocation of their industry and the American economy—that the public health is inconsistent with the health of the industry.

The American automobile industry *has been on notice for a decade* that air pollution is a grave national concern, that the motor vehicle is a major contributor to the crisis and that Congress is resolved to impose the requirements necessary to preserve the nation's health. *The industry has had the opportunity for a decade* to clean up the automobile with only general supervision from the Federal government; standards have dictated performance, not design. These minimal controls now appear to have been inadequate. The further steps that I have suggested may be necessary—because we must solve the automotive air pollution problem, and solve it without making the public pay for the industry's mistakes.

So it falls to industry—most of all because of its vast importance—to add responsibility to responsiveness. The size of the automobile industry itself requires of its leaders the highest degree of public responsibility.

During the 1970 consideration of the Clean Air Act in the Senate, I said, "Detroit has told the nation that Americans cannot live without the automobile. This legislation will tell Detroit that if that is the case, they must make an automobile with which Americans can live."

To that I would only add one more thought from Henry Ford. "Our invariable reply to 'It can't be done,'" he wrote, is 'Go do it.'"

AUTO EMISSIONS STANDARDS: DO THEY STILL MAKE SENSE?

Mr. HART. Mr. President, Congress, as was intended by the authors of the Constitution, tends to be the most tentative branch of government.

Because of its size, because of the diversity of philosophy represented here, because of occasionally conflicting regional and political interest, Congress is a pot where legislative ingredients tend to simmer slowly until they are indistinguishable in the gruel that finally arrives at the table.

This, in balance, is fine. Programs do stand a better chance if the opposition sector's sharpest teeth are blunted. Minority philosophies should have a degree of influence. Regional interests should not be totally ignored.

Our problem very often is that once we have polished some program into enactable condition with all the compromises, commitments, and political considerations tucked in, it must succeed or fail in that form no matter what changes in circumstances may befall it.

Congress somehow finds itself with little ability to adjust, to trim, to add ballast or remove it once the program has been launched.

The war on poverty might be cited as an example. It was admittedly a some-

what emotional concept structured into legislative form. It was a somewhat uncertain craft—tending at times to be cranky and inefficient but it was nevertheless an inspiring sight as it set out on its rescue mission.

Some parts of it worked. Some parts not. But Congress never really restructured it, cutting off the dragging anchors and providing a better compass.

And as a consequence, an insensitive administration—citing the program's deficiencies—finds itself politically able to scuttle the whole concept of a unified poverty program.

Certainly, it is our obligation—although an admittedly difficult one in view of the nature of the body in which we serve—to make sure that the programs we enact are not made rapidly obsolete by circumstance, not made unrecognizable by bureaucracy, not left to sail through uncertain seas without an occasional change of course or sail.

All of this is a rather wordy prolog to my reexamination of problems that are soon to descend on us—problems generated by the 1970 enactment of the Clean Air Act.

When we passed that legislation many of us—with considerable justification, I think—were particularly sensitive to the distortions of congressional intent that often result when a public law is passed through a bureaucratic filter.

Previously, in matters of health, Congress has left the technical details of discovery and enforcement to the executive branch.

We traditionally let them figure out what the dangers are and what enforcement levels are needed to meet the dangers. This time, we decided that we would be the technicians, that we would determine the requirements and set standards far into the future.

So we did not leave much discretion to the enforcing agencies. We built the ship but before we pushed it off from shore, we set the sails, we locked the rudder, and sent it on its way under the guidance of a largely automatic pilot.

But now it is clearly our responsibility to monitor that voyage closely. I hope we can do that and make whatever adjustments that logic may demand without undue loyalty to the decision that Congress made under other circumstances in 1970.

My suggestion that the act be reexamined will not, I hope, be totally suspect because I am the senior Senator from Michigan. It is true that my constituency is heavily involved in automobile manufacture, but I think many colleagues will recognize that I am not exactly a favorite in the boardrooms of Detroit.

In fact, I have no hesitancy in stating that the crisis we find ourselves in today is in no small part the result of myopia on the part of the auto manufacturers themselves.

They had little or no response to early pollution warnings. Moreover, it is undeniably true that the now-famous California consent decree arrangement offered strong evidence that the companies did, in fact, conspiratorially drag their feet on pollution control.

It might be justifiably said that, had the auto companies in 1970 been more highly thought of in regard to fairness, integrity and consumer concern, the Clean Air Act may have passed in a more moderate form.

The American auto industry certainly has not been noted for individual innovation. When it moves, it almost always moves in lockstep, a characteristic common to concentrated industries.

Nevertheless, I find myself in accord with the National Academy of Sciences, which after reviewing the energy, economic and social impact of the act, recommended:

> These matters are so complex and important that the committee urges an early and thorough examination by Congress, EPA and the academy of all aspects of the motor vehicle pollution standards established in the Clean Air Amendments of 1970—their premises, underlying assumptions, the goals that were set and the interplay among the three pollutants dealt with specifically in the act.
>
> In the light of the material developed in its study, CMVE believes that such a reexamination would be extremely valuable in relating motor vehicle emissions control to the many issues relevant to a sound national environmental policy.

Why is it appropriate for us to now reexamine that 1970 act?

We have grown increasingly concerned about our energy supplies, and it now appears that the systems most likely to be installed to meet the statutory standards will require increased fuel consumption.

We still have no medical evidence—however tentative—of the degree to which public health will be improved by the end-step requirements of the act; thus the cost-benefit ratio is difficult, if not impossible, to compute.

If industry and government do not deviate from their present course, it is apparent that the devices needed to bring cars into compliance with 1975 and 1976 requirements will add about $272 to the price of an auto. The consumers putting out those dollars will be justified in asking precisely what benefits will accrue to themselves and their communities. I am not sure our answers will be very satisfactory, especially to that 30 percent of the Nation's population not living in urban areas.

Technological advances now on the horizon promise cleaner engines at lower prices.

News reports—confirmed by private conversations with EPA staffers—indicate there is new scientific evidence that nitrous oxide—the most difficult of all exhaust gases to eliminate—may not be the national hazard that we earlier thought it to be.

If we elect to continue a breakneck charge toward the 1976 goals, let us all at least understand that the path leads through a swamp of uncertainties.

Certainly, I am aware that many now maintain that the industry made a mistake in its persistent devotion to the conventional internal combustion engine. The automotive genius, Charles Kettering, would have understood that.

It was always his contention that in a factory there is nothing harder to sell than a new idea.

The essential problem as I see it is that we are at present locked into a course that will require additional expenditures by the consumer of at least $2 billion a year if catalytic converters are standard equipment.

It is possible that the total extra car expense may go even higher than that if increased demand drives up gasoline prices.

Many experts in the oil industry, in fact, are predicting gasoline prices of $1 a gallon, the cost being propelled upward by no-lead requirements and by the increased consumption required of pollution devices now being contemplated for installation.

The National Academy of Sciences concludes that:

> These costs, in dollars and in depletion of fuel reserves, are so great that they should serve as a national incentive to hasten the development of reliable lower-cost alternatives to the dual-catalyst system as a solution to the problem of emissions control.

Certainly, everyone will agree that they should. But will they? In view of Mr. Kettering's law and in view of past performance, we cannot at this time promise the consumer that the industry, once the dual-catalyst is comfortably in place, will quickly seek to replace it.

But if we are to require the consumer to spend an extra $2 billion a year, we have to promise him something, right? We almost have to be able to pledge, do we not, that the 1975–76 emissions standards will make his environment either healthier or pleasanter or both.

Well, we assume the environment will be healthier in some selected parts of the country, particularly concentrated urban areas. No one is sure, but we think so.

On the other hand, evidence indicates that in most areas of the country, the new emissions standards won't make a whit of difference. We might as well face it—on our present course we will sooner or later be compelled to tell the auto owner in Germfask, Mich., why he has to pay $272 more for his car because distant cities that he has no prospect of there are serious pollution problems in visiting.

And he might ask some embarrassing questions.

He might ask if the last, and most expensive, emissions controls are really necessary from a health standpoint.

He might ask if local pollution outbreaks might not be more efficiently and more cheaply controlled by local regulation designed to cut back auto traffic.

He might ask, for example, why a federal government worried about pollution in Washington, D.C. might not simply prohibit the use of at least government parking lots to cars carrying fewer than three people.

He might ask why we are not more actively pressing for mass transit systems in stricken areas.

He might point out that a mandatory inspection system that insisted on well-tuned auto engines in high-pollution areas could reduce hydrocarbon and monoxide emissions by some 40 percent at a cost of perhaps $35 a car.

If we stay on our present course, we will also have to prepare a strong case for presentation to families of low and middle income. All the additional costs demanded by the 1975–76 steps will represent a sizable percentage of their income when car-buying time comes around.

Those families will have a right to know precisely what benefits will accrue to them and the Nation as a result of the extra charges we require them to pay.

Once again, I quote from the Academy report:

Whereas pollutant emission is undesirable anywhere, emissions control does not appear, today, to be essential on the basis of either essentially aesthetic or health consideration in large areas of the nation.

Indeed, overall, natural production of hydrocarbons, carbon monoxide, and perhaps nitrous oxide far exceeds that from man-made sources.

In view of the costs to the nation, in dollars and in fuel consumption, of early implementation of the 1975–76 standards, attention seems warranted to the possibility of temporarily enforcing the established emissions only in those specific urban areas where air quality is known to be adversely affected by automotive emissions, reserving national implementation when there are available reliable, relatively inexpensive emissions control systems which exact no fuel penalty.

What the Academy is saying, I think, is that the extra cost of near-total emissions control may be easy to explain to the fellow in Los Angeles but extremely difficult to explain to the fellow in Fayette, Miss., or Germfask, Mich.

It is undeniably true that we have experienced serious outbreaks of pollution in a number of urban areas. But if there is an outbreak of rabies in, say, a dozen cities, is it reasonable to insist that everyone in the Nation undertake an expensive and inconvenient series of innoculations?

And if we think it is, do we not have the duty to prove it?

And certainly a fellow who happens to be employed in making cars will have a right to know precisely what is gained in return for whatever reduced demand results from the higher prices.

After all, hundreds of thousands of families depend on the auto industry for their livelihoods, their very survival.

We cannot responsibly continue on a hasty and uncertain course that may damage their interests unless we are very positive that the damage will be justified by measurable benefits to society.

In 1970 and 1972, we did not budget a great deal of time to the cost-benefit questions. Everyone was in favor of the principle of cleaner air so we banged ahead toward that goal on the basis of whatever information we could scratch together at the time.

But once the costs of that cleaner air are applied, all these questions are going to come. They are legitimate questions deserving factual answers.

It might be appropriate at this moment to note that there is indeed a study underway to determine the relationship between health and emissions.

However, it is my understanding that the study, being conducted by EPA, is not scheduled for completion until the end of this year.

Someone might also ask whether all these expensive devices will really work once installed. I guess no one really knows. If the devices go out, then the companies are supposed to recall them for service. But the owner is not required to accept the offer, and we can justifiably guess that many of them will not. So that raises the specter of millions of cars carrying expensive, and useless, control mechanisms.

More uncertainty is injected by the appearance on the horizon of newer and cleaner powerplants that may offer cheaper alternatives.

The question must also be raised as to whether we can wisely deliver all production and maintenance of pollution devices to the auto makers, thus freezing out the possibility of competition from small manufacturers and perhaps adding to the concentration problem already besetting the industry.

These are questions that we would be irresponsible to avoid. Even environmentalists must agree that the Clean Air Act should be reexamined.

If it is allowed to plow blindly ahead with nothing more to guide it than the automatic pilot set in 1970, the disaster potential is impressive.

If it credibly can be said 4 years from now that we have caused the expenditure of billions to no purpose or to questionable purpose, the clean air cause will have been dealt a blow from which it will be hard put to recover.

These concerns, it should be emphasized, are not about whether the act's standards can be met. That is a problem that Mr. Ruckelshaus is puzzling over and one that he will have to resolve. What we in Congress will have to determine is whether the standards should be met in light of new considerations. And only Congress can make that decision.

For all of us, I know, it is more comfortable to pretend that our legislation, once deliberated, debated, and enacted, can be safely entrusted to the ages.

Moreover, we will risk the appearance of going to the rescue of an industry that is not held in impressively high regard. The trouble with the auto companies is that every time you feel inclined to listen to their logic they commit some new outrage that turns everybody off.

Let me make it clear that the 1970 act has brought the Nation some very good results. And the problem of air pollution is not solved by any means.

Whatever we do, we must maintain all possible pressure on that problem. If we are going to live with ourselves around here, we had better make certain that we continue to push hard.

But let us make sure that when we push, it is toward a technological solution that we can comfortably defend as having a sound cost-benefit ratio.

It is now our responsibility to provide whatever flexibility makes sense. Circumstances have changed. We are clearer as to what we know and what we do not know.

What appeared in the public interest 3 years ago demands constant monitoring if the public interest of 3 years hence is to be served.

We should get at it—and quickly.

DIPLOMATIC RELATIONS WITH CUBA

Mr. McGEE. Mr. President, I ask unanimous consent that there be inserted in the RECORD at the conclusion of these remarks an article from the Chicago Tribune of March 22, 1973, reporting the results of a Harris poll on establishing diplomatic relations with Cuba.

The poll shows that 51 percent favor such action, 33 percent are opposed, and 16 percent are not sure.

Significantly, 2 years ago a similar poll showed 21 percent in favor and 61 percent opposed.

Thus in the last 2 years, there has been a marked shift of public opinion on this subject.

This poll provides further evidence that that opinion is changing with respect to Cuba, not only in Latin America, but also in the United States—everywhere, it seems, except in the State Department.

The Subcommittee on Western Hemisphere Affairs of the Foreign Relations Committee intends to explore U.S. policy toward Cuba further in the coming weeks.

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

NEW FAVOR FOR DETENTE WITH CUBA

(By Louis Harris)

By 51 to 33 per cent, a majority of the American people favors the United States "reestablishing diplomatic relations with Castro Cuba."

This marks a complete turnaround from the 61 to 21 per cent opposition to such recognition of the Communist regime in Cuba recorded by the Harris Survey in early 1971.

In mid-February, a cross section of 1,513 households was asked: "It is argued that with the war in Viet Nam over and with relations with Communist Russia and China getting better, the U.S. ought to reestablish diplomatic relations with Cuba. However, others say that as long as Cuba is under Castro's Communist rule, we ought not to have anything to do with that country. All in all, do you favor or oppose the U.S. establishing diplomatic relations with Cuba?"

[In percent]

	Favor	Oppose	Not sure
Nationwide	51	33	16
By region:			
East	50	32	18
Midwest	55	29	16
South	46	39	15
West	54	33	13
By education:			
8th grade or less	41	39	20
High school	46	37	17
College	65	24	11
By politics:			
Republican	48	36	16
Democratic	47	36	17
Independent	61	28	11
By 1972 vote:			
Voted Nixon	52	35	13
Voted McGovern	57	27	16

As the thaw has taken place in the Cold War vis-a-vis Russia and China, at least a plurality of each major segment of the population across the country now favors diplomatic recognition of the Castro government.

Recently, of course, the United States and Cuba reached an accord governing the handling of hijackers who take American planes to Havana.

When asked for the basis of their opinions, seven major reasons were volunteered by the

American people in support of reestablishing diplomatic relations with Cuba:

"We can benefit by maintaining contact with all nations, even if we disagree with their politics." The reasoning here is that it is better to be talking with Communist countries, even those we have had problems with in the past, than to allow differences to build up into tensions that might lead to war.

"With Cuba so close to the U.S., we should be on good terms with them." This feeling expresses the uneasiness among many Americans over having a hostile power only 90 miles off the Florida coast. Implicit is the sense that we should get along with countries in close proximity to our shores.

"We should be friendly with all nations." In the spirit of accord that has grown over the last year or more, many Americans want this country to extend the olive branch everywhere it might be accepted.

"We have relations now with Communist Russia and China, so why not with Castro Cuba?" This rhetorical question expresses the view of those who see an inconsistency in this country seeking out new relations and rapprochement with Communist superpowers but not with the much smaller and less powerful Cuban Communist government.

"By recognizing them, we have a much better chance to ease tensions with them." The implication of this line of thought is that if the U.S. gives Cuba diplomatic recognition, then it might be possible to obtain from the Cuban regime some agreements to end some of the continuing hostilities that now exist between our countries directly and thruout Latin America.

"It is ridiculous for the U.S. to ignore an established country; we can't isolate the U.S. from Communism forever." People who feel this way are aware that considerable time has passed since the 1962 Cuban missile crisis and that Castro still remains in power. So, they say, why not recognize an "established fact?"

"We have reached an agreement on hijacking, why not extend it to other areas, such as trade?"

Three main arguments were volunteered by those who still firmly oppose diplomatic recognition:

"Recognizing them will only start trouble all over again; we should leave Castro alone." These people feel that altho no crises over Cuba have surfaced for a rather extended period, recognition would legitimatize radical elements in that country.

"They are Communists and we should have nothing to do with them." This represents the residue of a generation of Cold War thinking.

"Castro is bad and has not let the Cuban people have their freedom." The thinking here is that until the Communist regime has been removed from Cuba, it would be antidemocratic to extend recognition.

It is significant, perhaps, that American attitudes toward diplomatic recognition of Cuba now stand at just about the same point they did in May of 1971 toward Communist China, at the time the U.S. Ping-Pong team had been received in friendly fashion in Peking. Since then, public opinion has kept pace with each move to bring Red China into the channels of diplomatic communication.

NATIONAL COMMISSION REPORT ON DRUG ABUSE

Mr. JAVITS. Mr. President, last Thursday, the National Commission on Marihuana and Drug Abuse—of which I and the senior Senator from Iowa (Mr. HUGHES) are members—made its final report to the American people.

The results of its extensive inquiry into the use and abuse of drugs in the United States are impressive in scope and insight, yet sobering to all who have painstakingly sought out answers to the long line of drug related problems which plague our society.

Despite the alleged affluence of the American people, we find reflected in the analysis of the Commission the impact of complex, disordered, and constant change: a population with 9 million alcoholics, 1 million barbiturate addicts, hundreds of thousands of heroin addicts, and uncounted thousands on amphetamines. We found 26 million who have used alcohol, 57 million who smoke tobacco, 26 million who have used marihuana, and millions more who have used cocaine, heroin, LSD, sedatives of all kinds, tranquilizers, and other drugs for nonmedical purposes.

In its 481 page report, entitled "Drug Use in America: Problem in Perspective," the Commission has provided us with a dispassionate, comprehensive, and rational analysis of our national drug problem. Its findings are thoroughly documented and are the springboard to a calm and well ordered discussion of what our national policies should be in the area of drug abuse control. I believe that the major contribution of this Commission will be found in the fact that it dealt, not only with the symptoms of drug use, but also with the underlying assumptions that we have all made regarding drug use in the United States.

Much of the Commission's report is devoted to defining the nature of social concern about drug use. The Commission found that popular conceptions and definitions of drugs and drug use, are in an important sense, the drug problem. It found that many failures of current drug policies reflect failures in perception.

The Commission found that the present institutional response to drug abuse, despite many constructive efforts to have a positive impact on the problem, continues to be predicated upon mistaken assumptions, and indirectly, tends to perpetuate the "problem." Accordingly the Commission set about to examine carefully the goals toward which our policy has been directed and the extent to which our present governmental responses have achieved those goals.

It found that because of the intensity of public concern surrounding the topic of drugs, all levels of Government have become involved in a wide variety of action programs. The result in some cases unfortunately has been the establishment of programs which have not been adequately evaluated and have not been looked at comprehensively, with a view toward longrange community planning and objectives.

In its report, the Commission categorized drug using behavior into five classes:

First. Experimental drug use, motivated primarily by curiosity and occurring most often among young persons in the company of one or more friends or acquaintances;

Second. Recreational drug use, occurring in social settings among friends or acquaintances who desire to share an experience which they define as both acceptable and pleasurable;

Third. Circumstantial drug use, motivated by the user's perceived need to achieve an anticipated effect in order to cope with a specific problem, situation, or condition—including students who use stimulants during exam preparation, long-distance truckers who rely on stimulants for extended endurance, and housewives who seek to relieve tension, boredom, or other stress through sedatives or stimulants;

Fourth. Intensified drug use, occurring at least daily and motivated by an individual's perceived need to achieve relief from a persistent problem or stressful situation; and

Fifth. Compulsive drug use, occurring when drug use dominates the individual's existence and preoccupation with drug use precludes other social functioning.

The Commission found that the overwhelming majority of people who have used psychoactive drugs, whether legally or illegally, can be classified as experimental or recreational users. In most cases, their drug use is not a matter for serious social concern. The Commission also found that the prevalence of circumstantial use has increased substantially in recent years, as more and more Americans resort to drugs to cope with stresses or problems of living. The Commission pointed out that there is a major risk associated with circumstantial drug use in that a person will become conditioned to drug-using responses, escalating to more serious use patterns.

Concluding that major social concern should be the prevention of intensified and compulsive use, the Commission states that public agencies have failed to gather sufficient information on the extent and consequences of these patterns of drug use.

Looking at drug use from another perspective, the Commission's report describes the ways in which drugs can affect the behavior of the user. Noting that the public tends to associate the drug problem with crime, the Commission found that available data justify the following tentative conclusions:

First. Alcohol, the most commonly used drug, is strongly associated with violent crime and with reckless and negligent operation of motor vehicles;

Second. Research findings linking barbiturate and amphetamine users with criminal behavior, especially assaultive offenses, are increasing. While no definitive association has yet been documented in this country, a strong association between amphetamine use and violence has been demonstrated in Sweden and Japan;

Third. Research data regarding the actual relationship between cocaine use and criminal behavior are generally lacking; however, the pharmacologic effects of this drug suggest a potential for drug-induced violent behavior similar to that shown for amphetamine and barbiturate users;

Fourth. Marihuana use, in and of itself, is neither causative of, nor directly associated with crime, either violent or nonviolent. In fact, marihuana users tend to be underrepresented among assaultive offenders, especially when compared with

users of alcohol, amphetamines, and barbiturates;

Fifth. Use of opiates, especially heroin, is associated with acquisitive crimes such as burglary and shoplifting, ordinarily committed for the purpose of securing money to support dependence. Opiate users are significantly less likely to commit assaultive offenses, especially in comparison with users of alcohol, amphetamines, and barbiturates; and

Sixth. Except in relatively rare instances generally related to drug-induced panic and toxic reactions, users of hallucinogens, nonbarbiturate sedative-hypnotics, glue, and similar volatile inhalants are not inclined toward assaultive criminal behavior. It should be noted, however, that some of the nonbarbiturate sedatives, notably methaqualone, and the hydrocarbon solvents have potential for inducing violent behavior.

Mr. President, the Commission has made more than 100 recommendations for both public and private action. Among the proposals are:

First. Increasing control mechanisms on the availability of many psychoactive drugs, particularly cocaine, alcohol, and methaqualone;

Second. Improving and reorienting law enforcement efforts to minimize and interdict the illicit distribution of psychoactive drugs;

Third. Revising the role of the criminal justice system dealing with the consumption of illicit drugs;

Fourth. Establishing an integrated process for providing treatment to drug users and drug-dependent persons, including those who seek treatment voluntarily as well as those apprehended for drug-related crimes;

Fifth. Revitalizing the capacity of private institutions to prevent and respond effectively to disapproved drug use;

Sixth. That the United States work to persuade other countries not to manufacture cocaine for exports, and that the Federal Government reduce legitimate cocaine production in this country to the quantities needed for domestic research and highly limited medical uses;

Seventh. That the medical profession establish guidelines on prescribing practices relating to barbiturates and that State medical societies police these practices;

Eighth. That the National Institute on Alcohol Abuse and Alcoholism devote substantial effort to the development of better nonprohibitory plans for controlling the availability of alcohol;

Ninth. That marihuana be removed from the International Single Convention on Narcotic Drugs where it is improperly classified with the opiates;

Tenth. That the United States not ratify the proposed Convention on Psychotropic Substances in its present form since this treaty is inconsistent with U.S. domestic policy as established in the Controlled Dangerous Substances Act of 1970, and

Eleventh. That the Federal drug response be totally reorganized, and that a single Federal agency be created to administer law enforcement, prevention, treatment, research, and evaluation programs.

Mr. President, while Senator HUGHES and I concurred in virtually all of the Commission's findings and recommendations we did file a dissent in connection with the last mentioned recommendation of the Commission. I ask unanimous consent that the text of our joint statement be printed at this point in the RECORD.

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

STATEMENT

Commissioners Hughes, Senator from Iowa, and Javits, Senator from New York, while concurring in some of the findings of the Commission with respect to the present lack of coordination and effort, do not concur in the recommendation that a single agency be created to house all federal activities in the areas of drug law enforcement on the one hand and, on the other, drug use prevention, that is, education, research, treatment, and rehabilitation.

First, during the 92d Congress both Commissioners were members of the Senate Committees which together carefully examined the administrative problems entailed in developing a coherent federal response to the nationwide drug problem. The Congress and the President then agreed on the Drug Abuse Office and Treatment Act, signed in March, 1972, which provided the legislative foundation for the Special Action Office for Drug Abuse Prevention and directed it to lead in developing federal policy and to coordinate all federal prevention activities.

Several months passed before funds could be appropriated and the Special Action Office could become fully operational. Therefore, the administrative design provided by the Act has been tested for less than a full year. The Special Action Office has faced a most difficult and complex task, and it would be a rare situation indeed if it were not without some problems. But its performance in carrying out its statutory responsibilities must be carefully reviewed by the appropriate committees of Congress in the proper exercise of their responsibility for legislative oversight. In this respect, both Commissioners agree with the recommendation that Congressional Committees undertake an in depth review of the situation. Commissioners Hughes and Javits believe that it is premature to conclude that the design has failed and must be replaced with a new federal agency.

Second, based on their experience in government, at both the state and the federal levels and in both executive and legislative positions, the Commissioners are not now convinced that it is wise to place within one agency functions which are for the most part entirely unrelated and which must be carried out by officials with widely differing training and perspectives. Placing these activities and personnel within one agency might well create more serious problems than those which the proposal is intended to solve. For example, the most difficult task would be the selection of a director who could maintain a steady course while successfully resisting undue pressures from either group. The presence of both sides within the agency could in itself create temptations to compete for dominance on matters of policy. It would perhaps be unrealistic to expect one man to preside over such disparate interests.

Third, Commissioners Javits and Hughes are not persuaded that the Commission has identified major problems of coordination between law enforcement and prevention agencies that require a single agency for their solution. The primary problems of duplication and lack of coordination arise between agencies carrying on similar or closely related activities. The Customs Bureau and the Bureau of Narcotics and Dangerous Drugs have frequently disagreed, and there have been failures of coordination among treatment activities funded by the National Institute of Mental Health, the Office of Economic Opportunity, and the Model Cities programs of the Department of Housing and Urban Development.

As between law enforcement and prevention agencies, the administrative problems most commonly occurring stem from the fact that some of the law enforcement agencies support treatment activities, which are somewhat peripheral to the primary tasks of these agencies. Such activities could be transferred to the prevention agencies.

Finally, while fully sharing the Commission's interest in improving the governmental response to the drug problem, both Commissioners believe that the Commission's analyses do not support the conclusion that a single agency would best serve that goal. The Commission's studies have identified many real problems, but there has been no thorough examination of either the advantages or the disadvantages of a single agency. This can best be done by the Congressional Committees with jurisdiction over these matters.

Mr. JAVITS. Mr. President, the Commission has made available a compilation of all of its recommendations for action and I ask unanimous consent that it also be printed in the RECORD.

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

EXHIBIT B

DRUG USE IN AMERICA: PROBLEM IN PERSPECTIVE

RECOMMENDATIONS FOR PUBLIC INSTITUTIONS

Government organization

Federal

1. Congress should create a Single Federal Agency similar in its legal and political status to the Atomic Energy Commission.* The agency, which might be called the Controlled Substances Administration, would establish, administer and coordinate all drug policy at the federal level and would be the principal, if not sole, point of contact with the state drug programs. The Single Agency would remain separate from all other federal departments and agencies and would be responsible for its own organization and fiscal management.

2. The appropriate Committees of Congress, in reviewing authorizations and appropriations of funds for all federal departments and agencies with drug-related functions, particularly the Special Action Office for Drug Abuse Prevention, should consider this year the feasibility of such a reorganization.

3. The Single Agency should have the authority and capability to do the following:

Distribute and monitor block or formula grants to states for drug dependence treatment, rehabilitation, prevention, education, and law enforcement programs.

Coordinate all substance-related programs

* Commissioners Hughes and Javits, Senators from Iowa and New York, do not concur in the Commission's recommendation that Congress immediately establish a Single Agency. Both feel that many problems would be presented by placing law enforcement and prevention, treatment and scientific functions together in one agency. Further, they believe that the Special Action Office for Drug Abuse Prevention, which has been in operation for less than a year, should not now be abandoned. However, the Senators agree with the Commission that the Congress should now undertake a comprehensive review of the activities of all departments and agencies having drug-related functions and should determine the feasibility of such a reorganization.

which remain external to the agency itself, such as those of the Department of Defense and the Bureau of Prisons.

Provide evaluative capabilities for federally funded drug programs operated at the federal, state and local levels.

Maintain and monitor an ongoing collection of data necessary for present and prospective policy planning, including data on incidence, nature and consequences of drug use.

Develop and implement a general directed research plan.

Provide discretionary funds for those areas in which innovative and experimental programs are necessary at the local level and for other essential programs which cannot be performed adequately by the states.

Direct the federal law enforcement response in the drug field and provide assistance to state law enforcement.

4. In assuming these tasks, the Single Agency would absorb the following functions and agencies:

Those functions now assigned to the Special Action Office for Drug Abuse Prevention.

All functions presently performed by the Bureau of Narcotics and Dangerous Drugs.

Those parts of the Bureau of Customs, including Customs Agency Service, which are involved in drug matters other than routine border inspections.

The Office of National Narcotic Intelligence presently within the Department of Justice.

The Office of Drug Abuse Law Enforcement of the Department of Justice.

All functions now performed by the Division of Narcotic Addiction and Drug Abuse, National Institute of Mental Health.

All drug-related functions that are performed by the Law Enforcement Assistance Administration or that are, or were formerly, performed by the Office of Economic Opportunity.

All research functions related to psychoactive drugs and responsibilities under the Controlled Substances Act now performed by the Food and Drug Administration, other than those relating to the marketing of new drug products.

All drug education and information functions now performed by the Office of Education.

All drug education and information functions performed by the National Clearinghouse for Drug Abuse Information.

5. To avoid institutionalizing the drug "problem," the concept and accomplishments of the Single Agency should be reexamined four years after its creation; and the agency itself, by law, should disband within five years, its surviving components being reassigned to the agencies or departments from which they came (or into others more appropriate), and integrated into the larger social concerns of those organizations.

6. Congress should establish a commission four years hence, with the specific responsibility to:

Evaluate the social response to drug use during the preceding four years.

Consider the results of both directed and undirected research programs.

Recommend to Congress whether the unified federal agency should be continued, dissolved, or modified.

Determine which measures have justified their costs and which have not.

Propose needed new policies, programs and techniques.

Reexamine fully the basic issues and consider whether departures from the present response are required.

State

1. Each state should establish a unified drug agency on the same model as that proposed for the federal government. The single state agency should be equipped to provide information about programs and drug use patterns, and to assume joint responsibility for evaluating federally funded programs.

2. Each state agency should have sufficient powers to coordinate all drug programs at the state level and provide guidance and funding to community programs. The agency should have the responsibility of monitoring implementation of the state plan, as well as all programs operating under it, and should be required to report yearly to the designated state authority on the progress of the state effort measured against the enunciated objectives. All state plans should budget adequate funds for these managerial functions.

Community

Each community with a significant drug use problem should create a coordinating council to insure communication and concert of action between the various drug-related functions in the community.

Legal controls

International

1. The State Department, in conjunction with the Department of Justice, should immediately undertake a comprehensive review of existing extradition treaties dealing with drug offenses with a view toward expanding the scope of extraditable offenses and facilitating the extradition process.

2. The United States should encourage law enforcement agencies in all concerned countries to increase both formal and informal exchanges of information concerning drug traffic and traffickers.

3. The membership of the Commission on Narcotic Drugs should be expanded to permit representatives of the health authorities of member nations equal participation in its deliberations and decisions. Further, the United States should convene, in cooperation with the United Nations, a world-wide conference to consider the issues surrounding prevention of demand for drugs.

4. Both the Single Convention and the proposed Psychotropic Convention should be redrafted to make clear that each nation is free to determine for itself which domestic uses for controlled substances it will allow, provided only that each nation prevent diversion and prohibit exportation and production for exportation for illegal use in other countries.

5. The United States should take the necessary steps to remove cannabis from the Single Convention on Narcotic Drugs (1961), since this drug does not pose the same social and public health problems associated with the opiates and coca leaf products. Similarly, the proposed Psychotropic Convention should be revised to include all cannabis substances, but not under Schedule I, since cannabis products are used for medicinal or self-medicating purposes in many parts of the world.

6. The United States should work through diplomatic channels to persuade other countries not to manufacture cocaine for export.

7. The United States should not ratify the Psychotropic Convention in its present form. If, however, for diplomatic or other reasons, the United States Government does adopt the Convention, the instrument of ratification should include the following declarations:

That it is the understanding of the United States that scheduling decisions adopted by the Commission on Narcotic Drugs and ratified by the membership are not effective within the United States until and unless the procedures established by Section 201 of the Comprehensive Drug Abuse Prevention and Control Act (PL 91-513) are complied with and the Secretary of Health, Education and Welfare and the Attorney General of the United States agree that the substance is subject to control.

That it is the understanding of the United States that the provisions of the Convention do not affect the manner in which the United States restricts availability of substances included in the Convention to medical and scientific purposes.

That it is the understanding of the United States that the definition of punishable offenses in Article XXII, paragraph 1, subparagraph (a) does not include possession of substances in Schedule I for personal consumption.

That it is the understanding of the United States that in Article VII, paragraph (a), the word "establishments" contained in the phrase "in medical and scientific establishments which are directly under the control of their government or specifically approved by them," includes the offices of physicians licensed to practice under the law of the United States.

Federal

1. The American Medical Association should survey the medical profession to determine what, if any, unique therapeutic benefits cocaine has. At the same time, the United States, working through the United Nations and the World Health Organization, should encourage world-wide discussions on the therapeutic uses of cocaine and on its dangers. Taking into account the AMA survey and the results of the international deliberations, the federal government should reduce legitimate cocaine production in this country (including import of coca leaves for purposes of extracting cocaine) to the minimum quantities needed for domestic research and medical uses. If no unique therapeutic use of the drug remains, the government should eliminate manufacture altogether.

2. At this time, none of the barbiturate drugs, including the short-acting barbiturates, should be placed in Schedule II of the Federal Controlled Substances Act. Instead, the AMA should immediately design and furnish to physicians guidelines on the prescribing of barbiturates and actively encourage state medical societies and individual practitioners to respect these guidelines.

3. Since, unlike the barbiturates, methaqualone does not have large-scale medical uses, and does present a significant problem of misuse, it should be placed in Schedule II, along with the amphetamines.

4. Appropriate federal agencies should conduct studies on all other ethical hypnosedative drugs not presently covered by the Controlled Substances Act to determine whether or not further controls are required.

5. Except where the Commission has specifically recommended a change, the present levels of control on availability of psychoactive substances established by the Federal and State Controlled Substances Laws should be maintained.

6. The National Institute on Alcohol Abuse and Alcoholism should devote substantial effort to the development of better non-prohibitory means of controlling the availability of alcohol. In particular, society should alter availability controls to minimize the social costs of alcohol use.

7. With respect to the drug trafficking laws, the trafficking offenses and penalty structure presently in force under the 1970 Comprehensive Drug Abuse Prevention and Control Act should be retained.

Federal and State

1. The Commission reaffirms its recommendations concerning marihuana as set out in its First Report.

2. The unauthorized possession of any controlled substance except marihuana for personal use should remain a prohibited act. As a matter of statutory or enforcement policy, assertion of control over the consumer should not be tied to concepts of criminal accountability but rather to concepts of assistance appropriate in the individual case. The primary purpose of enforcement of the possession laws should be detection and selec-

tion of those persons who would benefit by treatment or prevention services.

3. For those drug-dependent persons who are apprehended for consumption-related offenses, including possession, one of the following dispositions should be mandatory:

(a) Diversion to a treatment program in lieu of prosecution;

(b) Diversion to a treatment program after conviction but before entry of judgment by the court. Failure by an individual to comply with the conditions of treatment would result in his return to the court for prosecution or sentencing. In that event, he should be subject to punishment by up to one year imprisonment, a fine of up to $500 or both.

For those non-drug-dependent persons who are apprehended for consumption-related offenses, including possession, one of the following dispositions should be mandatory:

(a) Diversion to a prevention services program in lieu of prosecution;

(b) Diversion to a prevention services program after conviction but before entry of judgment by the court;

(c) A fine of up to $500; or

(d) Probation with appropriate conditions.

Failure by an individual to comply with the conditions of prevention services under alternatives (a) or (b) would result in his return to the court for prosecution or sentencing. In that event, he should be subject to punishment by up to one year's imprisonment, a fine of up to $500 or both.

State

1. All states shoud attempt to rationalize the operation of the criminal justice system as a process for identifying drug-dependent persons and for securing their entry into a treatment system. The states should establish, as part of the comprehensive prevention and treatment program, a separate treatment process which runs parallel to the criminal process and which may be formally or informally substituted for the criminal process.

2. States which have not already done so should adopt the Uniform Controlled Substances Act, with the modifications suggested in our Reports.

3. Each state should review its penalty structure for trafficking offenses and determine whether the penalties are commensurate with the relative severity of the offenses. The Commission endorses the criminal provisions in the 1970 Federal Controlled Substances Act and recommends that the states use them as a model for their own trafficking penalties.

Law enforcement

Federal

1. Federal criminal investigative agencies should concentrate primarily at the top levels of the illegal drug distribution network: importation, exportation, and large-scale foreign and domestic trafficking.

2. The federal regulatory effort should concentrate on preventing diversion of drugs at the manufacturing and wholesale levels, leaving to the states primary responsibility for supervising retail pharmacies, hospitals and physicians.

3. To deal more effectively with the higher levels of the illegal distribution systems, federal law enforcement agencies must develop long-range strategies. The degree to which an investigation can penetrate the illegal market depends directly on how long it remains undercover before surfacing to make arrests and obtain convictions.

4. Criminal investigation activities at the federal level should not have regional offices, as BNDD and Customs have now, but instead should deploy strike forces, not tied to any one region, which are able to follow the illicit distribution networks wherever they lead.

5. Federal agencies should give high priority to recruitment of qualified drug investigative agents. Screening of recruits should include testing to insure suitability for this type of enforcement.

6. Federal drug law enforcement personnel should receive more intensive training. Career agents should periodically take refresher courses to keep them abreast of current trends.

7. Federal agencies should encourage skilled criminal investigators to remain in the field, giving them equal promotion opportunities within the investigative area.

8. To minimize corruption and the appearance of corruption, a separate unit should be established to maintain internal security among federal drug law enforcement agencies. This unit should be distinct from all other drug law enforcement activities and report directly to the Attorney General of the United States.

9. A separate evaluation unit, distinct from both criminal and regulatory investigative units, also should be created to monitor performance of all operational units.

10. All federal law enforcement agencies, especially the Bureau of Narcotics and Dangerous Drugs and the Bureau of Customs, should use uniform reporting forms to the maximum extent possible so that the information can be combined, studied, and shared.

11. The federal government should provide state and local agencies technical and funding assistance necessary for the development of a national uniform reporting system on drug arrests and case dispositions which can provide reliable, valid and comparable data.

12. The federal government should also make available to state and local law enforcement, through the Law Enforcement Assistance Administration, substantial amounts of "buy money" to enable them to make better quality cases and reach the higher echelons of the illicit drug traffic.

State

In order to complement the federal effort, state enforcement should concentrate on the lower levels of both licit and illicit distribution networks. State criminal investigative agencies should focus on middle-level illicit trafficking within the states. State regulatory agencies, to insure compliance with laws and regulations, should concentrate on inspecting pharmacies, hospitals, physicians and researchers. Both regulatory and investigatory state agencies should work on the problem of pharmacy drug thefts, developing standards to minimize this serious problem.

2. Every state should systematically review and evaluate the operations of its boards of pharmacy and medicine, to insure that they are adequately enforcing the provisions of state and federal law. Professionals who knowingly or repeatedly violate state drug regulations and laws should lose their licenses to practice, in addition to being prosecuted under criminal statutes. Each state should also establish an advisory medical body to act as liaison between the state medical society and law enforcement officals, giving advice and assistance on matters within their area of medical expertise.

3. State and local enforcement agencies should actively recruit younger men and women into their drug investigation units, in order to broaden and update the agencies' perspective. Recruits should be carefully screened and receive extensive training. Federal agencies should continue to provide technical and financial training assistance to state and local police.

4. Each state with a substantial trafficking problem should have a separate unit, responsible to the state attorney general, charged with the responsibility of investigating any evidence of corruption in drug law enforcement agencies.

Community

1. Local police departments should participate with other community institutions in the development of a preventive services program. As part of this program, the departments should formulate precise guidelines for non-arrest dispositions of persons apprehended for consumption-related offenses and for their referral to appropriate prevention or treatment services. Each police department should consider using citations, or other formal means of directing persons into the appropriate program.

Those states which have not already done so should authorize law enforcement officials or public health officers to make non-criminal referrals of persons under the influence of controlled substances or in possession of controlled substances for personal use.

2. Local police should receive appropriate training in dealing with the medical needs of drug-dependent persons, including alcoholics. In particular, guidelines should be developed for diverting such persons to treatment facilities for emergency care, and, if necessary, for formal treatment.

3. Local police should act as an early warning system on emerging patterns of drug use in the community, including changes in at-risk populations and non-drug developments which may be relevant to drug-using trends. For example, a constant analysis of drugs on the street can be extremely useful in preparing other community agencies to launch specifically-targeted preventive efforts.

Treatment and rehabilitation

Federal

1. Though block and formula grants to the states, the federal government should have major responsibility for fundings treatment and rehabilitation services administerd by the States. However, the federal government should retain discretionary funds for direct funding of demonstration and special projects in the field of treatment and rehabilitation. Such funds should be used for innovative and experimental programs, as well as for providing services to communities not receiving sufficient funding from the state.

2. Except for offenders within federally-operated correctional institutions, the federal government should not have direct operating responsibilty for providing treatment and rehabilitation services. Services provided to persons entering treatment on a voluntary basis or through involuntary civil commitment proceedings should be provided only at the state level. Services provided to persons charged with or convicted of federal criminal offenses who are not in a federal correctional facility should be provided through state-operated programs and facilities on a reimbursable basis. The public health hospital operated by the federal government in Lexington, Kentucky should continue to be utilized for clinical research purposes only, and the fifty-bed clinical research unit of the facility should be maintained for human research.

3. The federal government should sponsor a program to evaluate existing drug treatment and rehabilitation programs to see whether they (1) are cost effective; (2) are designed to deal effectively with their client populations; and (3) have established suitable criteria and objectives. After such an evaluation the federal government should establish performance criteria for state drug treatment and rehabilitation programs.

4. All drug treatment and rehabilitation programs receiving federal funds should demonstrate effective efforts consistent with the performance criteria established, and undergo an annual evaluation by independent agencies having no vested interest in either the funding agency or the service delivery agency.

Federal and State

1. To avoid destroying program effectiveness, federal and state regulations concerning maintenance programs should emphasize treatment flexibility, coupled with reasonable measures to prevent diversion.

2. Opiate antagonists, or similar chemical agents, should not be administered involuntarily under any circumstances, either as a method of treatment or as a method of prevention.

3. The government should continue to prohibit heroin maintenance as a treatment modality.

State

1. Each state should establish a comprehensive statewide drug dependence treatment and rehabilitation program including integrated health, education, information, welfare and treatment services, which should be administered as part of the state's broader health care delivery and human resources development systems. The program should:

(a) Provide a full range of treatment and rehabilitation services throughout the state, including emergency, residential, and outpatient services for drug-dependent persons, persons incapacitated by controlled substances or persons under the influence of controlled substances.

(b) Include medical, psychiatric, psychological and social service care; vocational and rehabilitation services; job training and career counselling; corrective and preventive guidance; and any other rehabilitative services, including maintenance, designed to aid the person to gain control over or eliminate his dependence on controlled substances and to make him less susceptible to dependence on controlled substances in the future.

(c) Emphasize the development of community-based emergency, outpatient and follow-up support services.

(d) Utilize and coordinate all appropriate public and private resources, wherever possible utilizing the facilities of and coordinating services with community mental health services and general hospitals.

(e) Allocate services within the state according to an overall plan based on the estimated size and location of the current and potential populations of drug-dependent persons in various communities.

2. The state administrator of such a comprehensive drug dependence treatment program should have statutory responsibility to:

(a) Establish standards and guidelines for effective drug dependence treatment services provided by public or private agencies participating in the program.

(b) Evaluate, on a continuing basis, all public and private treatment services included in the program, in order to assure that such services are adequate and effective according to defined objectives and standards.

(c) Prepare, publish and distribute annually a list of all public facilities and those private facilities to which public agencies are authorized to refer individuals for treatment services.

(d) Assure that the courts of each jurisdiction within the state are periodically notified of facilities through which services are available within the jurisdiction and of the types of treatment offered at each facility, thereby assuring that formal control is not asserted over a person for purposes of treatment when appropriate facilities are not available.

(e) Assure that the services offered within each community include drug-free programs as well as maintenance programs, thereby assuring that persons seeking or referred for treatment have the option of participating in a drug-free program.

3. Each state should review its current statutory mechanisms regarding the process by which drug-dependent persons are permitted or compelled to enter treatment. Those states which have not already done so should modify existing legislation to encourage drug-dependent persons to seek treatment voluntarily. In order to maximize the attractiveness of voluntary programs, formal legal processes should be avoided entirely and absolute confidentiality of the treatment records should be assured.

4. Whenever a state chooses to exert formal control over a drugdependent person for purposes of treatment, either through the criminal process or an involuntary civil process, treatment services should be administered in accordance with the following standards:

(a) Each person has a right to receive such individual treatment as will give him a realistic opportunity to overcome his dependence on controlled substances.

(b) An individual treatment plan, guided by sound medical and clinical judgment and maximizing freedom of choice of the patient, shall be prepared and maintained on a current basis for each person.

(c) No person should be required to receive chemical treatment or maintenance services without his consent, and in the case of a person under 18 years of age, without additional consent of his parents or legal guardian.

(d) Each individualized treatment plan should employ methods which restrict the drug-dependent person's liberty only when less restrictive alternatives would be inconsistent with necessary and effective treatment.

(e) No person should be required to be a subject for experimental research without his expressed and informed consent.

(f) All persons should be required, as a condition of participation in a treatment program, to comply with reasonable conditions, including surveillance techniques such as urinalysis.

5. The state, through legislation or administrative action, should assure that private and public hospitals do not discriminte in either admission or treatment policy against any person on the grounds of use of or dependence on controlled substances.

6. Every state should have confidentiality-of-treatment laws, modeled after the provision in the Uniform Drug Dependence Treatment and Rehabilitation Act currently before the National Conference of Commissioners on Uniform State Laws.

7. In connection with the above recommendations, the Commission supports the adoption of the Uniform Drug Dependence Treatment and Rehabilitation Act presently being considered by the National Conference of Commissioners on Uniform State Laws.

EMERGENCY TREATMENT

1. With respect to drug emergency victims, the federal government should fully enforce Section 407 of the Drug Abuse Office and Treatment Act of 1972, which provides that "Drug abusers who are suffering from emergency medical conditions shall not be refused admission or treatment, solely because of their drug abuse, or drug dependence, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriated to any federal department or agency."

2. At the state level, emergency services should be provided as an integral part of a comprehensive drug-related treatment and rehabilitation program. Where necessary, state funds should be expended to assure the availability of such services. Emergency treatment facilities should always be associated with a general hospital, though they need not be physically located in one.

3. The states should provide by law for emergency detention and treatment of persons so incapacitated by use of a psychoactive drug that they cannot intelligently determine whether they are in need of treatment. Such detention should not exceed 24-hours time, unless further restraint is ordered by a court, in accordance with other applicable law.

Prevention

General

1. Drug use prevention strategy, rather than concentrating resources and efforts in persuading or "educating" people not to use drugs, should emphasize other means of obtaining what users seek from drugs, means that are better for the user and better for society. The aim of prevention policy should be to foster the conditions of fulfillment and instill the necessary skills to cope with the problems of living, particularly the life concerns of adolescents. Information about drugs and the disadvantages of their use should be incorporated into more general programs, stressing benefits with which drug consumption is largely inconsistent.

2. Drug dependence prevention services should include educational and informational guidance for all segments of the population; job training and career counselling; medical, psychiatric, psychological and social services; family counselling; and recreational services.

3. From both cost-benefit and philosophical-constitutional standpoints, the government role should be limited to assuring the availability of accurate information regarding the likely consequences of the different patterns of drug-using behavior. With this basic determination in mind, the Commission recommends the following actions as essential to assure the production and the dissemination of accurate information.

(a) That the federal government establish a procedure for screening all federally-sponsored or funded information materials for accuracy.

(b) That, after institution of the clearance procedure, a single agency, such as the National Clearinghouse for Drug Abuse Information, coordinate dissemination of information. This agency should also maintain up-to-date lists and critiques of all information materials and make them available, together with the federal guidelines for accuracy, to state and local governments as well as to interested private group.

(c) That a moratorium be declared on the production and dissemination of new drug information materials. This step, presently being considered by SAODAP, will enable the federal government to develop necessary standards for accuracy and concept, and allow sufficient time to conduct a critical inventory of presently existing materials.

(d) That policy makers, in recognition of ignorance about the impact of drug education, seriously consider declaring a moratorium on all drug education programs in the schools, at least until programs already in operation have been evaluated and a coherent approach with realistic objectives has been developed. At the very least, state legislatures should repeal all statutes which now require drug education courses to be included in the public school curriculum.

4. Government should not interfere with private efforts to analyze the quality and quantity of drugs anonymously submitted by street users and to publicize the news about market patterns and dangerously contaminated substances.

5. The government should not support, sponsor or operate programs which compel persons, directly or indirectly, to undergo chemical surveillance, such as urinalysis, unless the person is participating in treatment services, is a prospective or actual public employee, is charged with a crime or is a member of the military.

Federal

The federal government should fund prevention services through block and formula grants to the states, and sponsor basic research in the prevention area. The federal government should also retain discretionary funds for direct assistance to innovative and experimental programs, as well as to programs in communities receiving insufficient aid from the state.

State

1. The primary responsibility for designing a prevention strategy and operating appropriate programs should reside at the state and local levels. Each site should establish a comprehensive, statewide drug dependence prevention program including a full range of prevention services attuned to the needs of local communities and designed to reduce the likelihood that an individual or class of individuals will become drug dependent.

2. The state should assist local communities and institutions (such as universities, business and youth groups) to develop prevention services attuned to their respective needs; specifically, state agencies should help communities to select appropriate services and referral procedures and develop evaluative criteria.

Community

1. Prevention requires community-wide strategy, in which all members of a community, and not merely the schools, acquire information about drug use, so that all can work at improving the situation.

2. Community-based prevention services should be initiated only after local policy planners have assessed the needs of their particular target populations.

3. Each community should give high priority to the development of crisis-intervention services for particular populations as part of its overall prevention services.

4. Local communities, with federal assistance and perhaps regional cooperation, should ensure that "hot line" information programs have qualified people running them and that the information they dispense is reliable.

Research

1. Congress should provide SAODAP now, and the Single Agency when and if it is created, with sufficient funds to design and direct an extensive program of research covering all studies touching on drug use. The Department of Health, Education, and Welfare should participate in the design of the research plan to avoid overlap and maximize the cost-effectiveness of federal research efforts. The research design itself should deal not only with the immediate information needed but also with requirements of future and long-term policy making. It should fund not only projects which produce quick results, but also those often overlooked, requiring several years to generate useful data.

2. Money should also be available for non-directed research projects, not included in the plan. These should be handled separately from the directed research, but coordinated with it to avoid duplication of effort.

3. SAODAP (or the Single Agency) should continually monitor all reports of independent research in the biological, behavioral, or social sciences, for further leads in understanding drug-taking behavior.

4. In particular, the directed research plan should include:

(a) A continuing series of projects similar to the two Commission-sponsored National Surveys, as well as other studies to provide a longitudinal data base on public attitudes and drug-taking behavior.

(b) Etiological research focused on populations exhibiting low, as well as high, incidence of use. It is of equal importance for policy purposes to examine and understand those groups who explicitly disavow drug use and faithfully abide by this norm. Techniques, such as medication, which have been employed as alternatives to drug use should also be studied.

(c) Continued support of the basic clinical research program at the NIMH Addiction Research Center in Lexington, Kentucky.

(d) Examination of how well drug offenders perform while on conditional release, including bail, parole, probation and treatment, so that the criminal justice system can better design and implement diversion programs. Also of importance are studies to determine the effect of incarceration for drug offenses on users, especially young users and first offenders.

(e) Longitudinal studies of persons who have completed treatment, comparing them to those who left treatment programs before completion and those who never entered treatment.

(f) Careful systematic study of the dynamics and consequences of systems in other countries where heroin is freely available.

(g) Study of synergistic effects of various psychoactive substances currently used, whether licitly or illicitly. In particular, the National Institute of Alcohol Abuse and Alcoholism should perform ongoing research into the effects of taking alcohol with other drugs, since alcohol is legally available and often used this way.

(h) Research on the effects of drug use on driving. For both research and traffic safety purposes, simple and quick methods for detecting presence of drugs in the body must be refined.

5. The federal government should provide technical assistance and necessary funding to establish a uniform reporting system, together with necessary laboratory support, on drug morbidity and mortality statistics. The current absence of reliable and comparable data in this area has left serious gaps in effective planning with respect to prevention, treatment and control.

6. Government should remove legal and bureaucratic obstacles to research into the possible therapeutic uses of currently prohibited substances, such as marihuana and hallucinogens.

RECOMMENDATIONS FOR PRIVATE INSTITUTIONS

Health professions

1. Schools of medicine, pharmacy, nursing, and public health should include in their curricula a block of instruction dealing with the social and medical aspects of drug use. This instruction should be so designed that health professionals are adequately informed of the problems and possibilities of treating drug use and dependence and understand as well the wider social implications of both licit and illicit drug use.

2. The medical profession should prepare criteria for use of all psychoactive drugs in medical practice. These guidelines should stress restraint in use of such drugs, emphasizing that they are not a treatment of first resort and that when prescribed, they should be given in the smallest dosage units and doses possible. Medical societies should see that the guidelines are widely distributed among health professionals and, in simplified form, made available to patients themselves. Professional organizations should also conduct continuing education courses in the uses and dangers of psychoactive substances.

3. Both doctors and pharmacists should expressly warn patients of the risks of dependence, overdose, and use in conjunction with similar drugs such as alcohol.

Pharmaceutical industry

Manufacturers

1. Manufacturers of psychoactive substances should undertake a major campaign to educate both health professionals and the public about the appropriate role of these drugs in treatment of conditions of anxiety, tension, and depression. Information and advertising aimed at physicians should: emphasize the need for restraint in use of these drugs, particularly the more powerful ones: point out alternative therapies; and plainly disclose harmful side-effects, risks in prolonged use, and dangers in combining use with that of other drugs, including alcohol. In non-technical language, a series of public service advertisements should carry the same message to the lay public.

2. Drug companies should end the practice of sending doctors unsolicited samples of psychoactive drugs.

3. Manufacturers should contribute a significant part of their considerable research capacity to exploring the technical side of the drug use problem: the nature of drug dependence, the development of less harmful substitutes for those substances most often associated with disruptive use patterns, and the search for "anti-drugs"—chemical correctives to dependent and chronic use of psychoactive substances. In particular, the industry should continue to pool its knowledge and resources in the search for effective opiate antagonists.

4. Advertising of proprietary, mood-altering drugs should omit suggestions that the substances can result in pleasurable mood alteration or deal with malaise caused by stress or anxiety. Proprietary drug producers should develop clearly defined standards, which reflect correct use of home-medications, and establish a procedure for insuring industry-wide compliance with these standards. At a minimum, the procedure should contain the following elements:

(1) An independent mechanism to review any advertisement for compliance with the advertising standards;

(2) Opportunity for any member of the public to submit an advertisement for review; and,

(3) Specific sanctions to be imposed on advertisers who do not abide by decisions of the review board.

Retail pharmacies

1. At the retail level, all pharmacists should verify the identity of persons seeking prescription psychoactive drugs. They must also vigorously enforce the regulations which apply to over-the-counter cough preparations containing codeine.

2. Steps should be taken to reinvolve the community pharmacist in the consumption-decision, particularly with respect to psychoactive substances.

Alcohol industry

1. The alcohol beverage industry should take the lead in funding research into the nature of compulsive alcohol-using behavior and the relation between alcohol use and traffic accidents, violent crimes, and domestic difficulties.

2. Manufacturers and distributors of alcoholic beverages should inform the public that compulsive use of alcohol is the most destructive drug-use pattern in this nation. Advertising should emphasize moderate, responsible use and point out the dangers of excessive consumption.

3. The industry should reorient its advertising to avoid making alcohol use attractive to populations especially susceptible to irresponsible use, particularly young people.

Legal profession

1. Bar associations should conduct seminars and courses on handling criminal drug cases. Law schools should develop courses dealing with drug use and behavior as part of the wider socio-legal problems confronting the legal profession.

2. Lawyers, operating both individually and through bar associations, must point out to the public the need for alternatives to the legal response and the urgency of involving other social institutions in the effort to control drug-using behavior. By the same token, the bar has an equally important ob-

ligation to discourage any violations of the law.

Industry

1. Management and unions, supported by the Departments of Labor and Commerce, should cooperatively undertake a comprehensive study of employee drug use and related behavior.

2. The business community should not reject an applicant solely on the basis of prior drug use or dependence, unless the nature of the business compels doing so. When pre-employment screening is necessary, companies should establish appropriate screening procedures, including physical examinations, for job applicants and keep the results confidential.

3. Industry should consider alternatives to termination of employment for employees involved with drugs. Where the nature of the business allows, employees should be referred to company-run or other public and private rehabilitation or counselling programs.

4. The business community should consider adopting employee programs patterned after the "troubled employee" or "employee assistance" concept. This program consists of a management control system based on impaired job performance, determined by minimum company standards. It seeks to determine and treat the underlying causes of poor performance—whatever they may be—rather than limiting itself to the standard responses.

5. The fact of treatment and rehabilitation should be confidential to encourage employees to accept counseling and other assistance. No record of the employee's drug problem should be carried in any file which is open to routine inspection. If treatment requires a temporary absence, the company should attempt to keep the employee's job open for that person.

Colleges and universities

1. Colleges and universities should make their policies and practices regarding drug use, including alcohol, explicit, unambiguous, and readily available to all students.

2. Even those colleges and universities which strongly disapprove of student drug-use behavoir should expand their counselling services, rather than rely upon disciplinary measures alone.

3. Counselling, treatment and rehabilitation programs on campus should ensure confidentiality to their student clients. Specific rules should be set up indicating to whom confidentiality will be extended and under what circumstances.

Mass media

1. Since governmental intervention is inappropriate here, the media, on their own initiative, must reexamine the impact of informational messages on youthful interest in psychoactive drugs. They should look not only at advertising but also at anti-drug public service announcements, at program content, and at news coverage of "drug stories."

2. In conjunction with their self-appraisal, the media should sponsor and support long-term, longitudinal research into effects of various communications on behavior.

Mr. JAVITS. Mr. President, one of the most informative and useful studies conducted by the Commission was a nationwide survey of drug experience, attitudes, and related behavior prepared by the Response Analysis Corp., of Princeton, N.J. It was based upon a national probability sample designed to study these factors among those under 18 years of age and adults. The Commission has issued a summary of the major statistical data found in this survey. I ask unanimous consent that these excerpts be printed in the RECORD.

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

NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE EXCERPTS FROM NATIONAL SURVEY OF DRUG USE AND ATTITUDES

The nationwide survey of drug experience, attitudes and related behavior, conducted for the Commission by Response Analysis Corporation of Princeton, New Jersey, is based upon a national probability sample designed to study two parts of the population: adults (18 years and older) and young people (12–17 years old). The findings are based upon responses to face-to-face interviews, conducted during September and October, 1972, given by a total of 3,291 persons (2,411 adults and 880 youth). The data show that:

(1) 24 percent (5,977,200) of youth and 53 percent (74,080,220) of adults had consumed an alcoholic beverage within the week prior to the Survey.

(2) Within the same seven day period, 17 percent (4,233,850) of youth and 38 percent (53,114,120) of adults had smoked tobacco.

(3) 14 percent (3,486,700) of youth and 16 percent (22,363,840) of adults had used marihuana at one time or another, (a two million increase from last year); 13 million stated they consider themselves present users.

(4) 6.4 percent (1,593,920) of youth and 2.1 percent (2,935,254) of adults have experimented at some time with inhaling glue vapors or other volatile solvents.

(5) 3 percent (747,150) of youth and 4 percent (4,590,960) of adults have taken sedatives (barbiturates, hypno-sedatives) for nonmedical reasons.

(6) 3 percent (747,150) of youth and 6 percent (8,386,440) of adults have used tranquilizers (librium, meprobamate, etc.) for nonmedical purposes.

(7) 4 percent (996,200) of youth and 5 percent (6,988,700) of adults have utilized prescription stimulants (amphetamines) for nonmedical reasons.

(8) 6 percent (1,494,300) of youth and 7 percent (9,784,180) of adults have tried proprietary or over-the-counter sedatives, tranquilizers and stimulants for nonmedical purposes.

(9) 4.8 percent (1,195,440) of youth and 4.6 percent (6,429,604) of adults have used LSD or some other hallucinogenic drug.

(10) 1.5 percent (373,575) of youth and 3.2 percent (4,472,768) of adults have tried cocaine at least once.

(11) 0.6 percent (149,430) of youth and 1.3 percent (1,817,062) of adults have tried heroin at least once.

The Survey data on heroin and cocaine use undoubtedly underestimate the amount of use. The majority of street heroin-dependent persons were unlikely to be counted in a household survey such as was conducted by the Commission, because these persons frequently do not have fixed addresses and are otherwise likely to remain "invisible" from census tabulations and other means of identification and enumeration.

Among the number of persons whom the Commission has identified as having used heroin, only a very small percentage, probably less than one-half of one percent, could be classified as heroin-dependent. What this means is that in addition to the substantial but unknown number of heroin-dependent persons at large, we have a substantial number of adults and youth who are not dependent upon heroin but who are "chipping" or experimenting with this very dangerous drug.

Alcohol and tobacco, along with marihuana, are the most widely used drugs in America among both adults and youth. The Commission's study further indicates that about 10 percent of all adults are "heavy smokers" or persons who use more than one pack a day. Among the youth the survey found relatively few "heavy smokers," with most of the teenage group reporting usage of a half pack or fewer cigarettes daily. The National Survey sought to find out about the use of ethical psychotropic drugs (sedatives, tranquilizers, and stimulants) for other than medical purposes. The Survey findings indicate that there is a substantial amount of use of these drugs for nonmedical purposes. The actual amount of such nonmedical use of prescription drugs is very likely to be even higher than the Commission's study found because many persons are unfamiliar with these drugs and, consequently, may not have known of or reported their use. Few persons, adults as well as youths, are aware of the potential effects of these drugs, especially when they are used in combination with another drug, including alcohol, or, as frequently happens, when the dosage taken is substantially greater than medical practice would prescribe.

NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE—REPORTED EXPERIENCE WITH DRUG USE FOR RECREATIONAL AND NONMEDICAL PURPOSES BY AMERICAN YOUTH AND ADULTS [1]

[Based on 2d national survey, 1972]

	Youth		Adults	
	Percent	Population	Percent	Population
Alcohol beverages [2]	24.0	5,977,200	53.0	74,080,220
Tobacco, cigarettes [2]	17.0	4,233,850	38.0	53,114,120
Proprietary sedatives, tranquilizers, stimulants [3]	6.0	1,494,300	7.0	9,784,180
Ethical sedatives [3]	3.0	747,150	4.0	5,590,960
Ethical tranquilizers [3]	3.0	747,150	6.0	8,386,440
Ethicel stimulants [3]	4.0	996,200	5.0	6,988,700
Marihuana	14.0	3,486,700	16.0	22,363,840
LSD, other hallucinogens	4.8	1,195,440	4.6	6,429,604
Glue, other inhalants	6.4	1,593,920	2.1	2,935,254
Cocaine	1.5	373,575	3.2	4,472,768
Heroin	.6	149,430	1.3	1,817,062

[1] Figures are not additive, thus, they do not total 100 percent Youth include ages 12 to 17, total population 24,905,000. Adults include ages 18 and over, total population 139,774,000.
[2] Within past 7 days.
[3] Nonmedical use only.

Mr. JAVITS. Mr. President, the more than 60 research studies undertaken by the Commission, together with the technical papers from which our report was drawn will be published in several volumes and made available as an appendix to the report early next summer.

As the Commission has now concluded its work, I wish to commend its members and staff for the extraordinary commitment which they made in time and energy to this important work. The Commissioners—all of whom had difficult and time-consuming responsibilities in their own private and professional lives—brought a wide diversity of experience and viewpoint to the deliberations of the Commission. In addition to Senator HUGHES and myself, the members were:

Chairman, Raymond P. Shafer, former Governor of Pennsylvania and presently chairman, TelePrompter Corporation, New York, N.Y.

Vice Chairman, Dana Lyda Farnsworth, M.D., professor emeritus, Harvard School of Medicine.

Henry Brill, M.D., director, Pilgrim State Hospital, West Brentwood, N.Y.

John A. Howard, president, Rockford College, Rockford, Ill.

Charles O. Galvin, school of law, Southern Methodist University, Dallas, Tex.

J. Thomas Ungerleider, M.D., associate professor of psychiatry, U.C.L.A. Neuropsychiatric Institute, Los Angeles, Calif.

Mrs. Joan Ganz Cooney, president, Children's Television Workshop, New York, N.Y.

Mr. Mitchell Ware, deputy superintendent of police, Chicago Police Department, Chicago, Ill.

U.S. Representative TIM LEE CARTER of Kentucky.

U.S. Representative PAUL G. ROGERS of Florida.

In addition, I should like to mention the considerable contribution to the report made by four of the Commission's staff members. Mr. Michael Sonnenreich, the Executive Director of the Commission and its chief of staff, Deputy Director Louis P. Bozzetti and Associate directors Richard J. Bonnie and Ralph M. Susman performed their extraordinarily difficult tasks with great competence and singular dedication.

Mr. President, an editorial in Tuesday's New York Times comments upon the work and recommendations of the Commission. The Times points out that our drug laws must rest on reason and fact to win public respect. Our Commission has sought to respond to the American drug problem with reason and fact. I believe that it has thoroughly achieved that objective and that it has done so with intelligence, insight, and great distinction.

I ask unanimous consent that the Times editorial referred to be printed in the RECORD.

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

STILLING DRUG HYSTERIA

The National Commission on Marijuana and Drug Abuse has just issued a carefully documented final report that is sweeping in scope and fully reflective of a two-year effort to dig into the difficult area of excessive drug use in modern society. The report's major contribution is to substitute a calm appraisal for the nation's lingering hysteria about drugs, especially in regard to their use by the young. It is perhaps a measure of this hysteria that the report found it necessary to reassure Americans that the drug problem will not "collapse our society."

In its useful sections putting today's drug problems in historical perspective, the report notes that alcohol and tobacco should also be classified as drugs and that the compulsive use of alcohol remains the nations' most serious drug problem. It suggests that drugs should be judged not only for their impact on individuals but also for their impact on society and that, under any reasonable standard, marijuana ought to be decriminalized. Marijuana is assigned a "low priority" of risk, and the commission reiterates the recommendation it made earlier that penalties be abolished for its private use and possession.

Noting that Federal spending to combat the drug problem approaches the $1-billion mark, this cautious report warns against "an entirely new drug abuse industrial complex" dedicated to developing preventive and treatment programs but with a stake in perpetuating, rather than solving, the drug problem. It quite properly stresses a need for audit and evaluation of drug programs which sometimes may be doing more harm than good while wasting taxpayer dollars.

The commission's proposal for concentrating all governmental efforts dealing with drug problems, whether with their medical or criminal aspects, in one giant Federal agency is of dubious value, but the report commands unanimous agreement of its distinguished signatories on a number of other solid points.

What is manifestly true is that laws, including marijuana laws, must rest on reason and fact to win public respect. And spending programs, even crash programs mounted in a spirit of crisis, require diligent auditing. In all, the report of the commission, chaired by former Gov. Raymond P. Shafer of Pennsylvania is a sound battle plan for a more intelligent attack on this nation's drug scourge.

ADMINISTRATION REVERSAL OF HOUSING COMMITMENTS

Mr. MOSS. Mr. President, the Department of Housing and Urban Development is apparently reversing commitments it has made to housing projects throughout the country. This action goes beyond the freeze announced by the President stopping all new housing programs. That freeze was deplorable, but the decision to go further than that—to pluck out of the project files and reverse commitments that have actually been made creates a very serious attack on the credibility of our Federal Government.

I am talking about projects when an actual notification of contract approval has been issued by HUD. These notifications have been issued to congressional offices, and we in turn have announced them to local authorities who have heralded the approval of these long-sought funds. In many cases, years have been invested by the local housing authority to prepare applications, to revise them according to HUD directives, and to pursue them to completion. The joy that came with the announcement of the approved contract has now crumbled into the dust of despair brought by the suspension of funds and action that clearly indicate that HUD is attempting to reverse firmly made commitments.

This problem is pervasive throughout the country. In the Denver Regional Office, 13 projects are reported to be in need of "reprocessing"—six of these fall in Colorado, and three fall in my home State of Utah. All three projects are ones that I have announced to local authorities in Beaver, Utah, the Ute Indian Tribal Housing Authority at the Uinta and Ouray Indian Reservation, and the Salt Lake Housing Authority. These announcements were made after receiving a formal HUD notification, in writing. I ask that copies of these notifications appear in the RECORD at the end of my statement. The commitments made to these housing authorities should not be allowed to be reversed by HUD. To do otherwise will compromise the integrity of the whole process of announcing the approval of Federal projects. A credibility gap will be created between the public, their congressional representatives, and the administration. Such arbitrary and unwarranted actions will undermine the trust of the people in their government. We have heard much about building such trust, and reversing negative views held for government, but such promises become empty in the face of concrete actions that threaten the mutual trust of local officials, Members of Congress, and Federal agencies.

How did HUD reach a decision to reverse previous commitments and call for "reprocessing" of applications? Review teams were dispatched from Washington to the regional offices of HUD in January and February. Ostensibly their purpose was to review applications that were still in the pipeline to see whether or not they qualified for funding before the President's freeze was announced. In fact, it appears that these review teams were instructed to cut off and reverse as many projects as possible. The review teams have presented the arguments that many projects were approved in a flurry of action in December when rumors of a possible freeze in HUD projects began to circulate. This is flatly not true. Each of the projects now jeopardized in Utah were based on years of work, careful planning, proper requests for bids, and careful evaluation of community needs. The arguments used by the review teams sent from Washington appear simply to be a cover for brutally jeopardizing projects that have been approved through mutual good faith by local and Federal authorities. The case of the application of the Salt Lake City Housing Authority for the construction of 50 low-rent housing units for families illustrates the arbitrary action of the administration. A contract—an actual contract, not simply a letter of commitment—was received by the Salt Lake City Housing Authority, signed and executed, and returned to HUD. No further word has been received by Salt Lake. Then a notification of contract approval was released by HUD to congressional offices. This in turn was forwarded to the local authority. Based on this documentation, the housing authority has made specific commitments to the developers selected and now finds itself in the position of a possible legal responsibility should HUD withdraw its contract.

I believe there are serious legal ramifications to the actions being taken by HUD. But even more fundamentally, that action threatens the basic relationship between people and their government.

I would hope that the administration would reconsider its ill-conceived actions. I would also urge Senators to join in urging the administration to take a more rational and responsible stand on the housing program.

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

HUD NOTIFICATION: U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Project Number Utah 3–5.

Approval by Secretary George Romney.

Type: — Loan — Grant X — Contract — Reservation —.

Name of Program Low-Rent Public Housing Program—Turnkey Method.

Amount Obligated Today $——.

Amount Previously Obligated $—— Total Amount $352,200 (TDC).

Recipient and Location of Project Housing Authority of the County of Salt Lake, Salt Lake County, Utah.

Purpose and Brief Description of Project Construction of 15 low-rent housing units for families.

Other Agencies/Contractors Involved ——.

Additional Information ——.

For Further Information: Brian L. Sellers, Executive Director, Housing Authority of the

County of Salt Lake, 2880 South Main Street, Office 206, Salt Lake City, Utah 84111.

HUD NOTIFICATION: U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Project Number Utah 4–3.
Approval by Secretary George Romney.
Type—Loan—Grant X—Contract—Reservation—.
Name of Program Low-Rent Public Housing—Turnkey Method.
Amount Obligated Today $——.
Amount Previously Obligated $——.
Total Amount $1,145,000 (TDC).
Recipient and Location of Project: Salt Lake City Housing Authority, Salt Lake City, Utah.
Purpose and Brief Description of Project: Construction of 50 low-rent housing units for families.
Other Agencies/Contractors Involved——.
Additional Information ——.
For Further Information: Mr. Paul Herrick, Executive Director, Salt Lake City Housing Authority, Room 101, City & County Building, Salt Lake City, Utah 84111.

HUD NOTIFICATION: U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Project Number Utah 1–6.
Approval by Secretary George Romney.
Type:—Loan—Grant X Contract—Reservation—.
Name of Program Low-Rent Public Housing Program–Turnkey Method.
Amount Obligated Today $——.
Amount Previously Obligated $——.
Total Amount $922,000 (TDC).
Recipient and Location of Project: Ute Indian Tribal Housing Authority, Uintah & Ouray Indian Reservation.
Purpose and Brief Description of Project Construction of 40 low-rent housing units—30 for Indian families and 10 for Indian elderly.
Other Agencies/Contractors Involved——.
Additional Information ——.
For Further Information: Thomas G. Appah, Executive Director, Ute Indian Tribal Housing Authority, Uintah & Ouray Indian Reservation, Fort Duchaane, Utah 84026.

HUD NOTIFICATION: U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Project Number Utah 6–1.
Approval by Secretary George Romney.
Type: — Loan — Grant X Contract — Reservation—.
Name of Program: Low-Rent Public Housing—Turnkey Method.
Amount Obligated Today: $——.
Amount Previously Obligated: $——.
Total Amount: $370,000 (TDC).
Recipient and Location of Project: Beaver City Housing Authority, Beaver, Utah.
Purpose and Brief Description of Project: Construction of 20 low-rent housing units for elderly Indians.
Other Agents/Contractors Involved: ——.
Additional Information: ——.
For Further Information: Mr. Halbert T. Lund, Chairman, Beaver City Housing Authority, P.O. Box 469, Beaver, Utah 84713.

Senator FRANK E. MOSS,
Capitol Hill,
Washington, D.C.:

The Ute Indian Tribe received a telephone message from the local housing authority that a delay in elderly and low rent projects number D227–U1–S, forty units was announced by the Housing Urban Development Regional Office, Denver, Colorado on March 13, 1973. The program was approved May 2, 1972 with an $8,000.00 preliminary loan. Invitations to bid were published October 12, 1972; a developer was selected and plans were approved by the authority. The program was publicly announced on January 1 1973. Delays are a handicap in the short summer construction period in this area and we urgently request your immediate assistance in getting our program started by April 1, 1973.

FRANCIS WYASKET,
Chairman Ute Indian Tribe.

ENERGY-ENVIRONMENT-ECONOMY CRISIS

Mr. FANNIN. Mr. President, a very interesting and unusual article by J. T. Claiborne, Jr., chairman of the board of Consolidated Appraisal Co., appeared in the March 22, 1973, New York Times.

The article is short, striking directly to the heart of our energy-environment-economy crisis.

I request that this brief article be printed in the RECORD for the benefit of Senators who are concerned about how we will deal with these crucial issues.

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

A CRISIS NOT OF ENERGY BUT OF MONEY-CHANGERS

(By J. T. Claiborne Jr.)

We are no longer energy-rich. We have become energy-poor, and until we solve our energy shortage, the world's currency managers will distrust the dollar—even when our inflation rate is below that of other nations. They see that we have a new and progressing malignancy that plagues our hopes and even our treadmill efforts.

A measure of our new vulnerability are the projections by Ford, Bacon & Davis Inc., that we will need to import $14 billion of oil and gas by 1975; $30 billion by 1980 and $54 billion by 1985. Until a few months ago, that import rate was $5 billion. It is now over $7 billion, about the same as our over-all trade deficit, which is already intolerable.

The projections are fantasies. Long before 1985, such import needs would bankrupt America, eliminating us as a customer. Our only realistic alternatives are: (a) promptly developing our indigenous reserves of fossil fuel, (b) violently forcing our will on the Arabs, who own two-thirds of the world's developed oil, or (c) collapsing our economy and living standards to Spartan levels.

Of the three alternatives, only the self-improvement one is acceptable. It is also attainable. We have more than enough undeveloped oil, gas and coal. Make that useful and we could be reasonably independent and affluent until, as we must, we have economically and amply harnessed the energy of uranium, the sun, the tides and the heat in the earth's depths.

Unlike China, which is largely a human energy society, we have long been both liberated and straitjacketed by an economy which is totally dependent upon growing quantities of mechanical energy, 75 per cent of it coming from petroleum and natural gas. Western Europe, Israel and Japan are equally dependent. Our joint enthrallment to the Arabs is now stringent and obvious to our potential enemies.

America is uniquely vulnerable. Foreigners now hold over seventy million of our dollars, at least half of which are a nervous glut. Moreover, our people regard it is an inalienable right to receive ever-rising wages and salaries that are always substantially above those paid elsewhere. That bounty would not have been possible without our uniquely abundant and cheap mechanical energy. Stripped of that advantage, and possibly forced to import half or more of our energy needs, we must begin to compete, man to man, in a fierce arena. The money-changers fear the social and political implications of that ugly transition.

We can eliminate our economic cancer. Fortunately, simply giving convincing evidence that we will immediately attack this problem aggressively and wisely could significantly moderate the attitudes of the money-changers and the Arabs even though adequate, concrete results might not be achievable for seven or more years. Until we are validly dedicated, our negotiating strength, and that of our friends, will degrade at a shocking rate.

The wisdom we shall need to avoid economic disaster will entail some bitter choices. It will demand a far greater willingness to compromise on that sacred cow, "tax reform," and such truly sacrosanct issues as Alaska's pristine beauty and the purity of the air we breathe. Unless we now compromise sensibly, the rigors of economic contraction could, before 1975, politically force roughshod abuses on our environment. The ecologists' trading stance, now strong, is in grave danger.

Remember, we must convince savvy, cynical money-changers. They will only question our political sophistication. That type always looks for the Achilles heel. For more than a dozen years we have persisted on a self-destructive political course even though our energy crisis was an obvious threat. We have been naive.

The Federal Power Commission artificially stimulated consumption of natural gas with regulated prices that also discouraged exploration and development. While nature was forcing prospectors to drill deeper, costlier wells in the most hostile places, "tax reformers" sharply reduced the incentive for such endeavors. They used the large Alaskan discoveries as their excuse and then well-meaning but uncompromising ecologists blocked the shipment of this oil. Amateur fears stopped the building of atomic energy plants.

We have neglected our heritage by disbanding to caterwaul ideological opposites instead of jointly seeking our common good. It is high time we exercised enough political maturity to save our economy and make the dollar creditable. We need to be rescued by serious students. The dillettantes are clobbering us.

RESOLUTION OF APPRECIATION TO FORMER SENATOR ALLOTT

Mr. JACKSON. Mr. President, at a recent meeting the Committee on Interior and Insular Affairs adopted a resolution expressing appreciation to our former colleague and ranking Republican member, the Honorable Gordon Allott, of Colorado.

I am especially pleased that the committee has taken this means to give recognition to the outstanding and dedicated service Senator Allott rendered to the committee and to the Senate.

For some 16 years I had the pleasure of working closely with the Senator from Colorado, and at all times I found him to be cooperative, fair and, above all, interested in bringing out of the committee the best legislation possible. I know that without the leadership he so willingly brought to our many tasks there would not have been the volume of progressive legislation the Interior Committee has been able to report in recent years. We shall miss Senator Allott's invaluable assistance very much.

Mr. President, I ask unanimous consent that the resolution adopted by the committee, be printed in the RECORD.

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

RESOLUTION OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE

Whereas, the Honorable Gordon Allott, of Colorado, did serve as a Member of the Senate Committee on Interior and Insular Affairs for some sixteen years, having been appointed to said Committee at the beginning of the 85th Congress; and

Whereas, Senator Allott served as ranking Republican Member of the Committee from January 1969 to January 1973; and

Whereas, Senator Allott did during the years of his association with the Committee play a key role in the consideration and shaping of legislation affecting the Indian tribes, mines and mining development, water and power resources, the public lands, parks and recreational facilities, and the territories of the United States:

Now, therefore, be it resolved, That the Members of the Senate Committee on Interior and Insular Affairs in executive session assembled do hereby express sincere appreciation to the Honorable Gordon Allott for his years of dedicated service to the Senate, his State, and the Nation.

RESOLUTION OF APPRECIATION OF CHARLES F. COOK, JR.

Mr. JACKSON. Mr. President, the Committee on Interior and Insular Affairs, at the executive meeting of January 23, adopted a resolution expressing appreciation to Mr. Charles F. Cook, Jr., for the dedicated service rendered to the committee during the period in which he was minority counsel.

Mr. Cook was appointed by Senator Allott, of Colorado, at the outset of the 91st Congress. During the 4 years of his association with the committee, as the resolution states:

Mr. Cook's services, both professional and personal, were equally available to all Senators on the Committee from either Party and were rendered with professional skill, enthusiasm, and conscientiousness in conformity with the highest traditions of the legal profession of which he is a member.

Mr. President, I ask unanimous consent that the text of the 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 COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE

Whereas, Charles F. Cook, Jr., did serve as the Minority Counsel of the Senate Committee on Interior and Insular Affairs for some four years, having been appointed, with the full concurrence of the membership of the Committee, by Senator Gordon Allott of Colorado at the beginning of the 91st Congress; and

Whereas, Mr. Cook's services, both professional and personal, were always equally available to all Senators on the Committee from either Party and were rendered with professional skill, enthusiasm, and conscientiousness in conformity with the highest traditions of the legal profession of which he is a member:

Now, therefore, be it resolved, That the Members of the Senate Committee on Interior and Insular Affairs in executive session assembled do hereby express appreciation for the dedicated service rendered by Charles F. Cook, Jr., to the Committee, the Senate, and to the Nation.

HIGH PRICES FOR NONFOOD ITEMS

Mr. CURTIS. Mr. President, I wish to speak about inflation and the great increase in the nonfood costs of the American households.

Inflation is here. It is a real problem. The farmers did not cause it. The farmers' income is still only 80 percent of the income of nonfarm people, and food costs have not increased as much as nonfood costs.

According to Labor Department statistics, a 1-year market basket of food for a family that cost $985 in 1952 now costs $1,409. This means that food has gone up by 43 percent in a period of 21 years. Back in 1952 the farmers' share of the food dollar was 47 percent. In February 1973 it was down to 43 percent.

Now let us look and see what has happened in reference to some nonfood items. I have selected some items that are common to every household. These figures are from Labor Department statistics.

A man's suit costs 87 percent more now than it did in 1952—and 62 percent more than in 1962.

A set of tires is 22 percent more than in 1952—28 percent more than in 1962.

A pair of men's shoes costs 81 percent more than in 1952—and 47 percent more than in 1962.

Women's shoes cost 94 percent more than 1952—47 percent more than in 1962.

Your stay in a hospital is 371 percent higher than 1952—165 percent more than in 1962.

It costs 97 percent more for automobile repair than it did in 1952—34 percent more than 1962.

These percentages are interesting and show how most of these nonfood products and services have steadily increased over the past 20 years—while farm prices fluctuated greatly. As the percentages show the trend, I would also like to present the actual dollar cost of some of these items.

A lady's dress that cost $5.94 in 1952 now costs $13.80.

A man's suit that cost $43.60 in 1952 now costs $79.80.

A pair of work shoes that cost $6.98 in 1952 now costs $14.30.

Your telephone bill has increased from $3.06 per month to $6.26.

The newspaper subscription has increased from $8.50 to $17 per year—this is the average price and includes all newspapers, weeklies and daily alike, and does not reflect the home delivery costs we pay for our metropolitan dailies.

That household hammer that you paid $2.42 for in 1952 now costs $5.15.

To have your car brakes relined is up from $17.10 in 1952 to $39.70.

While I have not attempted to enumerate every item that is used, I believe these items are representative of the general price increase that we have experienced. It is clear that the price for nonfood items has increased a great deal more than food prices.

Here I want to stress, however, that farmers do not sell bread—they sell wheat. Farmers do not sell meat—they sell cattle and hogs. Those prices are not out of line. They have been substandard for a long time. Farmers are facing a tremendous increase in their costs, a breakdown of railroad transportation, and many other problems. Within the last few days the prices paid to farmers for hogs and cattle have dropped materially. Wheat is down 60 cents per bushel.

There is a temptation on the part of some to mislead the public on the basis causes of inflation and mislead the public on the fact that nonfood prices have gone up more than food prices in an effort to place price controls on raw agricultural products and in an effort to drive down the price of food.

When a politician or a writer clamors for a reduction in the price of food, where does he think the reduction will come? Does he think that the wages paid in the supermarket will be lowered? Of course not. Does he believe that the rent, utilities, insurance and other costs of running the supermarket will be lessened? Of course that will not happen. Does he expect that the costs of paying the social security tax by the supermarket will be reduced? It is not going to be reduced—it is going to be increased.

Many are demanding a reduction of prices paid to farmers. This I resent. It is unjust. It is an attack upon a minority of the American people whose income amounts to only 80 percent of the income of nonfarm people. I am making this statement in an effort to appeal to fair play for American agriculture.

WALTER LIPPMANN'S POLITICAL VIEWS

Mr. BROCK. Mr. President, Walter Lippman has been one of the giants of American political thought for decades. His opinions have generally been controversial, but they have always been respected. His credibility has been total; his intellectual honesty unchallenged.

Recently, in an interview with his biographer, Ronald Steel, he revealed some perspective on current political questions and on the long-range prospects for our American Republic.

I believe that his insights deserve wide currency. I ask unanimous consent that they be printed in the RECORD.

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

LIPPMANN: NIXON HANDLING ROLE WELL

EDITOR'S NOTE.—Walter Lippmann, the retired columnist renowned for his political commentary, was interviewed by his biographer, Ronald Steel, who also is the author of "Pax Americana" and "Imperialists and Other Heroes." The interview took place in Lippmann's New York City apartment Feb. 25. Lippmann was hospitalized this week.)

(By Ronald Steel)

QUESTION. Nixon's been President for over four years. How would you assess his performance?

ANSWER. His role in American history has been that of the man who had to liquidate, defuse, deflate the exaggerations of the romantic period of American imperialism and American inflation. Inflation of promises, inflation of hopes, the Great Society, American supremacy—all that had to be deflated, because it was all beyond our power and beyond the nature of things. His role has been to do that. I think on the whole he's done pretty well at it.

Q: Aside from his prolongation of the Vietnam war, which you've criticized, how do you feel about his domestic policies?

A: He will do anything he thinks is expedient.

Q: Is that necessarily a bad thing?

A: No, it isn't. He's a Keynesian when it suits him, and he isn't when it doesn't suit him. That's the way public men have to act.

Q: You see him as responsive to public mood.

A: He's very cunning.

Q: So you would give him rather high marks?

A: Yes. He has played a very disagreeable role, but a role imposed upon him by historical necessity.

Q: Do you look on Nixon's crushing defeat of McGovern as merely a personal victory, or as something deeper—a repudiation of the philosophy of the New Deal and of the Great Society?

A: My feeling is that what happened in the Nixon-McGovern election is what happens in all elections of advanced modern industrial societies when the basic policy of the Jacobin or Rousseauistic philosophy is repudiated. By that I mean the belief that man is essentially good and can be made perfect by making the environment perfect, and that his environment can be made perfect by taxing the mass of people to spend money for improving it, Modern society won't accept that philosophy and it is usually repudiated. Sometimes the repudiation takes the form of fascism, but this rejection is morally and intellectually the equivalent of it, without some of the ugly features of fascism.

"I supported Nixon in '68 and I preferred him vastly to McGovern in '72. . . . Nixon has performed a service that historically had to be performed if American society was not to be blown up or disintegrate or crumble."

Q: What do you mean by the "Moral equivalent" of fascism?

A: The equivalent of facism in my view is the repudiation by the society, by the masses of people, of the whole Rousseauistic belief in man's inherent goodness and perfectability. The mechanics of the repudiation is another matter. Whether the society takes the form of a dictatorship or a parliamentary system is a secondary question to what is being repudiated.

Q: Were these ideas repudiated because they were too ambitious, or because they represented something incapable of achievement?

A: I think they represent something that is incapable of being achieved in human society. They are philosophically and morally untrue. Man is not naturally good, nor is his nature perfectable by economic means. The Jacobin philosophy is being repudiated in every advanced society, because it involves attempting to do by taxation and appropriation of things not possible to do. It's not possible by government action or any other action I know to create a perfect environment that will make a perfect man.

Q: Do you believe that those policies did, in fact, fail?

A: I don't think every detail of those policies, every reform, failed. But the idea that motivated them has failed.

Q: If the ideal has been repudiated, then what happens to the effort to achieve social change through government action? Is that repudiated too?

A: It goes on, but there are a lot of errors that have been discarded in the course of human history, and this is one of them.

Q: Do you think that the effort to achieve any kind of social change through the government is undesirable?

A: Certainly, it's desirable. It's not the effort to achieve reforms that's wrong, but the inner ideological or philosophical content of these particular efforts. This is where the fallacy lies—the belief in human perfectability through government action.

Q: Did McGovern represent this philosophy?

A: Yes. McGovern believed in all the corollaries that go with this philosophy, and he espoused any one of them that seemed to him promising. In this election the people themselves showed that they won't have it. This is a philosophy that has been more or less prevalent in the Western world since the 18th Century. People have fallen for it for generations. But now it is being repudiated almost everywhere. Sooner or later it always gets repudiated.

Q: How does this philosophy of human perfectability through government action differ from the kind of liberalism represented by Lyndon Johnson?

A: The difference is that liberalism is a much more measured form of human improvement. It neither claims nor seeks the exaggerated results claimed by Rousseauism and Jacobinism. It regards man as improvable, but not perfectable; it takes a much more modest view of what mortal man is capable of doing.

Q. Were the goals of the New Deal and the Great Society rooted in this Rousseauistic or Jacobin approach?

A. Yes. We have been in the grip of this general view of the nature of society at least since Woodrow Wilson.

". . . The men who wrote the Constitution were rational gentlemen. They knew the system they were devising could not work unless the rules were respected. Their primary assumption was that the kind of people who were running the government would play by the rules. If the President refuses to do this, nothing works, and you don't have our constitutional system. The President of the United States is actually a king, with all the powers and all the limitations inherent in a king. What is important is that there be respect for the unwritten law, which is an important part of the American constitutional system."

Q. If this philosophy has been repudiated does this mean there will be less government intervention in the lives of the people?

A. No, I wouldn't say it would mean less intervention, but the difference between perfectability and improvability is a very big one. The belief in government as the agent of perfectability is what has been repudiated. People have rejected the idea that you can use the government—by controlling it, by getting the majority or physically seizing it—to do what I regard as what history has now shown to be impossible. Sometimes this repudiation can take the form of fascism. But it didn't here. Instead, it took the form of Nixon Republicanism. But a corruption of that, or a more extreme form of it, could lead to fascism, just as fascism can lead to Nazism. The Jacobin-Rousseauistic view of society and human nature will lead to the most dangerous forms of fascism or even Nazism if it is not brought under control.

Q: So this administration should be welcomed by liberals because it's headed off a reaction that could have degenerated into fascism?

A: I supported Nixon in '68 and I preferred him vastly to McGovern in '72. In that sense, yes. That doesn't mean I'm enthusiastically pro-Nixon. What he's done is historical; Nixon has performed a service that historically had to be performed if American society was not to be blown up or disintegrate or crumble.

Q: Nixon has certainly appealed to self-reliance and attacked the social welfare programs of the past four years. Won't this lead to a cynical neglect of the poor, the disadvantaged and the abandoned?

A: I thought there was no hope for those abandoned, if you call them that, members of society in those programs. These programs had been greatly excessive, as occurs in every advanced society. But it was much exaggerated in our society, because actually taking from those who had really meant taking from white to give to blacks. That was a cause of deep division and bad feeling in this country.

Q: But if the government does not play a big role, what hope is there for the disadvantaged?

A: I'm not accepting Nixon's philosophy. But no government can bring people up. They have to achieve it themselves. The belief that the government can do it is one of the great illusions of our time.

Q: In the kind of society we have, can the disadvantaged achieve economic and social equality?

A: I don't know. Nobody knows enough now to say yes or no to that question. There are all kinds of hidden assumptions we don't know the answers to.

Q: Being opposed to what you call Rousseauian Jacobinism, do you consider yourself a conservative?

A: I am a conservative: I think I always have been. But that doesn't mean I'm a conservative who agrees with William Buckley.

Q: What kind of conservative are you?

A: I never joined Barry Goldwater or anybody like that. I don't consider myself that kind. I hope and trust I am a conservative in the line of Edmund Burke. I believe in certain fundamental things in philosophy and constitutional law which are conservative as against the Jacobins.

Q: One of the definitions of conservation is a belief in a hierarchical traditional society. Do you believe in that?

A: Well, I believe in what we used to call meliorism. You can make things better, but you can't make them perfect.

Q: Is it effective to deal with the symptoms of poverty, for example, rather than the causes?

A: Can anybody know what the causes are? There are many causes: Laziness, wastefulness. Those are traits inherent in human beings. Some make for poverty, and some make for wealth.

Q: The liberal would say we can isolate and eradicate the causes of poverty.

A: Does he know them? If he thinks he does, he's mistaken.

Q: Is this rejection of the Rousseauian philosophy also a repudiation of the goal of social equality and progress?

A: Social equality, if you carry it far enough, is an absurdity. That doesn't mean that you have to be in favor of social privilege or inequality.

Q: I suppose the essence of Rousseau's thought is that man is corrupted by his environment and by social conditions—"Man is born free, but he is everywhere in chains." It's this conception you consider false?

A: Yes, if you like, that's one thing.

Q: If you reject Rousseau's argument that man is born free, but is enchained by unjust laws, how do you achieve equality and justice?

A: Look, man isn't born everywhere free and equal. It's impossible that he should be born that way. The Rousseau-Jacobin doctrine was that he could be perfected by changing his environment.

Q: If you reject this, isn't the alternative simply to ride along with the status quo?

A: I don't think so. I don't think it does at all. It just makes you work very hard. You have to do things specifically and practically and in accordance with the possibilities of man. I read the other day a quotation from a Chinese which seems to me to sum up that Jacobin view. He said, "On television we watched the men the Americans put on the moon. We are going to be the first to put a new man on earth." That, I think, is exactly the Jacobin revolutionary philosophy.

Q: I suppose the idea that man is not perfectable is based on the belief in original sin. Do you believe in original sin?

A: In that sense, yes.

Q: Has the power of the President grown because of the particular Presidents we've had, or as a result of America's vastly increased world role over the last 30 years?

A: Of course, as America's growing importance in the world has enlarged and America has accumulated more wealth and power, the presidency has gotten bigger. I suppose 50 years ago the world thought about the United States, but now they would never do anything without consulting it.

Q: Government is playing a much greater role in the lives of its citizens. Do you see this as irreversible?

A: Yes, I do. We're a mass society, and a great many of our troubles and evils come from that. There are too many people alive in order to govern, control them and inform them. You have to have things that you wouldn't have dreamt about if you had a smaller population.

Q. So even though the people have rejected the idea of the government as an agent of perfectability, they've accepted that the government must play a powerful role in their lives?

A: We've accepted it, but we're very rebellious about it, too. I mean, people hate filling out all the forms—I know we do in this house—and we have to employ lawyers and bank people and so on to fill out forms for us and tell us what they mean. That's a burden. There are a lot of people who have just resigned themselves, taken themselves out of what we would call the welfare state. They don't fill out the forms, they just don't live in it.

Q: As a result of this growing governmental role, do you see a danger of authoritarianism and repression?

A: There's always a tendency of the governing power to be repressive if it can be. That has to be resisted.

Q: What are the best means of resisting? Through the courts?

A: The role of people is crucial. We resisted Joe McCarthy in the 1950s by denouncing him. McCarthy didn't have enough power to arrest us, those of us who did denounce him, and so we revealed him for what he was. Finally, a lot of people got angry with him.

Q. Do you see the government's prosecution of Daniel Ellsberg as an act of repression or intimidation?

A. No, I don't think it's an effort to do that. I think the public papers which are classified and regarded as secret should not be stolen or revealed by anybody who is not willing to pay the price of doing it. It's the case of the Boston Tea Party: If the king's tea is there, and you dump it in the harbor, then you expect to pay the penalty of dumping it in the harbor. One thing I like about Ellsberg is that he doesn't deny that he will take the penalty.

Q. If there's a higher loyalty than the law itself, should those with the courage to defy it be applauded?

A. I think it was a good thing to reveal the Pentagon papers, because classification has become a vicious habit which needs to be resisted. But that doesn't mean that every paper should be stolen or revealed. The penalty for doing that must be enough to deter anybody from doing it frivolously or easily.

Q. There's a great controversy now about executive privilege and whether members of the President's personal staff and his Cabinet should be obliged to testify before Congress. Do you feel the President is abusing this prerogative?

A. While there obviously has to be some kind of executive privilege, it must be used with the utmost discretion and restraint. Our system of government will simply not work if any principle is pushed to an extreme. There must be respect for the rules on the part of everybody—the President, the Congress, the courts. The men who wrote the Constitution were rational gentlemen. They knew the system they were devising could not work unless the rules were respected. Their primary assumption was that the kind of people who were running the government would play by the rules. If the President refuses to do this, nothing works, and you don't have our constitutional system. The President of the United States is actually a king, with all the powers and all the limitations inherent in a king. What is important is that there be respect for the unwritten law, which is an important part of the American constitutional system.

Q. It's been said that one of the effects of the Vietnam war has been the questioning of all forms of authority—the family, state, religion. Do you think this is happening?

A. I don't think it's the result of the Vietnam war. The breakdown of forms of authority is a much deeper and wider process in modern history than the Vietnam war. I wrote a book back in the beginning of the century about the dissolution of the ancestral order. Clearly, the ancestral order of the family, for instance, has been much more affected by the contraceptive pill than it has by anybody's speeches or by the war.

". . . We have this feeling—this comes from the Puritans—that we are a chosen people with a mandate from God Himself to make a perfect world for ourselves and for everybody else. Of course, that is a terrible myth."

Q. Is this breakup of the ancestral order dangerous?

A. Well, yes. It's dangerous in the sense that the fabric of society is of a cellular structure of families related in each other in tribes and nations. Of course, the destruction of that threatens to produce the chaos of modern times.

Q. You see this as leading to authoritarianism or fascism?

A. It's absolutely one of the things that will occur. Yes, there'll be all kinds of repression.

Q. It is said that we live in an age of permissiveness in which all the old values pretty much have been destroyed, including the belief in patriotism and the state. Can people live with that kind of uncertainty of their lives, without any focal point of attachment?

A. I think it's a good question, but there's no easy answer to it. Whether people can live without an organized life around authority, and the belief in something, is a question that the modern age has been experimenting with, and hasn't solved.

Q. I suppose it's in periods like this that people have created new religions in the past?

A. When they've been lucky.

Q. How do you feel about the future of parliamentary democracy?

A. I think it's increasingly unworkable mechanically, with the growth of population. Aristotle said long ago that there's a certain size a good city should have, so that the human eye could see its limits. There is a limit which we have passed in these mass democracies. Societies are not capable of governing themselves if they're that crowded and that numerous.

Q: Then you look at parliamentary democracy as . . .

A: As a doubtful experiment.

Q: And a parenthesis in history perhaps?

A: Parliamentary democracy was the product of a much simpler, less numerous, stratified society, class system. Whether it can be applied to these massive modern democracies, I don't know. It's very doubtful.

Q: What do you see as the alternative?

A: I don't think anybody can see an alternative. I certainly haven't got a panacea for it. That's a very American question you asked. I'll tell you what: Part of this illusion of what I call Jacobinism for short is that there's a remedy for every evil and a solution for every problem. A lot of things are not solvable.

Q. If they're not solvable, what attitude can we take toward these problems—stoicism?

A: Stoicism, resignation, acceptance. Part of the myth of the perfectability of man is that he can solve everything.

Q. If we're forced to live in a world where we recognize that problems can't necessarily be solved, and also that America, may not have anything very special to give to the world, we're in for a very difficult process of adjustment. Isn't the basis of our society that we can create the future?

A: It is the American myth.

Q: Other societies have something to fall back on. The continuity of their history, a religion, a strong social structure. We have nothing like that.

A: No, and we have this feeling—this comes from the Puritans—that we are a chosen people with a mandate from God Himself to make a perfect world for ourselves and for everybody else. Of course, that is a terrible myth.

". . . No government can bring people up. They have to achieve it themselves. The belief that the government can do it is one of the great illusions of our time."

Q: There's been a great concern over the freedom of the press recently—the right of newsmen to protect their sources, the effort of the government to intimidate the media. You've been concerned with this problem throughout your career. Do you think there is a serious threat to freedom of the press?

A: I think that very often the troubles of the press come from a commercialized desire to get scoops, to be the first to print the news. These "sources" very often are places to get tips of what's going to happen. The desire of newspapers to be the first to print particular information is corrupting to the whole journalistic process. In the journalistic world I grew up in, it wasn't a question of law whether you had to divulge your sources. It was a question of whether the reporter had the guts to refuse to reveal where he got the information, whether he was willing to go to prison if necessary. That was regarded as the elementary code of a newspaperman. The reverse of that was—and this was always my practice—when someone told me something in confidence, I didn't pass it on to the reporters so we could get a scoop. I had a relationship with the man I was interviewing, and I didn't want to print that.

Q: Does the press have a responsibility to publish what it thinks is newsworthy at whatever cost?

A: I wouldn't make a generalization. I think raw news, raw fact, is not intelligible, anyway, to the public, and has to be explained. The explanation is as important as the fact itself. The duty of the press is to put forth not raw news, but explained news.

KNOXVILLE JOURNAL COMMENTS ON CIVIL RIGHTS COMMISSION POLL

Mr. BROCK. Mr. President, a recent editorial in the Knoxville Journal made some very cogent comments upon reviewing the publication of a poll conducted by the U.S. Commission on Civil Rights.

The poll purported to demonstrate that busing would be more popular if a majority of the people were not so ignorant of what is involved.

The Journal effectively demonstrates how the poll used confusing language and tricky questions to arrive at its point. As many persons are likely to be misled by other reports on the poll, I ask unanimous consent that the Journal editorial be printed in the RECORD, as an extremely well-considered rebuttal.

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

SALES PITCH FOR BUSING

The U.S. Commission on Civil Rights deserves to be reprehended, in our opinion, for its recent "interpretation" of a survey it had done last November and December by Opinion Research Corp. on busing of public school pupils in relation to integration. The manifest purpose is to make busing more popular with the people. The report relies heavily on the theme that busing would be more popular if a majority of the people were not so ignorant of what is involved.

In the first place it is regrettable that the terminology used in the commission's report is inexact and confusing. Likewise some of the questions put to the 2,006 persons interviewed were of inexact meaning and also could be confusing. And some were more or less tricky. (There is no quarrel with the study because of its results, for it showed that 70 per cent of the people oppose busing to implement integration; our complaint is over the failure of the poll questions and of the report to define terms accurately, which added to confusion in the public mind.)

The "interpretation" uses the words desegregation and integration as if they were precise synonyms. They are not, though many people and some judges may not realize the distinction. Webster's New Collegiate Dictionary defines desegregate as "to free of any law, provision or practice requiring isolation of the members of a particular race in separate units." It says to integrate is "to form into a whole; to unite or become united so as to form a complete or perfect whole." In other words, as we understand this a school is desegregated when it does not bar any pupil because of race; it is integrated when there is a deliberate mixing of black and white pupils according to some formula, usually one along the lines of what is called "racial balance."

One question in the poll was: "A law (sic) has been introduced in Congress to prohibit busing of children beyond the nearest schools even where the courts have found unlawful segregation. Do you feel it would be right for Congress to pass such a law?" There were 57 per cent who says yes, 29 per cent said no and 14 per cent gave no opinion.

A companion question was: "Would you favor a constitutional amendment which would make it lawful to keep schools segregated?" Only 30 per cent said yes, 53 per cent were opposed and 17 per cent expressed no opinion. The commission professed to find in these two answers a "contradiction in public opinion." We think not.

Although the word segregation was used in both questions, the meanings were not the same. In responding to the question about busing, it would appear, many were thinking in terms of integration according to a formula. In answering the second they were thinking in terms of a reversion to de jure segregation by which schools formerly could close their doors arbitrarily against members of a race. So far as we are aware, no one is proposing that.

The report uses the term "unlawful segregation" over and over again. What is that? Are there still schools in this nation which will not permit a black student to pass the portal?

Unfortunately there has not been a full analysis of this report for public information. All the people have been favored with is the "interpretation" given by the commission. How are the people to know, when meanings are so mingled, what they should think, how they should respond?

Here is an example of the tricky questions. Those interviewed were asked to say true or false to various statements. One was: "Court-ordered busing of children from suburban school districts into central city school districts is now taking place in some American cities." Another was: "The courts now require the busing of children from suburban school districts into central school districts."

In each case the majority thought the affirmative was the correct answer. It was wrong for the tricky reason that while such actions have been ordered by lower courts they have not yet been upheld by higher courts. So the persons who knew such situations had been ordered but did not know they were being held in abeyance were termed ignorant by the commission. Also, how many did not understand what the word "districts" implied? Were they thinking of areas, not official districts?

Little notice may be taken of the commission's point that so far busing for integration has added less than 2 per cent to overall education costs. It is obvious, of course, that this is only the beginning if busing is to be upheld as a general policy. And there is a lack of candor, too. For example, the report says that in the Charlotte-Mecklenburg, N.C., school system it cost only 1.1 per cent of the overall educational budget to provide extra busing. It did not mention that the actual increase was from $784,000 to $1,600,000 more than double nor that the 1.1 per cent figure did not include the cost of buying new buses or the funds furnished by the state, only the increased money furnished locally.

This editorial is not concerned so much with the pros and cons of the busing issue as with the credibility of an official agency of the U.S. government like the Civil Rights Commission. Surely accuracy and honesty are due the voters.

THE NEED FOR RESEARCH AND DEVELOPMENT OF COAL TECHNOLOGY

Mr. STEVENSON. Mr. President, as consumers we depend on natural gas and oil to supply 79 percent of all our energy needs. Yet natural gas constitutes only 9 percent of our total domestic fossil fuel resources, oil 8 percent, and uranium only 4 percent. The rest—almost 80 percent of our total fossil fuel resources—is made up of our 3,000 billion tons of coal reserves. In short, we have come to rely on those fuels in shortest supply for the greatest part of our energy requirements, while our greatest single source of energy is relatively underutilized.

Coal formerly made up a greater percentage of our energy consumption. It fired the furnaces in many homes and in most of our electrical powerplants. But because it was both cheap and cleaner burning, natural gas began to supplant coal after World War II as a major home fuel. For similar reasons No. 2 heating oil maintained and expanded its competitive edge over coal in the same market.

We also know that in the last several years environmental demands have cut down on the use of high-sulfur coal for use in the stacks of our powerplants—again substituting the use of No. 2 heating oil and the inefficient but cleaner burning natural gas.

We are aware of the increasing pressures on our oil and gas reserves, the more so after the frightening shortages of this relatively mild winter and now the predictions of gasoline shortages this summer and even for this spring's plowing. Given the present demand and domestic supply curves, if we continue our present policies, the situation will become much worse before it becomes any better. The demand for oil by 1985 may reach 10 billion barrels per year, and some experts say that upwards of two-thirds of this demand, given our present methods of producing oil, may have to be met by imports. Even a conservative estimate puts the figure at 50 percent.

Similarly, recent estimates of the natural gas situation predict a near doubling of the demand for natural gas between 1971 and 1985, from 22 trillion cubic feet per year to from 35 to 40 trillion. The gap between this demand and what our domestic reserves can supply in 1985 has been variously estimated at 13 to 17 trillion cubic feet—even with pipelines for Alaska and Canadian imports. As of 1969, the United States had only 18 percent of the world's 1,550 trillion cubic feet of proven natural gas reserves while still producing well over half the world's supply of natural gas.

The implications of importing the 1985 differences in oil and gas are staggering—for our foreign policy, our balance of payments and domestic economy and ultimately for our way and quality of life. We are already seeing the first manifestations. This year's dollar figure for oil imports is expected to be about $6 billion; and there has been much talk that the wealth which has been speculating on the dollar in Europe has a source in the oil-rich countries of the Middle East.

One answer to this dilemma upon us is to turn back to coal, but in new ways. Coal will not be a complete answer, and definitely will not be the final answer. But it is an answer with much potential for the next 30, 50, or even 100 or more years.

It is true that under present technologies coal burning presents environmental dangers. But we have had the capability for some time now to utilize new technologies to transform our tremendous untapped coal reserves into environmentally sound fuels—clean burning gas and oil.

The idea of coal gasification is not a new one—indeed, as recently as the early 1940's, most of the gas being used in the United States was produced from coal. But this was relatively low-grade gas in terms of its energy qualities—400 to 500 Btu's—and with the advent of long distance pipelines which could bring in 1,000 Btu natural gas, coal gasification fell into decline. In addition to its inefficiency, in today's terms it was not, environmentally speaking, clean burning.

As early as 1946, however, work was initiated at the Institute of Gas Technology in Chicago in search of an economical method of synthesizing gas of a quality equal to natural gas. The work proceeded slowly, but was given much impetus in 1964 following the signing of a contract between the Office of Coal Research—a governmental agency in the Department of Interior established pursuant to the Coal Research Act of 1960—and the IGT. This led to the HYGAS demonstration plant in Chicago, which was dedicated in October of 1970. This plant recently achieved 53-hours of sustained operation.

The Office of Coal Research has funded other pilot plants to research and develop other coal gasifying technologies—in Rapid City, S. Dak.; Tacoma, Wash.; Princeton, N.J., and Homer City, Pa. At present, however, the HYGAS plant shows the most promise of early commercial application, perhaps by 1976 or 1977.

The HYGAS plant is for high-Btu coal gasification. It is aimed at producing gas for use in homes through the same pipelines which presently feed homes natural gas. With minimal time and funding low-Btu coal gasification could be utilized at electric power plants. Coal can also be converted into crude oil and then refined into oil's many other products. With a "fluidized bed" process it could be burned cleanly and used to power electrical generating plants.

The implications of this work are staggering. Improved mining techniques, some of them also in the research stage, might make it environmentally feasible to recover about 2,000 billion tons of our Nation's 3,000 billion tons of coal reserves. At a conversion rate of 2 barrels or more of synthetic oil per ton—a much better conversion rate than that expected per ton from oil shale—we would have over 4,000 billion barrels of oil in the form of coal—or 10 times the world's proven reserves. And if this coal were converted to pipeline quality gas, it would yield about 32,000 trillion cubic feet of synthetic gas. Our proven recoverable reserves of natural gas worldwide, as already mentioned, are about 1,550 trillion cubic feet.

These incredible prospects may be for naught if the funds and a coordinated Federal policy for general energy research and development are not present. Industry can provide some of the funds, but to develop this potential in time the Federal Government must join in partnership with industry.

Various bills have already been introduced in the 93d Congress on the subject of energy research and development—such as S. 357 introduced by Senators MAGNUSON, HOLLINGS, and others and S. 1283, Senator JACKSON's mammoth energy R. & D. bill. Senator JACKSON's bill would set up an overall energy research coordinating body, "the energy research management project, and five COMSAT-like quasi-governmental corporations, one of which would be a Coal Liquefaction Corporation. The Nixon administration in the last Congress rejected such corporations. As of this writing, the President has yet to send to Congress his long-heralded energy message, but it may well be that coal research and development will be handled in the "traditional way—through the Office of Coal Research, although at a slightly higher funding level. The proposed 1974 budget calls for a funding level in OCR of $51.3 million contract research; in fiscal year 1973 OCR received $43.4 million for contract research.

I believe that the administration's proposed funding level is not enough, not only for the energy and development of methods for utilizing coal—high and low Btu coal gasification, coal liquefaction, and the fluidized bed process—but also for the concomitant research and development that must accompany this technology.

If about 15 trillion cubic feet annually of synthetic gas will be needed by 1985 to meet the additional demand for gas of the quality of today's natural gas, the Office of Coal Research predicts that 176 commercial gasification plants putting out 250 billion Btu's daily will be required. Coincidentally, the Institute of Gas Technology did a study which found that there were about 176 potential sites in the United States which satisfied the requirements for the commercial utilization of coal gasification—a 20- to 30-year coal reserve, an adequate water supply, and access to markets and pipelines.

Environmental impact statements have been done on the pilot plants the Office of Coal Research has funded. The individual plants have been shown to be environmentally acceptable. But various environmental groups, perhaps correctly, would like to see the broader environmental questions of full-scale coal gasification and liquefaction looked into, such as:

Where will be commercial plants be located?

To what extent will they use strip-mined coal?

If located in the arid or semi-arid western states, where will the large supplies of water necessary for the gasification plants come from?

What will be the general demands and effects on our water resources?

If the plants are located near coal reserves under fertile farm lands, to what extent will there be strip mining and what are the prospects for reclaiming as fertile farm lands, to what extent will there be strip mining and what are the prospects for reclaiming as fertile farm lands the land so strip mined?

The concomitant research and development, then, which must accompany the development of methods to utilize our coal reserves, must include mining techniques. Some experts believe that there can be developed a satisfactory technique midway between the labor-demanding but hazardous technique of deep mining and the environmentally dangerous technique of strip mining. The authority for such research and development has been in the Office of Coal Research, but it has never been adequately utilized.

If there must be strip mining, at the very least adequate reclamation can be demanded—and if the methods to reclaim adequately are unavailable, research and development funds should also be available to develop such methods. There is a growing awareness of the need by the industry to provide adequate reclamation. The National Coal Association recently sponsored the first industry symposium on reclamation—but adequate Federal standards for reclamation are still necessary, as well as Federal funds for reclaiming previously strip-mined lands inadequately reclaimed and funds for the research and development of better reclamation techniques.

This is the general thrust of S. 425, the strip-mining bill before the Interior Committee on which hearings have already begun. As I am not a member of that committee, I hesitate to comment on the merits of particular provisions within the bill without the benefit of a hearing record or a committee report.

I have introduced a bill, S. 946, which would provide $20 million annually for demonstration projects that would utilize residues from sewage treatment processes, such as sludge, to reclaim strip-mined land. Such a project is ongoing and is proving successful in Fulton County, Ill., where sludge from the metropolitan sanitary district of Chicago is being transported. That project and others like it, however, need more funding at the Federal level.

What may be most important for the longer term is to give overall direction to our energy policy—not just to our policy in regard to coal, but also to nuclear energy, oil and natural gas energy, solar energy, geothermal energy, and so on. We must address the implications of our enery policy on our foreign relations and on our economy. Some agency should oversee and coordinate all aspects of energy policy, and in addition closely coordinate them to our environmental needs. The Nixon administration would do this through a supra-Cabinet official, and secondarily through a Department of Natural Resources.

Others recommend a Council on Energy Policy within the Executive Office of the President, similar to the Council on Economic Advisers and the Council on Environmental Quality. Such a Council is called for in S. 70. This three-member Council would establish a central point for the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy use and management. It would prepare a long-range comprehensive plan for energy utilization in order to foster improvement in the efficiency of energy production and utilization, reduction of its adverse environmental impacts, conservation of energy resources for future generations, reduction of excessive energy demands, and the development of technological capabilities to produce alternative clean energy. Perhaps most important of all, the Council would coordinate all energy activities of the Federal Government, and provide a measure of leadership to State and local governments and various other persons and organizations concerned with energy.

In the meantime the development of coal use technology and improved extraction technology could proceed through the Office of Coal Research. This could help supply our energy requirements and also accelerate economic development in many parts of the Nation.

CONDITIONS IN CUBA HAVE NOT CHANGED A BIT

Mr. HELMS. Mr. President, by every report, conditions in Cuba have not changed. The people of Cuba still exist on a semistarvation diet. The mechanical equipment of the country is near collapse. Some 3,000 Soviet "advisers" are still on hand to make sure that the Castro regime adheres to the Communist line. And the Castro regime is as rigorous as ever in extinguishing the liberties of the Cuban people.

It is significant, I think, that the Castro regime is the last one-man military dictatorship in Latin America. There are military juntas, it is true; but Castro is the only one-man dictator in the Western Hemisphere. He has his Soviet advisers and Soviet military equipment to impose his rule on the people. His economy works only because of massive infusions of Soviet aid.

There is no change, then, in the Cuban situation. The reasons for isolating Cuba are as valid now as when they were applied. If we have any decency at all, any sympathy for an oppressed people, we will take no steps whatsoever to stabilize the Castro regime either politically or economically. It is of the utmost importance when the Organization of American States meets here in Washington next week that the United States make it clear that our continued adherence to our present policy does not depend on whether or not the OAS resolution for the isolation of Cuba is reaffirmed.

There may be moves made at the OAS to rescind this resolution, which calls for both diplomatic and economic isolation, as long as Cuba remains a threat to the peace and security of the hemisphere. I presume that they will not be successful. But such moves should not have any coloration whatsoever of U.S. covert support. Nor, if such a move is successful, should the United States seize upon that action as an excuse for resuming diplomatic relations or other type of active liaison.

In addition, we should make it clear that there will be no economic support for Castro or for any other totalitarian regime on Cuba. We should flatly oppose, for example, any attempt to restore Cuba's sugar quota. Nor should there be direct economic aid programs. Just as it is unthinkable that the United States would give aid to North Vietnam under the same enemy leadership and Communist government, it is also unthinkable that we would help Castro to get a firmer grip on his despairing population.

I say it is unthinkable. But our Government has already committed an appalling act in urging the deportation of two Cuban refugees who were attempting to flee from the institutional terrorism of the Cuban regime to a third country—not even to the United States. As fate would have it, their engines failed and they were towed to U.S. waters by the U.S. Coast Guard. The State Department says that it is in the "spirit" of the anti-hijacking agreement to deport these refugees, even though the agreement itself does not literally apply. If there is a change in the Cuban situation, it is the United States that has changed. If it is indeed in the spirit of the agreement, then America has lost its honor and lost its soul.

Mr. President, the WRAL–TV "Viewpoint", in Raleigh, N.C., recently discussed the attempted deportation of the Cuban refugees at greater length. The editorial was presented by Mr. William P. Cheshire, the editorial director. I endorse it, and I commend it to your attention.

Mr. President, I ask unanimous consent that the text of the WRAL–TV "Viewpoint" for March 23, 1973, be printed in the RECORD.

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

WRAL–TV VIEWPOINT

To the sound of many glad hosannahs, the Nixon administration last month signed an anti-hijacking agreement with Fidel Castro's Communist regime in Cuba. Hijacking was defined as seizing an airplane or a boat—almost the only way out of Cuba for enemies of the regime—and each country agreed to deport hijackers or put them in jail. The agreement was hailed by those responsible for it as a stunning diplomatic triumph, causing Cold War temperatures to plummet worldwide.

This week it produced its first fruits when Washington ordered the prompt deportation of two young Cubans whose adversity was such that, when they tried for freedom last week, their boat was tossed up on the once-hospitable shores of the United States.

The two men—21-year-old Orlidio Hernandez and 23-year-old Caridad Perez—are not even hijackers within the meaning of the agreement. True, they tried to take over a fishing boat in international waters, hoping to make Mexico and freedom. But the engine quit off the Florida coast, and the disabled vessel was taken in tow by the U.S. Coast Guard. As soon as the engine quit, the men surrendered to their shipmates. So what the Coast Guard towed into Key West for repairs was not a hijacked boat, but a boat with two prisoners on board. Under the treaty, it makes a difference.

The two men waited until the boat was fixed and then escaped. When the boat headed out to sea again, they jumped over the side and swam ashore. With the help of Cuban exiles, they made their way to Miami, where they surrendered to U.S. Immigration authorities and asked for political asylum. The request was refused. Washington ordered the men deported; and while that callous ruling had been appealed, Washington is still trying to have these men returned to Cuba—evidently so that Dr. Castro will not think us unneighborly.

It is inexcusable. By any reasonable test, these men are political refugees, and political refugees stand outside the terms of the anti-hijacking agreement if there is reason to think—as there is in this case—that deportation means handing them over the their executioners. What we have in the making here is another bungle like the one two years ago when a Lithuanian sailor was beaten and dragged back aboard a Soviet ship while American sailors stood by, hands in pockets, because the brass in Washington didn't want to create an "international incident."

In this case, even Washington acknowledges that, technically speaking, the anti-hijacking agreement has no application. But that doesn't bother the bureaucrats who have effectively pronounced on Hernandez and Perez a sentence of death. State Department spokesman Charles Bray explains that Washington wants to keep, not just the letter of the agreement, but "the spirit" as well.

How nice. And what about the spirit of America—a spirit once exemplified by that bronze lady with the torch out there in New York harbor and all those fine words about "Give me . . . your huddled masses, yearning to breathe free"? What about that spirit? What about, not just Hernandez and Perez, but all those other nameless millions, tempest-tossed and friendless, who once looked to America for hope? And when we have turned our backs on the last of these, what has become of us?

THE WOUNDED KNEE LEADERS

Mr. BROCK. Mr. President, many people think the Indians who challenged the Government in the Wounded Knee, S. Dak., confrontation were a group of high-principled advocates for the down-trodden Indian people. That simply is not accurate.

They are a gang of unprincipled thugs. Worse yet, their operation was financed by you and me, through our tax dollars.

Wounded Knee is situated within the reservation of the Oglala Sioux, but less than 20 of the 250 or more Indians who terrorized the town were of that tribe. In fact, the Oglala Sioux chief and the tribal council wanted the renegades off their property worse than anyone else.

It is no wonder, for it is hard to imagine a more unsavory bunch of characters. One is Dennis Banks, who has a criminal record showing 15 convictions for such offenses as assault and battery and burglary.

Other leaders include Clyde and Vernon Bellacourt. Both have long police records, including armed robbery and burglary.

In fact, they might still be in the crime business if they had not discovered that Government subsidized "social action" pays better. Banks and Clyde Bellacourt first went into the line in 1967, when they joined the staff of a Minneapolis anti-poverty program funded by the Office of Economic Opportunity.

At that time, the Minneapolis program was getting about $400,000 a year from OEO, and the Indians quickly learned that it was much easier to live off that money than it was to rob banks.

All told, this program got over $25 million of your tax money before the Nixon administration cut them off in 1970.

Meanwhile, the Bellacourts, Banks and others had formed their now-famous Indian protest group, AIM, which has also been getting a big piece of the Government pie.

They spent the money on projects like the armed takeover of Alcatraz Island, the occupation of the offices of the Bureau of Indian Affairs in Washington, and Wounded Knee.

The whole story was uncovered by the Detroit News. Frankly, I think the News deserves a Pulitzer Prize for revealing one of the most amazing scandals in recent years, and demonstrating again why the administration and I believe so strongly that OEO must be discontinued.

FINANCIAL STATEMENT OF SENATOR AND MRS. LAWTON CHILES

Mr. CHILES. Mr. President, I ask unanimous consent to have printed in the RECORD the financial statement of Mrs. Chiles and myself, compiled as of January 1973.

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

U.S. SENATE,
Washington, D.C., March 15, 1973.

Hon. FRANCIS R. VALEO,
Secretary of the Senate,
The Capitol,
Washington, D.C.

DEAR MR. SECRETARY: My purpose in writing is to report to you a statement of the financial status of my wife and myself. This

statement includes holdings and liabilities and is compiled as of January 1973:

ASSETS

Cash in checking and savings accounts approximately	$1,500.00
Carr & Chiles accounts receivable (approximately)	8,000.00
Stocks and other securities (see Schedule A)	238,976.76
Real Estate (see Schedule B)	351,999.15
Miscellaneous assets (see Schedule C)	12,000.00

LIABILITIES

Accounts payable	500.00
Notes payable	96,000.00
These figures disclose a net worth of approximately	515,975.91

The foregoing, Mr. Secretary, I attest as being a true and accurate statement of the financial holdings and liabilities of my wife and myself.

Most sincerely,

LAWTON CHILES.

SCHEDULE A.—STOCKS AND OTHER SECURITIES

Unlisted securities:	*Shares*
Scholarship Services, Inc	2,693
Lake Bonny Properties, Inc. (⅓ equity)	875
Industrial Development, Inc	5
Wild Animal Kingdom	500
Over-the-Counter Stock:	
Lakeland First Mortgage Corp. (⅓ equity less liabilities)	12,147
Founder's Financial Corp	22,223
Hardwicke Companies, Inc	5,000
Listed securities:	
American Telephone & Telegraph Co	200
American Home Products	100
Marcor, Inc	1,020
Pittsburgh Brewing Co	500
Royal Trust Co	106
Total Unlisted Securities	$33,686.26
Total Value Over-the-Counter Stocks	152,451.00
Total Value Listed Securities	52,839.50
Total Value Stocks and other Securities	238,976.76

SCHEDULE B—REAL ESTATE

The Colonial Building, 910 South Florida Avenue, Lakeland, Florida.—Completed August, 1966, 6 units, 5,000 sq. ft., Lot 100' x 135'. Gross rental $16,000.00 per year. Bldg. $60,000.00, Land $30,000.00 Less Mortgage $44,879.17. Equity $45,120.84 ½ ownership; $22,560.42.

Red Lobster Inn, Lakeland, Florida.—Completed January, 1968, with addition November, 1968. M.A.I. $340,000.00 less Mortgage $169,519.30. Equity $170,480.70.

Red Lobster Inn, Daytona Beach, Florida.—Completed June, 1969. M.A.I. $350,000.00. Less Mortgage $223,111.29. Equity $126,888.71.

Red Lobster Inn, Tampa, Florida.—Completed June, 1969. Value estimate $325,000.00. Less Mortgage $154,010.57. Equity $170,898.43.

Red Lobster Inn, St. Petersburg, Fla.—Completed October, 1969. Value estimate $364,000.00. Less Mortgage $224,492.92. Equity $139,507.08.

Secondary Financing Obligation on 2 of 4 Units: $43,135.39.

Red Lobster Inns—Total equity—(½ Ownership) ($564,639.52, $282,319.76.

James I. Black, Jr., Et Ux—$14,500.000 16.333%, $2,368.29.

Assets: Real Estate

Residence—940 Lake Hollingsworth Drive, Lakeland, Florida. Value Estimate—$50,000.00. Less Mortgage $33,516,000. Equity $16,484.00.

Residence—3807 North Woodstock Drive, Arlington, Virginia 22207 Value Estimate $72,500.00. Less Mortgage $56,735.68. Equity $5,750.00.

Residence—Casa del Mar, Apartment 10–C, 4621 Gulf of Mexico Drive, Longboat Key, Florida. Value estimate $28,750.00. Less Mortgage $23,000.00. Equity $5,750.00.

Real Estate Contracts Receivable

Max Lieder, Et Ux—$7,341.83, 16.333% ownership, $1,199.14.

William M. Skipper, Jr., Trustee—$34,000.00. 16.333% ownership, $5,554.22.

Total real estate: $351,999.15.

SCHEDULE C—TOTAL MISCELLANEOUS ASSETS

Furnishings ---------- $12,000

SOCIAL SERVICES

Mr. HUGHES. Mr. President, for weeks now the mail has been pouring into my office about the administration's proposed social services regulations of February 16, 1973. With the exception, I believe, of one letter, it has all been condemnatory. The letters have come from parents, children, charity organizations, lawyers, doctors, church groups, specialized agencies, welfare agencies. All have been knowledgeable, indicating an understanding of what is at stake. Many have expressed shock and dismay that the U.S. Government would take such a course of action. And while the humanitarian aspects are most often stressed, the shortsightedness in terms of economic consequences is well documented.

Mr. President, the documentation I have received from Iowa indicates clearly that thousands of Iowans will suffer if the promulgated regulations are allowed to stand. Virtually all of the social services agencies in the State have estimated the effect of the regulations in their localities in terms of services affected, funds lost, and persons eliminated from programs.

Typical of the studies made is that of Quenten Emery, Director of the Polk County Department of Social Services in Des Moines, and I ask that his study be included in the RECORD at the conclusion of my remarks. Also to be inserted are the general comments of the Iowa Department of Social Services on the regulations, as well as a copy of the Department's letter to the Administrator of the Social and Rehabilitation Service. In addition, the Johnson County United Way has prepared an analysis of the adverse effect of the regulations on Johnson County and has offered suggestions for changes which would improve administrative and fiscal procedures without sacrificing the thrust of the programs themselves. I ask that this, too be printed in the RECORD.

The final document I ask to be printed at this time is Senate Concurrent Resolution 28 of the Iowa General Assembly. This resolution was passed by a Republican-controlled legislature and bears the signatures of two of Iowa's foremost Republicans, our Lieutenant Governor and President of the Senate Arthur A. Neu, and Speaker of the House Andrew Varley. The resolution states the commitment of the State of Iowa to the principle of assisting families, children, the aged, blind and disabled toward maximum self-support, and urges HEW to rescind or modify its proposed rules. This should dispel, I believe, any claim that opposition to the February 16 regulations is a partisan matter. Iowa cares about its less fortunate and rejects this latest effort to eliminate proven, valuable programs of assistance.

I ask unanimous consent that this material be printed in the RECORD.

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

REPORT ON RESULTS OF NEW FEDERAL REGULATIONS PUT OUT BY HEW

On February 16, 1973 the Health, Education and Welfare Department of the Federal Government published new proposed regulations for social and rehabilitation services 45 CFR parts 220, 221, 222, and 226 titled "Service Programs for Families and Children and for Aged, Blind and Disabled Individuals: Titles I, IV, parts A and B: X, XIV, and XVI of the Social Security Act."

The following information has been compiled by the Polk County Department of Social Services and is designed to inform concerned people of the effects these proposed regulations would have on programs presently providing services to the people of Polk County and on programs that were to begin in 1973.

If the federal government no longer supports these services, either state governments, local governments, or the private sector will have to provide the funding for the continuation of these services or service to the people will simply not be available. If the local governments in Polk County and the private sector would decide that they did not have the means to continue these services there would be 10,162 people who would not receive help with a problem they are having. If the local governments in Polk County and/or the private sector would decide to provide money for continuation of these services it would take $1,396,375.00 for the remainder of 1973. This kind of money is just not immediately available in Polk County, either in local government or in the private sector.

The federal administration has stated that their intent in these regulations is to eliminate those programs that have not proven to be useful and productive in relation to the amount of money that they cost. We also feel that programs that are not producing as they were designed or services that are not correcting the situation they were designed for should be modified or cut back; but as the regulations are written, many of the social service programs that have been successful are also being cut back. A few examples of these are day care, services to the mentally retarded, services to people who have problems with alcoholism and child welfare services to the abused and neglected child.

In the following narrative summary, each section describes a specific service program that is in effect or was about to be put into effect, and the effect of HEW's proposed regulations on that program. Following the narrative summaries there are tables that break down the regulations and show the effect in terms of people that will no longer be able to receive service and the amount of dollars that will have to be generated by local governments, state government, or the private sector in order to continue the service. Unless designated otherwise, all figures are based on an estimated projection of numbers of clients and dollars for April 1 through December 1, 1973.

CHILD GUIDANCE

The Polk County Department of Social Services had developed a contract with the Child Guidance Center of Des Moines to provide four different services.

1. Consultative services for improving foster care services.

2. To develop ADC mothers group for peer support in obtaining or retaining employment.

3. Provide service to children and their

families who are on the verge of being suspended from school for behavior problems.

4. A project to do screening for pre-school children to detect behavior problems before they enter the public school system.

A total number of 120 people will not be eligible to receive services under these contracts. The main reduction in the services will be with the children who are being suspended from school and the pre-school evaluations with a small amount of reduction in the foster care area. The main result of this cut back will be that we will not prevent a number of children, who are not able to handle the public school system, from dropping out, and becoming high risk candidates for the Juvenile Justice system. In the long run the same result will happen with the pre-school evaluation as it's purpose was to get to those children that would be likely to have trouble with the public school system and correct their problem before they get into the school system. If the local governments or the private sector felt that this service was needed it would cost $9,000 to provide it to these children. See Table I.

MENTAL HEALTH SERVICES FOR ADULTS

Two hundred-ninety people during the year 1973 will not receive mental health services from the Polk County Department of Social Services unless the county decides to fund the total cost of providing this service. This means that the local government will have to come up with $284,394 to continue to provide a service to the people of Polk County who are having mental problems. The services that are provided to these people through our agency are geared at getting them back into the community as self-sufficient functioning individuals who would not have to rely on institutionalization or public welfare to survive. If local government can not pick up the cost of continuation of this service, the clients will be left without anything to provide them support to move back into the community. See table II.

PSYCHIATRIC CARE FOR CHILDREN AND OTHER COUNSELING SERVICES

There are very few families who are able to afford the purchase of psychiatric care for their children who are having emotional and psychological problems. These families have, by necessity, depended on government monies to provide this psychiatric care for their children Under the new proposed regulations this type of care is not allowed because it is not defined as a service for which federal funds can be spent In order to provide this service to the twenty-nine children of this community who are or will have emotionally or psychological problems during 1973 would require local government or the private sector to come up with $48,950 See Table III

BIG BROTHERS

People who work with children from single parent families feel that one of the big needs is a Big Brother for male children. In many single parent families the male child has no male to "look up" to, therefore he tends to grow up with a distorted view of how to function in our society. In an effort to provide this service to the male children of ADC families in Polk County, Polk County Department of Social Services was proposing to purchase this service for 75 boys in the community. If we are to provide this service to 75 boys, the local government or private sector will have to provide an additional $11,500.00. See Table IV.

INFORMATION AND REFERRAL SERVICES

A great number of people call the Polk County Department of Social Services seeking help for a problem with marital problems, with children, alcoholism, elderly, etc. Polk County Department of Social Services has four staff members whose function is to help these people with referrals and provide information to them, that will enable them to get the needed service. Our projection at this time would be that we will no longer be able to provide this service to approximately 5,040 people. If the local governments decided that they wanted to maintain this service to the people of Polk County, it would cost $4,989.00. Our estimate is that 25% of the people who call in seeking information or referral would not be eligible under the proposed federal regulations and will have to be told that we are unable to help them. They will have to randomly seek help from all of the agencies in the community. See Table V.

FAMILY PLANNING

Family Planning is a mandatory service to be provided by the states to eligible persons. However, there will be very few people who will be eligible within the guidelines who are not already current recipients of ADC or some other program. An interesting twist in these regulations is that a potential recipient must have a problem that can be dealt with within six months. Therefore, to provide birth control counseling, a person would have to be three months pregnant at the time of initiation of services.

If we are trying to prevent people from having to rely on welfare for subsistence people will need to understand family planning and receive birth control services. In Polk County we are estimating that 2,385 will not be able to receive family planning services during 1973 as a result of the new federal regulations. This results in a $145,125 decrease in federal monies available to the people of Polk County for family planning services. It would cost this same amount ($145,125) if the local government were to decide to provide the funds for continuation of the services. See Table VI.

ALCOHOLISM SERVICES

The federal regulations state that before services can be provided to a person who is defined as alcoholic he must be engaged in an active treatment program for alcoholism. We estimate that 600 people would not be eligible to receive alcoholic treatment services prior to their needing an active treatment program as a result of the proposed HEW regulations. What this means is that 600 people will not be able to receive services that has the potential to prevent them from becoming full fledged alcoholics. In order that preventive services be available to persons inclined towards alcoholism the local governments will have to expend an additional $112,500.00 of local tax funds. See Table VII.

ADOPTIONS

Polk County Department of Social Services provides services to those people who adopt children independently of other adoption agencies. Most of the children who are placed in adoption this way are those of unwed mothers who release their child while in the hospital. The court orders that an adoption study be done by the Polk County Department of Social Services. At the present time we are able to get a 75–25% match for the staff's salaries, that complete the adoptive studies. Under the proposed HEW regulations the funding for staff members engaged in this activity at the Polk County Department of Social Services will have to be transferred to Title IV–B which will cost the state an additional $15,289.00.

Polk County Department of Social Services also had in the proposal stage the Black Adoption project designed to recruite Black adoptive parents for Black children. Black children often remain in long-term foster care because Black parents are not available to adopt. This means that twenty-seven kids will have to remain in foster care unless the local government would provide $9,933 for the project. See Table VIII.

DAY CARE LICENSING

Day care licensing is required by the state law for family day care homes. This responsibility has been delegated to the Polk County Department of Social Services with funding through the Iowa Department of Social Services for the staff members to do the licensing of these homes. The funding for these two positions have been through Title IV–A but with the new regulations will have to be transferred to Title IV–B and will cost the State an additional $15,289.00. See Table IX.

MENTAL RETARDATION

If HEW's proposed regulations go in effect, fifteen mentally retarded individuals from Polk County will no longer be eligible to be involved in service programs. These are basically the services that are given through private institutions throughout the country for the retarded, aimed at helping them to develop to their fullest potential. It will cost the local government $21,822.00 to maintain this service for these individuals. Also the Polk County Department of Social Services has two staff persons who work with the mentally retarded and their families. Under the new regulations, their salaries will have to be transferred to Title IV–B at a cost of $12,447.00 to the State of Iowa. See Table X.

FOSTER CARE LICENSING

Responsibility for licensing of foster homes is delegated to private child placing agencies and county offices of social services. In Polk County the county social service office has two staff members whose job is to recruit and license foster homes. The total funding for these two staff members will have to be transferred from Title IV–A to IV–B at a cost of an additional $14,904 to the State of Iowa. See Table XI.

CHILD NEGLECT AND CHILD ABUSE

Due to the more stringent guidelines for eligibility under HEW's proposed regulations in Title IV–A we estimate that approximately 30% of the cases of child neglect and abuse investigated would not meet the new eligibility guidelines. The costs of investigation of child neglect and abuse would have to be transferred to Title IV–B. This will mean that the State of Iowa will have to bear an additional cost of $4,587.00 for these services provided in Polk County during the remainder of 1973. See Table XII.

SERVICES TO THE ELDERLY

Polk County Department of Social Services provides very few services to the elderly who are not on categorical assistance programs, but we estimate that approximately 15 of those that we do serve will not be eligible under the new federal guidelines. It will cost $1,671.00 to continue the service to these 15 people. This cost will have to be borne by local county government or by the private sector in the community. See Table XIII.

FOSTER CARE FOR CHILDREN

On January 1, 1973 the money to purchase foster care for children was transferred from the Polk County Juvenile Court to the Polk County Department of Social Services. This move was made to allow the Polk County Department of Social Services to be able to provide voluntary foster care and to seek more federal reimbursement for the money spent on foster care in Polk County.

Under the proposed federal regulations for social services, the Polk County Department of Social Services would not be eligible to receive federal reimbursement for voluntary foster care placement. During the first month of operation the Polk County Department of Social Services received seven requests for voluntary foster placement. The Polk County Department of Social Services estimates that 50.2% of the foster care cases will not be eligible under Title IV–A, because they have not been adjudicated as neglected. Therefore 50.2% of the costs will have to be transferred to Title IV–B. This will mean an increased expenditure to the

State of Iowa of $40,608 for foster care within Polk County. See Table XIV.

FAMILY AND CHILD DEVELOPMENT SERVICE

Polk County Department of Social Services is currently funding day care services for 539 children. Two hundred eighty-eight of these children will no longer be eligible for services because of the restrictive income guidelines in the proposed regulations. Polk County Department of Social Services was also planning to expand the services to cover an additional 488 children effective June 1, 1973. It now appears that only 200 additional children will be eligible for the service because of the proposed regulations. The net effect of the proposed regulations in regard to this program will be a loss of child care services for 576 children. If the program was to be continued at the level projected, a total of $737,000 would need to be found at the State or local level. We also project that a sizable number of these families will be forced on welfare because they will be unable to meet the full cost of child care services. See Table XV.

In summary the regulations for social services proposed by the Department of Health, Education and Welfare in the Federal Registar of February 16, 1973 are going to severly limit the social services available to people experiencing problems. In Polk County 10,162 people will either have to solve their own problems or pay for the service themselves during the nine month period of April 1, 1973 to December 31, 1973. If the local governments and/or the private were going to provide funds to continue the provision of these services $1,381,684 would have to be raised within the next nine months. Due to the stringent eligibility guidelines in the proposed regulations for Title IV–A many of the costs will have to be transferred to Title IV–B. Since the State of Iowa is spending its total allotment under Title IV–B any additional costs would have to be borne by the State of Iowa. Just for Polk County this represents a total cost of $102,584 for the nine months in 1973.

TABLE I.—CHANGES DUE TO HEW REGULATIONS, T–3–12.

SERVICE: CHILD GUIDANCE (1) FOSTER CARE (2) ADC MOTHERS CARE (3) UNWELCOME CHILD (4) PRE-SCHOOL

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4–B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level					
Must have problem that can be helped within 6 mo or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI, must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation			120	$12,000	
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4–B					
Total			120	[1] 12,000 [2] 9,000	

[1] Apr. 1, 1973 to Apr. 1, 1974.
[2] Apr. 1, 1973 to Dec. 1, 1973.

TABLE II.—CHANGES DUE TO HEW REGULATIONS, T–3–12

SERVICE: MENTAL HEALTH SERVICES FOR ADULTS; S.S. TITLE I, X, XIV, XVI, IV–A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4–B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level			90	$4,193.88	
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI, must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation			[1] 200	375,000.00	
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4–B					
Total			290	[2] 284,394.00 [3] 279,194.00	

[1] Goodwill west contract and proposed activity center and sheltered workshop expansion.
[2] Apr. 1, 1973 to Apr. 1, 1974.
[3] Apr. 1, 1973 to Dec. 31, 1973.

TABLE III.—CHANGES DUE TO HEW REGULATIONS, T–3–12

SERVICE: PSYCHIATRIC CARE FOR KIDS AND OTHER COUNSELING SERVICES (SOCIAL SERVICE); S.S. TITLE: IV–A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4–B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓% of States financial assistance payment level					
Must have problem that can be helped within 6 mo or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation			[1] 29	$48,950	
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to, title 4–B					
Total			29	48,950	

[1] Includes Turner School contract.

TABLE IV.—CHANGES DUE TO HEW REGULATIONS T–3–12

SERVICE: BIG BROTHERS, S.S. TITLE: IV–A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4–B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federa money lost to State; cost to State to operate the program
133⅓ percent of States, financial assistance payment level					
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI, must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money			75	$15,000	
Expenditure is not eligible for Federal participation					
Transfer to title 4–B					
Total			75	[1] 15,000 [2] 11,500	

[1] Apr. 1, 1973, to Apr. 1, 1974.
[2] Apr. 1, 1973, to Dec. 1, 1973.

Note: Also ineligible because not a defined service.

TABLE V.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: INFORMATION AND REFERRAL SERVICES; S.S. TITLE: IV-A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level			5,040	$4,989	
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI, must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4-B					
Total			5,040	4,989	

TABLE VI.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: FAMILY PLANNING; S.S. TITLE: IV-A; FOR 9 MONTH PERIOD, APR. 1, 1973, TO DEC. 31, 1973

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States' financial assistance payment level			1,150	[1] $46,575	
Must have problem that can be helped within 6 mos. or if canceled from assistance within 3 mos			2,100	[1] 85,050	
Titles I, X, XIV, XVI, must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money			225	13,500	
Expenditure is not eligible for Federal participation					
Transfer to title 4-B					
Total			3,475	145,125	

[1] 9 months.

The above figures reflect the number of people in need of service who would not be eligible under these guidelines and the amount of money lost due to the inability to serve them.

Plan was to use $250,000 ($25,000 local—$225,000 Federal) to focus on serving the past and potential recipient ($187,497 for nine months).

This amount would serve approximately 4,100 persons over a one-year period.

An estimated 850 of these would probably remain eligible—thus we would lose 3,250 probable clients at a cost of $146,250 for nine months (14,625 local—131,625 Federal). This assumes CDA would be willing to donate money to serve those few remaining eligibles.

In fact, however, if eligibility guidelines remain this stringent, Community Development will choose not to donate any money to Polk County Department of Social Services and will explore other funding methods—possibly contracting directly with their $25,000. This action would result in the loss of any federal match (a maximum loss of 9 x $25,000, or $225,000 over one year—$168,750 over nine months).

TABLE VII.—SERVICE: ALCOHOLISM SERVICES; S.S. TITLE: XIV

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level			300	$75,000	
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr			300	75,000	
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4-B					
Total			600	[1] 150,000 [2] 112,500	

[1] Apr. 1, 1973 to Apr. 1, 1974.
[2] Apr. 1 to Dec. 1, 1973.

TABLE VIII.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: ADOPTIONS; S.S. TITLE: IV-A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level			12	$5,145	
Must have problem that can be helped within 6 mo or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI, must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money			15	8,100	
Expenditure is not eligible for Federal participation					
Transfer to title 4-B		[1] 100			$15,289
Total			[2] 27	[3] 13,245 [4] 9,933	15,289

[1] Adoption studies done by the Polk County Department of Social Services.
[2] The Black Adoption project.
[3] Apr. 1, 1973 to Apr. 1, 1974.
[4] Apr. 1 to Dec. 31, 1973.

TABLE IX.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: DAY CARE LICENSE; S.S. TITLE: IV-A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level					
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4-B		100			$15,289
Total					15,289

TABLE X.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: MENTAL RETARDATION; S.S. TITLE: IV-A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level					
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation			15	$21,822	
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4-B		100			$12,447
Total			15	21,822	12,447

TABLE XI.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: FOSTER CARE LICENSE; S.S. TITLE: IV-A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level					
Must have problem that can be helped within 6 mo or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4-B		100			$14,904
Total					14,904

TABLE XII.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: CHILD NEGLECT AND CHILD ABUSE; S.S. TITLE: IV-A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level					
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4-B		30			4,587
Total		30			$4,587

TABLE XIII.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: SERVICES TO THE ELDERLY; S.S. TITLE: I, XVI

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level			15	$1,671	
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4-B					
Total			15	1,671	

TABLE XIV.—CHANGES DUE TO HEW REGULATIONS, T-3-12

SERVICE: FOSTER CARE FOR KIDS; S.S. TITLE: IV-A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects				
	No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level					
Must have problem that can be helped within 6 mo. or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money					
Expenditure is not eligible for Federal participation					
Transfer to title 4-B		50.2			$40,068
Total					40,068

TABLE XV.—CHANGES DUE TO HEW REGULATIONS, T-3-12—SERVICE: FAMILY AND CHILD DEVELOPMENT, S. S. TITLE: IV-A

Proposed social service regulations by HEW in Federal Register of Feb. 13, 1973	Effects: No change	Percent of service transferred to 4-B	Number of people no longer eligible	Federal money lost to Polk County and cost of maintaining service by local government; private	Federal money lost to State; cost to State to operate the program
133⅓ percent of States financial assistance payment level			427	595,250	
Must have problem that can be helped within 6 mo or if canceled from assistance within 3 mo					
Titles I, X, XIV, XVI must be 64½, deterioration of sight, 17½ yr					
Not a defined service as stated in regulation					
Goals specified in regulations—cause a change in type of service provided					
Privately donated funds cannot be used as seed money for Federal money			149	141,750	
Expenditure is not eligible for Federal participation					
Transfer to title 4-B					
Total			576	[1] 737,000	

[1] Based on Apr. 1-Dec. 31 for present slots based on June 1-Dec. 31—new money projected to start June 1, 1973.

EFFECT OF PROPOSED FEDERAL REGULATIONS

The regulations proposed by HEW on February 16, 1973 contain many changes and restrictions to current service programs. The greatest impact are in the following areas:

1. Definition of former or potential recipient:

At the current time most low income persons are eligible for social services, as either a former or potential recipient of welfare. The new regulations sharply limits the number of low income people who can be served by imposing:

(a) An income limit of 133⅓% of the ADC *payment* for gross family income. This means, in Iowa, that a family of four with a *gross* income of $325 is not eligible for day care or any other service.

(b) A former recipient can only receive a service for 3 months after discontinuance of assistance. This time period is now 2 years.

(c) A potential recipient can only receive service for the *specific* problem. That would cause him to become a recipient. In addition the specific service can only be provided for a 6 month period. This period is now indefinite.

The effect of these provisions is to remove any possibility of providing preventive or rehabilitative services that keep people from becoming welfare recipients.

2. Prohibitions against private funds:

Present regulations encourage a partnership of the public welfare agency with the community in providing those services that the community feels that it needs. Private funds from United Way, church groups, and individuals are donated to the county for a specific purpose such as day care or Big Brothers. The county then purchases or provides the service and obtains 75% federal funds for the services as they are actually provided.

The proposed regulations eliminate this partnership by prohibiting the use of any privately donated funds to attract federal matching funds.

3. Services that cannot be paid for:

At the current time the county welfare department can purchase educational and training services leading to employment, psychiatric and psychological treatment to correct or alleviate mental illness or retardation.

The proposed regulations prohibit any purchase of these services. This means that facilities that provide training and rehabilitation for the mentally ill or retarded, and facilities that treat mentally ill or retarded children can no longer be paid from funds with federal participation. This effectively eliminates any extensive county effort to rehabilitate children or adults who have any kind of problem that currently or potentially limits their employment and functioning in the community.

4. Foster Care:

County staff who place and supervise children in foster care are currently paid from 75% federal funds. Facilities which treat children in foster care, such as Orchard Place and Iowa Family and Children's Service are also paid from 75% federal funds. The children now in foster care can be these because their parents have recognized their child's problem and voluntarily agree to foster care. Also a court could place the child in foster care because he is neglected by the parents, or because the court has found that a child is dependent upon the state for help.

The proposed regulations prohibit payment for any foster care from federal 4A funds except for adjudicated neglected children. They also prohibit payment for any treatment provided by a foster care facility. These provisions effectively limit early treatment of parents' or children's problems before they are extremely serious.

The proposed changes in regulations will affect 10,162 people in Polk County. If current services are to be maintained, it will cost the county $1,382,000 and the state $102,600.

GENERAL COMMENTS OF THE IOWA DEPARTMENT OF SOCIAL SERVICES ON PROPOSED FEDERAL REGULATIONS AFFECTING SOCIAL SERVICES

Officials of the Iowa Department of Social Services say they are "violently opposed" to the new social services regulations proposed by the federal government which are tentatively scheduled to go into effect April 1.

Commissioner James N. Gillman called the regulations "extremely negative" and an indication of the federal administration's "compulsive budget-cutting without recognizing the very basic human needs."

The U.S. Department of Health, Education and Welfare says the proposed new rules seek to eliminate abuses in the use of federal matching funds and refinancing of existing state programs; concentrate the use of federal matching funds for social services mainly in behalf of current welfare recipients since funds no longer are available to the states on an "open ended" basis; and to give the states greater flexibility in the way they administer and operate their social services programs by placing fewer federal mandates on them.

Said Harold Templeman, director of the Bureau of Family and Children's Services, which administers the assistance payments programs and service programs: "Our concern is not that Iowa will lose a large amount of federal matching funds in the area of services, but that we will be forced, in the focus of our services, to move away from the area of helping people *stay off* the welfare rolls. Instead, we will be serving only those who are currently on the rolls.

This, in effect, compounds the very problem the federal government most wants to control: more people needing financial assistance, which costs more in the long run than helping them stay off in the first place."

He said: "The proposed regulations would by June 1, 1973, eliminate federally matched services for 12,947 clients currently receiving those services." (This and the following ing information is contained in the accompanying charts.)

In projecting for the fiscal year 1974, Templeman said the number will have grown to an estimated 28,196 clients, which would be more than the total number of clients receiving such services now.

An additional appropriation of $9,600,442 would be necessary for the state to assume the total financial responsibility for these programs in 1974.

The negative aspects of the proposed rules can be more easily understood by looking at specific program areas. For instance, the Governor's Youth Opportunity Program which is funded 5 per cent ($127,000) with state funds, 20 per cent ($496,000) with local public and private funds, and 75 per cent ($1,870,000) federal funds, would no longer be eligible for federal funds. This is because the proposed regulations would no longer pay for work training programs. That means that the current enrollment of 4,721 disadvantaged young people, will be cut to 1,180, perhaps even lower if privately donated funds are also withdrawn. That means a lot of kids who would have been working, might not be.

In the area of day care, the department is currently serving 3,201 children. The projected increase by June of 1974, indicates 7,105 children would be served. The proposed regulations would affect at least 4,000 of these children as a result of the loss of federal matching funds, which are currently available to Iowa.

Templeman characterized the proposed regulations as "taking us full-circle, back to where we were when a client had to be destitute and receiving financial assistance before he or she could receive social services. The whole concept of a person being a 'potential' client, was originally introduced into the regulations years ago, to enable us to provide social services to people in order to keep them self-sufficient. Now, practically speaking, all sense of that idea is gone since the definitions on 'potentiality' are so constrictive. Eligibility under the proposed rules will be so restrictive that a mother with one child, will have to be earning less than $1.15 per hour for a 40-hour week to be eligible for day care or any other services as a 'potential' client. Today's minimum wage is $1.60." Another limitation placed on the definition of potentiality is a reduction in the period of time in which a person can be considered a potential client. Presently that period is five years. The proposed regulations would reduce that to six months, making it particularly harsh on certain groups of people presently eligible for services.

For example, a survey by the department of 21 private training facilities for the men-

tally retarded, serving 822 persons, indicates they will have to close if the proposed regulations go into effect. This is because most of their residents would not qualify as "potential" clients, and because privately donated funds to these facilities could no longer be used in getting federal matching funds. If these community and private facilities close, their clients will either return to their parents or be crowded into public or private institutional facilities.

The limitations will have a devastating effect on the elderly. Many older citizens have been able to receive services as potential clients, starting at age 60, because of the present 5-year interpretation of the "potential" client status. The proposed regulations will mean they will not be eligible for those same social services (on a federally matched basis) until they are 64½ years of age. Now, these people maintain themselves in their own homes. The new rules would likely cause them to go to county homes or nursing homes, or onto the Old Age Assistance rolls.

We believe that one tragic consequence of the new regulations is going to be a drastic increase in all categories of public assistance. For example, in Iowa we have 350,000 citizens over the age of 65. 29.1% of these live at or below the federally defined poverty level. Yet presently only 5.8% of these are on the Old Age Assistance rolls. If we discontinue services for those not on public assistance, it is estimated that an additional 4,200 OAA cases would be opened. Moreover, it is certain that significant numbers of these will be forced out of their homes and into institutional situations.

* * * * *

In light of all this discussion, we have prepared the following recommendations:

1. A six-month limitation in the definition of potentiality is far too constrictive. At the very minimum the period should be at least a year; and, in any case, specific groups should be exempted from any time consideration at all: particularly the retarded, particularly the elderly. We urge that the definition be broadened so that we will be able to provide services before a person has started on an irreversible course toward receipt of public assistance.

2. To further restrict the definition of "potential" to a gross income of less than 133⅓% of our present payment schedules and resources to less than $1100 is, in effect, to eliminate the whole concept of "potentiality" since their income would still be beneath the minimum needs standard.

Practically speaking, the new regulations limit our service caseloads to people eligible for public assistance grants. If there is to be an income ceiling it should be far more than 133⅓% of our present public assistance levels; or should include formulas for adjusting such gross income to allow for taxes, social security, day care and other factors.

3. The absence of federal funding for training and educational programs (other than WIN) means that such programs designed to help people help themselves off public assistance to keep them off our rolls will be discontinued. We believe strongly in such programs and urge that they still be eligible for federal matching funds.

4. Because of the catastrophic impact on our community facilities, we strongly urge that privately donated monies remain eligible for federal matching funds.

IMPACT OF FEDERALLY PROPOSED REGULATIONS ON DIRECT SERVICES (ESTIMATED MONTHLY AND FISCAL YEAR 1974 COSTS) [1]

	Current monthly figures				Federal funds no longer available fiscal year 1974 [3]
	Persons now receiving services [2]	Current cost per month	Persons who will lose service	Federal funds no longer available	
Day care [4]	3,201	$55,753	1,794	$23,438	$348,202
Family planning	3,983	145,558	1,952	53,493	769,868
Mental retardation	935	33,780	654	133,733	253,908
Foster care [4]	5,867	216,013	1,995	55,083	818,426
Homemaker services	1,424	108,973	1,041	59,785	888,270
Vocational education and training	2,172	55,218	1,738	33,130	492,248
Delinquency prevention, commitment	155	$3,678	120	$2,122	$3,490
Protective services	2,516	98,555	1,148	33,708	500,825
Health related	3,744	63,603	463	5,890	87,530
G.Y.O.P. [4]	678	7,533	678	5,650	83,920
Other	2,781	78,648	1,391	29,493	438,235
Total	27,456	867,312	12,974	435,525	4,712,922

[1] These figures are based on a new costing method outlined in the Iowa Department of Social Services' Program and Financial Plan, Appendix J. This method was designed to estimate projections of services and costs.
[2] The current direct service case load of 27,456 persons is based on a report of Feb. 5, 1973. 472R-470.
[3] The fiscal year 1974 projection is based on a 2.032 percent monthly increase in overall services.
[4] The costs shown in this table for day care, foster care, and Governor's youth opportunity program, refer to staff costs only. A significant part of the total expense of these programs are found under purchased services, on the following pages.

IMPACT OF FEDERALLY PROPOSED REGULATIONS ON PURCHASE OF SERVICES (ESTIMATED MONTHLY AND FISCAL YEAR 1974 COSTS)

	Current monthly figures				Federal funds no longer available fiscal year 1974
	Persons now receiving services	Current cost per month	Persons who will lose service	Federal funds no longer available	
Day care	1,365	$175,500	1,207	$116,813	$1,056,245
Foster care	800	101,455	640	60,873	769,968
Alcoholism	340	53,994	280	33,349	140,133
Homemakers	284	10,677	49	1,382	6,247
Sheltered work	314	$41,281	314	$30,968	$391,963
G.Y.O.P. [1]	(2)	(2)	(2)	----------	2,522,964
Total	3,103	382,877	2,490	243,377	4,887,520

[1] Governor's youth opportunity program—During the year of 1972, the program cost $1,682,160, serving 4,721 youth. These youth are mainly served during the summer months, therefore total reporting is not captured on our baseline data used Feb. 5, 1973; 678 of the 4,721 are shown because of their year-round participation. Based on the number of youth anticipated through June of 1974, 7,081 young people will be deprived of G.Y.O.P. services, at a projected cost for that year of $2,522,964.
[2] Monthly count inappropriate.

The above services purchased by the Department are very specialized services purchased from agencies throughout the State of Iowa. Our only resource for sheltered workshops and alcoholism services at the present time is through purchases.

Total Federal Funds No Longer Available:

Direct services	$4,712,922
Purchased Services:	
Governor's youth	2,522,964
Other purchased	2,364,556
Totals	9,600,442

DEPARTMENT OF SOCIAL SERVICES,
Des Moines, Iowa, March 16, 1973.

ADMINISTRATOR,
Social and Rehabilitation Service, Department of Health, Education, and Welfare, Washington, D.C.

DEAR SIR: This letter is in response to the proposed Regulations, New Part 221, Service Programs for Families and Children, and for Aged, Blind, or Disabled Persons; Purchase of Service, published in the Federal Register of Friday, February 16, 1973.

The Iowa Department of Social Services, after reviewing the proposed regulations, strongly urges that they be withdrawn. These regulations would seriously restrict the current services being delivered within the State of Iowa. Our concern is not the possible loss of a large amount of federal matching in the area of services, but that we will be forced in the focus of our services to move away from the areas of protective and preventive services and helping to prevent the need for public assistance to serving only those who are currently receiving public assistance. We believe it is extremely important that we serve current recipients and, when possible, help them become totally or partially self-supporting. We also realize that if we are able to intervene and provide services to individuals and families before they are forced into applying for assistance that their chances of staying off and maintaining themselves at a level of self-support are much higher. We believe these services will also be much cheaper to provide. One major concern is the proposed definition of "potential recipient." In the case of an ADC potential child or family, the definition of potential recipient will almost require that the families or individual be eligible for assistance. They are required to have resources which fall within the public assistance guidelines and the income limitation for Iowa will actually be lower than the income level for persons with earned income to be eligible for public assistance.

We are in agreement with the change in the regulations to remove from the general requirements some of the administrative rules, such as use of professional staff, use of sub-professional personnel and staff development. We are concerned that reference to some of these items was excluded from the sections dealing with expenditures in which

federal financial participation is available. Reference is made only in very broad terms and we believe that serious questions can be raised as to whether any of the activities will, in fact, be matched. An example of this is the requirement for advisory committees. Our agency feels that it is important that we continue to use the services of advisory committees, particularly at the state and area level. Under the present regulations such committees are required and expenses for these committees are clearly reimbursable at the 75% rate. In the proposed rules, reference to advisory committees other than the state day care advisory committee have been removed from both the general administrative provisions and the provisions regarding expenditures for which federal financial participation is available. We understood that the general administrative provisions that were being removed were removed on the basis that the states would normally be following these provisions in the course of administering their programs and that having them in the regulations did not serve any real purpose. We further understood that the federal agency still supported these activities as positive features of service programs and that federal financial participation would be available. We believe that there is now serious question as to whether these provisions will be reimbursable.

Specific concerns center in the following areas:

Section 221.2(c). We strongly disagree with moving from the requirement in the present rules for a fair hearings and appeals process to a grievance system. We believe that having a grievance system alongside a fair hearings and appeal system will be confusing to recipients of services, will mean duplication of an already established system, while denying clients what we believe is their right to a fair hearing. The very use of the phrase "grievance system" is obviously intended to lessen the stature of the procedure and we believe this would be a step backwards.

Section 221.3. At several points throughout the regulation, terminology "services which are available without additional cost" is used in the old regulations but was never clearly defined, and we feel that the regulations must contain some definition of what availability without additional cost means.

Section 221.4. We heartily support the concept of giving a client the freedom to accept or reject services. There is one major exception to this freedom of choice in the case of protective services. Having protective services mandated and then giving the client the freedom to accept or reject services is incongruous. We believe this section of the regulations needs to have a clearly stated exception covering protective services for families and children.

Section 221.6(c)(2). We believe the definition of former recipient is too restrictive. The present definition should be retained.

Section 221.6(c)(3). As mentioned earlier, we are particularly concerned about the definition of potential recipient as contained in this regulation. Such a definition is so restrictive that it will not enable states to serve people and prevent people from going on assistance and will instead lead to an increase in the assistance roles. During the past five months, the ADC caseload in Iowa has been decreasing. We believe these regulations will reverse that trend. The most glaring example of the inadequacy of this definition relates to the prevention of births out of wedlock. The regulations clearly place a responsibility on the states to attempt to prevent or reduce the incidence of births out of wedlock with the goal of keeping people from going on assistance. Under this proposed definition, a person who is not currently a recipient of public assistance will have to be three months pregnant before we can define her as a potential recipient of assistance and thus then try to prevent the birth out of wedlock. We are concerned about the income limitation since, first, it does not indicate whether it is gross income or net income and, second, as mentioned before, any person in Iowa who has earned income and can meet the income guideline will already be eligible for public assistance. Couple the income guideline with the resource limitation and you have effectively eliminated the category of potential recipient since most people will be eligible for assistance if they meet these guidelines. If the goal of social services is to prevent people from becoming dependent upon assistance, then such restrictive guidelines are self-defeating. We are further concerned about the severe age limitations with regard to the adult programs, again from the standpoint that being able to provide services only when a person is on the threshold of eligibility for income maintenance often is too late. In most cases, the person will go ahead and fall into the income maintenance program and then it is a much more difficult and a much more expensive job trying to extract him. With the aged, much preventive work can be done to forestall the problems of aging which lead to the need for assistance. We believe that for all practical purposes the proposed definition of potential has eliminated the category of potential recipient. There are a maximum of six conditions of eligibility that have to be met and failure to meet even one of these conditions means that the person does not meet the definition of potential. We strongly urge that this definition be broadened so that we can provide services before the person has already started on an irreversible course toward dependency upon public assistance.

Section 221.7(a). We believe it is impractical and, in most instances, administratively impossible, to make an eligibility determination prior to the delivery of some service. Eligibility should be determined early, but in some instances it cannot be determined before the start of services.

We believe that the information and referral services, offered by public welfare offices, are a vital service to the community. The proposed rules should provide for these services, acknowledging that complete information and referral services may involve several interviews with the person and contacts with other people and community resources. Also, protective services are, by nature, such that service should await eligibility determination.

We believe protective services should be an exception to the proposed rule, allowing public welfare service workers to intervene in all cases of neglect, abuse or exploitation. For people of all ages, this is urgently necessary since no other social service agency is specifically charged with this responsibility and none are equipped by experience to handle these cases, in most communities.

Section 221.7(a)(1). We are concerned that this regulation will require us to set up another administrative procedure which will be rather complicated and which we feel could possibly be accomplished in other ways. The regulation does not appear to permit any latitude in the method of determining a person's current status as a recipient. We feel that in Iowa and in possibly other states, this determination could be made on the basis of the Medical Assistance Card, which in Iowa is issued monthly, and indicates those members of the family who are receiving public assistance. We would urge that this regulation be rewritten to give some latitude as to the method of determining eligibility.

Section 221.7(b). We are concerned that the requirements for re-determination of eligibility for services will be unnecessarily complicated. The regulation contains four separate time periods for re-determining eligibility, and we believe it will require an extremely complicated, if not impossible, administrative system to comply. It is particularly difficult to understand why in the case of those current recipients of assistance who are receiving services, a re-determination of eligibility for services has to be made every three months, while for a public assistance grant re-determination has to be made only every six months. Also, it seems unnecessary for a separate requirement for re-determination within 30 days when a family or a person goes off assistance. We would strongly urge that this rule be changed to provide for a re-determination of eligibility every six months for all cases.

Section 221.8(a). As a pilot state for the implementation of the Goal Oriented Social Services program, we strongly protest the attempt in these regulations to move from a system with four goals to a system with only two goals. We believe that this would, in effect, eliminate the concept of Goal Oriented Social Services. Also, the two goals, as defined, are unclear; it is particularly confusing when the term self-sufficiency is not only one goal, but is also used in defining the other goal. We are not able to distinguish between these two goals. Since we already have in operation a Goal Oriented Social Services System, we question whether we will be required to go back and re-do our present system or whether we will be permitted to use the four goals. We believe that the Goal Oriented Social Services program needs to be implemented, along the lines which it had been proposed originally. We believe that the proposed regulations would only give token recognition to the system and in the end will again be self-defeating. Much concern has been expressed over the past five years about the inability of Social and Rehabilitation Services to explain to Congress what is happening as a result of the money being spent on services. We believe that this will continue unless the Goal Oriented Social Services System is maintained as planned before these proposed regulations.

Section 221.8(b). We agree that the service plan should be reviewed at least every six months, but we would hope that this review could be coordinated with or incorporated into the requirement for service eligibility re-determination. Not having the service plan tied to the eligibility review is very inefficient and only further complicates our problem of trying to determine who has to be reviewed for what and when.

Section 221.8(c). We are concerned as to how this particular rule might be interpreted. It appears to say that only services which will prevent a person from becoming eligible for and requiring public assistance should be provided. We do not particularly argue with that interpretation except that it could be further interpreted to mean that if it appears inevitable, regardless of the provision of services, that a person would become dependent upon public assistance that we would then not be able to provide him any service. This would be particularly true in a case of the mentally retarded where, regardless of the services provided, we will not be able to correct or possibly ameliorate their mental retardation, and yet if we are able to provide some services we may be able to lower the amount of public assistance they require. We believe this question needs to be clarified.

Section 221.8(d). Will this section limit purchase of service contracts to a period not to exceed six months?

Section 221.8 (e). This paragraph seems to be in conflict with Section 221.8(a), which requires that before any service can be given that a case plan has to be established. This section indicates that we will be able to help families clarify their need for services, but does Section 221.8(a) mean that before we can help them clarify their needs, we have to write a case plan saying that we are going to clarify their needs? Does this section say that

before an intake (service) is provided, a case plan must be established?

Section 221.9(b)(3). We believe that the definition of day care services for children needs to be broadened. The title of this service is misleading in that services are not really provided because of the needs of the child, but are initiated and provided because of the needs of a mother or relative for employment or training. This definition needs to be broadened so that it would be possible to provide day care services, in some instances, to meet the needs of the child. This could be particularly important if we are to provide protective services as mandated in 221.5(b)(1). This regulation also appears to prohibit payment of a relative for the care of a child. We believe that there should be an option for paying a relative when it is in the best interest of the child. Many relatives will provide free care, but to expect it in all situations is unrealistic. If a relative says no, then the alternative will be to pay someone else at, most likely, a higher price.

Section 221.9(b)(5). We are deeply concerned that this regulation will not permit federal participation in the cost of training or education for clients. With the implementation of the Talmadge Amendments in the Work Incentive Program, it has become increasingly important for us to offer employment services other than through the WIN Program. Our experience since the implementation of the Talmadge Amendment has been that the number of people enrolled in the WIN Program has steadily decreased while the use of our Individual Work and Training Program has sky-rocketed. Withholding federal matching in the cost of training or education will further hamper our training program and will make it that much more difficult to move people off the assistance rolls. Of the total costs of the Individual Work and Training Program, the cost for training and education represents 15 percent. While it represents a small portion of the total cost, we believe that it is a very crucial part and that payments for training and education should be retained. Failure to retain these provisions will just further indicate to the states that the federal government is not really interested in providing meaningful programs of training and education to enable people to escape the public assistance programs.

Section 221.9(b)(8). The definition of foster care services needs to be broadened to include counseling with children while they are in foster care. The regulations include practically every other service that is needed in any foster care program but fails to recognize the child's emotional and reality problems and his consequent need for counseling. The proposed provision for "supervision of the care of such child in foster care" does not seem to contain any provision for counseling or skilled casework with the child. The inclusion of this service is further questioned since the listed services clearly indicate counseling with the natural parent. If, the intent is to include counseling for the child, then it should be clearly stated; if not, then we strongly disagree and believe that it should be included. The definition of foster care should also include recruitment and evaluation of foster homes. This is an important part of any foster home program and expecting the states to pay for this part of a foster care program is unrealistic and would result in poor recruitment and evaluation of foster homes for children being cared for under these regulations. We are deeply concerned about the restriction contained in this proposed regulation in regard to the payment of services to the foster family home or facility under purchase of service contracts. The regulation clearly permits federal participation in the cost of the direct service staff who in our agencies provide the listed foster care services. It would only seem logical that if this is an allowable expense for direct service staff, that it would also be an allowance expense in the case of a purchase of services contract.

Section 221.30(a)(9). We are not clear as to the intent of all parts of this regulation, particularly where it says that we have to assure that recipients pay for their services. There is no statement as to how to discharge this responsibility, or what our responsibility is if the recipients fail to pay. This section would appear to place on us the responsibility of being a collection agency to which we strongly object.

Section 221.52(d). As mentioned previously, while the rules do require the state's day care advisory committee and clearly spell out that expenses of the day care advisory committee are reimbursable, there is no mention as to whether the expenses of other advisory committees are reimbursable. We believe that this section should be changed to clearly indicate that the expenses associated with other advisory committees will be reimbursable.

Section 221.53(f). These regulations require licensing of foster care facilities, which we believe is an integral product of the overall evaluation of a foster care facility. In most instances the same person who is supervising the placement of the child in the home and periodically reviewing the placement as to its appropriateness is also the person who submits the material for licensing. Because of these overlapping purposes in workers' visits, we believe it impractical to try and factor out the cost of licensing. Also, in view of the fact that licensing is mandated by these regulations and since it is vital to an overall foster care program, we believe that the cost associated with licensing should be matchable at the service rate.

Section 221.62. We recommend that this section of the regulations be changed to permit the use of private funds as the state's share. We cannot understand the rationale for abandoning the use of these funds, except for possible misuses and we believe the current regulations contain adequate guidelines to prevent the misuse of this provision if they were enforced. We believe the present regulations should be retained.

Section 221.53(e). We object to this limitation being placed in the regulations. The WIN Program in Iowa has been moving backwards since the passage of the Talmadge Amendments. The number of persons enrolled in WIN has decreased and while our program was operating strictly on a voluntary basis (with a waiting list), we have now had to resort to mandatory callups. To offset the negative impact of the Talmadge Amendments, we have put more emphasis on our Individual Work and Training Program statewide. Restricting non-WIN employment services to non-WIN areas of the state will mean 80 percent of our assistance caseload will not have this as an option available to them. Further evidence that these regulations will force people to remain on assistance.

We strongly urge that these regulations not be adopted in their present form. While it has been indicated that the purpose of these regulations is to improve the administration of the service programs and to provide the states with more latitude in the operation of their service programs, we believe the opposite to be the result of these regulations. The definitions of persons eligible for services and the definitions of the services themselves are so severely restrictive that there would be very little latitude for states in administering their service programs. The administration of the service programs will become more complicated, particularly with the initial determination process and the re-determination process. A stated goal of these regulations was to reduce federal expenditures in the areas of social services. In our state we believe that the amount of federal participation in social services will not be reduced, and that instead the implementation of these regulations will cause an increase in the cost of the public assistance programs. With the very limited definition of former and potential, we will not be able to prevent dependency; once they are on assistance, the cost of services to help them get off is considerably higher than the cost of helping them stay off initially. We believe there is a need to seriously examine the impact these regulations would have on other programs, such as the categorical assistance programs. We think the end result would be an overall increase in federal expenditures and unnecessary duress and discomfort to many people, especially those who are very poor, yet do not qualify and those in need of protective services. The ultimate effect of the enforcement of these regulations will be testimony to the poor that their full range of service needs will be ignored—that those which relate to employment are considered most important, regardless of individual situations and potential for self-support. Also apparent will be an insensitivity to the social service needs of those at the fringes of poverty, whose incomes may be just over 133 percent of state payment levels

They will effectively serve to further reinforce the isolation from the rest of American society that has been brought about through other "programs for the poor" in the past. Concentration on this group alone, rather than working to treat all recipients of federal subsidies in a consistent manner is counterproductive to the goals of the Administration for sharing of the "good life" for all Americans.

Sincerely yours,

JAMES N. GILLMAN,
Commissioner.

UNITED WAY OF JOHNSON COUNTY,
Iowa City, Iowa, March 15, 1973.

HAROLD HUGHES,
U.S. Senator, New Senate Office Building, Washington, D.C.

DEAR SENATOR HUGHES: The Johnson County, Iowa, community has reviewed the proposed regulations of the Department of Health, Education, and Welfare published February 16, 1973, as it pertains to Services to Families and Children, Aged, Disabled, and Blind. We are enclosing our comments as to the manner in which we feel it will affect our community along with suggestions for change.

It is our understanding that these comments will be reviewed before the regulations go into effect. Thank you for your consideration of these comments and we sincerely hope there will be significant reconsideration and change in the regulations.

Anything you can do to support changes in the proposed regulations in the direction contained in the document will be greatly appreciated. If we can be of further help to you please contact us.

Sincerely,

Mr. RICHARD BARKALOW,
President, United Way of Johnson County.
MR. ROBERT HILGENBERG,
Executive Director, Johnson County Regional Planning Commission.
Mrs. CLEO MARSOLAIS,
Director, Johnson County Department of of Social Services.

JOINT AGENCY POSITION PAPER ON PROPOSED DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE RULE CHANGES, MARCH 14, 1973

INTRODUCTION

The position paper was compiled by a diverse group of representatives from agencies who serve the citizens of Johnson County including the following: Johnson County Social Service Department, Johnson County Regional Planning Commission, and many United Way of Johnson County agencies, i.e. Goodwill Industries of Southeast Iowa,

Lutheran Social Service of Iowa, Johnson County Association for Retarded Children, and Mayor's Youth Employment.

The group would first like to express agreement with the general concept of making social services accountable to improve the delivery of services to clients. The emphasis on goal oriented services is appropriate for social workers and the potential for greater local control is commendable.

However, placing too many restrictions on this local control could cripple it. The Proposed Rule-Making which was published in the Federal Register, Vol. 38, No. 32, Friday, February 16, 1973 tends to stress the limitation of client who can be served more than benefits to clients.

Further the proposed rules need to take into account that there are those individuals who always will require some form of income maintenance and supplementary counseling which enables them to maintain their highest potential.

The above listed representatives from agencies are presenting herewith what they hope to be a compromise proposal between the present Rules and Regulations and the Proposed Rule-Making which might provide both for accountability and improved service to clients.

The suggested amendments are listed with accompanying rationale for the amendments summarized at the conclusion of the paper.

AMENDMENTS

Suggested amendments to the Proposed Rules as written are the following:

I. Section 221.6 Services to additional families and individuals.

Subpoint (C), (2) As Proposed: "(2) families and individuals who have been applicants for or recipients of financial assistance under the State plan within the previous [three-months] *one year*, but only to the extent necessary to complete provision of services initiated before withdrawal or denial of the application or termination of financial assistance."

Subpoint (C), (3) As Proposed: "(3) families and individuals who are likely to become applicants for or recipients of financial assistance under the State plan within [six-months] *two years*; i.e., those who:"

II. Subpoint (C), (3), (i) As Proposed: "(i) Do not have income exceeding [133⅓ percent of the State's financial assistance payment level under the State's approved plan] *current poverty guidelines, i.e., Office of Economic Opportunity Poverty Guidelines updated.*"

III. Subpoints (C)(3)(ii); (C)(3)(iv); (C)(3)(iv)(b); (C)(3)(iv)(C), and (C)(4) "[with six months] *within two years.*"

Suggested additions to the Proposed Rules include the following:

IV. Guidelines in determining social functioning:

1. Stability of Family Relationship

a. Is this a recent teenage marriage?

b. Does either parent have a pattern of repeated separation or divorce?

c. Was this a forced marriage because of out of wedlock pregnancy?

d. Has either parent been involved in repeated criminal behavior?

e. Is there a current divorce or separation or is one contemplated?

f. Is there evidence of poor family functioning?

Q. Have the children been referred by the community for protective services?

2. Emotional Stability of Individual or Parents

a. Is there a past history of hospitalization for psychiatric care?

b. Is one of the parents currently having serious emotional problems that could lead to hospitalization?

c. Is there a past or current history of alcoholism, depression, psychosis, character disorder, schizophrenia, or paranoia of such a degree to impair the individual's social functioning?

GUIDELINES IN DETERMINING ECONOMIC FUNCTIONING

1. Income Level

a. Is the family income at or below public assistance standards?

b. Is the family income at poverty level?

c. Is the family income creating a chronic situation?

d. Is the family heavily in debt?

2. Employability

a. Does the head of the family have less than a high school education?

b. Is the head of the family unskilled?

c. Does the head of the family have previous work experience that shows frequent job changes, menial jobs, seasonal work, and frequent periods of unemployment?

d. Does the head of the family have a physical handicap that prevents employment?

e. Is one member of the family approaching retirement age without a visible means of support?

V. Subpoint (c)(5)

"(5) The severely handicapped persons (SRS Definition) shall be considered potential recipients and shall be exempted from having their eligibility determined exclusively on the basis of income guidelines. A sliding fee scale will be established in order that families with higher incomes would pay a proportionately higher cost for services."

VI. Section 221.8 Individual Service Plan

Subpoint (a)(1) and (2) As Proposed: "(1) Self-support goal. To achieve and maintain the feasible level of employment and economic self-sufficiency. (Not applicable to the aged under the Adult Services program.)

(2) Self-sufficiency goal. To achieve and maintain personal independence, self-determination and security."

Suggested Additions:

"(3) Community-Based Assistance goal. To achieve and maintain a degree of autonomy for the individual who is unable or precluded from functioning in a home setting by allowing the individual to reside in facility within the Community that approximates a home environment and may permit the client to exercise some control on day-to-day activities. This may or may not require continued services.

(4) Institutional Assistance goal. To achieve that condition of living in which the individual resides in a largely publicly operated long-term care facility that exercises continuous supervision over day-to-day activities. The goal of Institutional Assistance is achieved once placement of the individual occurs."

VII. Section 221.9 Definition of Services

Suggested additions:

"(18) Self-support-services-for-the-handicapped. Such services must include, but are not limited to:

(a) *Exploring interests and potentials for self-support in whole or in part.*

(b) *Individual counseling, necessary to deal with family barriers which prevent or limit individuals in their use of training and employment opportunities.*

(c) *Providing for referral to and use of public and voluntary agencies in the fields of vocational rehabilitation, health, education, and employment, including special attention to the capabilities of rehabilitation centers and sheltered workshops, neighborhood centers, and similar organizations."*

VIII. Suggested Amendment:

"Section 221.62 Private sources of State's Share. Donated private funds or in-kind contributions may be considered as the State's Share in claiming Federal reimbursement."

The study group feels that all of the above listed amendments taken together would make for much more realistic departmental rules for social services to follow.

RATIONALE

It is difficult to pinpoint the benefit each preceding proposed amendment and addition would have for clients since the real affect on services occurs when all of the changes are viewed together.

Amendment I has the greatest meaning when combined with Amendments and Additions II, III, IV, V, VI, VII, and VIII, but as much as possible we shall try to identify affects separately.

Amendment I would allow for a more reasonable time criteria for eligibility of clients for services either before or after receiving financial assistance.

An example of the effect of the Proposed Rule-Making without Amendment I is that a retarded child could not be given services until he or she is 17½ years old. The present Rules and Regulations have allowed these youth to be served at 13 years. Amendment I would compromise with the retarded child eligible to receive services at age 16, or two years prior to turning 18 and becoming an adult.

The income guidelines under the Proposed Rule-Making for the state of Iowa could change from the below listed Present Guidelines to the Proposed Rule-Making Guidelines.

PRESENT GUIDELINES

[Based on gross income]

Family size:	*Income per month*
1 person	$433.00
2 people	550.00
3 people	666.00
4 people	784.00

Proposed Rule-Making Guidelines

Family size:	*Income per month*
1 person	$168.00
2 people	200.83
3 people	264.67
4 people	323.19

Amendment II would set guidelines similar to the Office of Economic Opportunity Poverty Guidelines which would be standard for the entire United States instead of varying according to state.

An example of how the Proposed Rule-Making without Amendment II would affect a family would be the case of a mother with one child who is a recipient of ADC. She could receive only $200.83 a month for their living expenses. If she wanted to work to get off ADC she could not afford the $75.00 a month a day care center would cost her in Iowa City, even if she would be reimbursed. She simply would not have the working capital.

Amendment III covers the same issues as Amendment I.

Amendment IV and V would give the Proposed Rule-Making some flexibility in determining eligibility on individual merits. For example, a middle income family with three retarded children would not meet the poverty guidelines as proposed, but would obviously be having financial and emotional strains placed on their family far beyond their limits. At $5.00 to $10.00 a day charge for keeping retarded children on foster care (if a willing foster family is available) even temporary care to allow for a brief vacation away from the children would be prohibitive financially for these people. Complete foster care would cost at minimum $150.00 a month per child.

Although the family pays above average taxes their retarded children can not benefit from education at the public schools and Nelson School costs $8.17 per day per child and is not subsidized *at all* by tax money. So, in order to provide their children with any kind of education or training this family would have an additional outlay for their three retarded children of $492.60 per month. Can they in addition afford services for themselves?

Amendment VI would allow for more realistic goal setting and would take into account the fact touched upon in the Introduction, that certain individuals, i.e., the severely handicapped, will never be completely self-

sustaining or self-supportive, but could possibly manage with community based or institutional assistance. Amendment V is related to this concept also.

Amendment VII allows the handicapped to be served by Sheltered workshops for which there is no replacement. Either a handicapped person receives training and continued supervision in this type of situation or they are left to endure empty, meaningless, and unproductive lines as burdens to society.

Amendment VIII would allow organizations such as the United Way of Johnson County to continue to match Federal monies under the Social Security Act. This Amendment would provide for the continuance of the communities' effective use of funds from the public and private sectors. In combination these funds have been able to serve people far beyond what they could accomplish separately.

Specific programs which would be affected would include the Mayor's Youth Employment Program which last year received $10,000.00 in local money, a combination of tax and voluntary dollars, to match $35,000.00 federal and $5,000.00 state funds. Obviously this program's total budget of $50,000 can not be picked up locally nor can the $10,000.00 be raised by any method other than United Way. This program has served those families who meet the current income guidelines well. When an adolescent from a lower socio-economic background can hold a job the extra income benefits the entire family in self esteem as well as materially.

These Amendments in combination would prevent the following cuts in services by the Johnson County Social Service Department's direct service, and Purchase of Service from Nelson School, Goodwill Industries of Southeast Iowa, and Lutheran Social Services of Iowa—located in Iowa City. Without these Amendments the following clients would not not be served by these agencies:

JOHNSON COUNTY SOCIAL SERVICE DEPARTMENT: DIRECT SERVICES—HOMEMAKER SERVICE

Class	People	House-holds	Per-cent	Cost
Private	30	13	18.8	$907.04
Nonpublic assistance elderly	30	24	34.9	1,683.91
Nonpublic assistance family	52	10	14.5	699.58
All public assistance	77	22	31.8	1,534.15
Total	189	69	100.0	4,824.68

Those who can presently be served will be reduced by an estimated 40%.

Counseling Cases: Number of Cases at beginning of month:

November, 663.

December, 694.

January, 751.

February, 768.

Covered by new regulations: 289 Public Assistance Families.

Not covered by new regulations: 479 non-Public Assistance Families.

Intake Unit:

Female Worker, Interviews 10% ADC Families, 90% non-ADC Families.

Male Worker, Interviews 33% ADC Families, 67% non-ADC Families.

Purchase of Service—Two Major Programs.

1. Day care for the Mentally Retarded—Nelson School, System Unlimited, Inc: Potentially hoped to serve 14 eligible clients in a year period of the contract.

2. Sheltered work services for the Handicapped—Goodwill Industries: Potentially hoped to serve 34 eligible clients in a year period of the contract.

I. Day Care for the Mentally Retarded—Nelson School Development Center.

A. As of January, 1973: 10 clients—eligible for Federal Purchase of Service reimbursement for services—4 ineligible clients currently ($686.28 per month cost).

Total County Expenditure for services $2,222.24 per month.

Reimbursement from Federal Government for eligible children $1,129.47 per month.

B. Under New Federal Guidelines: 6 clients eligible; 8 clients ineligible for services.

Total cost to the County per monthly—$2,222.24 (projected for 1 month).

Reimbursement of Services—$637.26 per month.

We would lose reimbursement for 4 children—$514.71 lost per month in reimbursement.

C. Based on Above Figures—Cost for Total Year: Under Current Program, $26,666.88 cost per year, $13,553.64 reimbursement per year.

Under New Rules Proposed, $26,666.88 cost per year; $7,627.12 reimbursement per year; $6,176.62 lost in Federal Reimbursement for the year.

II. Services to the Handicapped—Goodwill Industries Based on January, 1973 Statistics:

A. Under Current Program: 24 clients eligible for services now $4,992.50; Total cost for the month; $3,744.38; Total Reimbursement would receive.

B. Under Proposed Guidelines: 19 clients eligible: $4,446.00 projected cost; $3,334.50 possible reimbursement.

C. Services Lost: 5 people ineligible with subsequent unmet needs $1,110.00 amount of cost no longer met for these 5 people would have to be picked up by the County or State with no reimbursement.

Mentally Retarded and excluded from "former" and "potential"

Alcoholics and Drug Abusers are also excluded if they are involved in an "active treatment" program.

Lutheran Social Services:

Result: 1. Johnson County must first support its own structure and existing funds which means that its own staff will have to serve many who might otherwise been referred under purchase of service.

2. They will have to take a harder look at a person's ability to pay even partial for his or her service and refer that person on possibly to free up its staff to provide services in required areas. It will not be able at this point to reimburse the serving agency totally or in part for the services it provides.

3. Lutheran Social Services will continue to be asked as in the past to subsidize costs for clients unable to pay cost of service whether they do or do not fall within ADC guidelines, so the 90–10 factor is academic at this point.

4. A result: our service deficit to Johnson County last year was in excess of $25,000, we will be forced eventually to say no to people who cannot support the cost of their service. A subsequent result of course is that people needing service will not receive it either from Johnson County Social Service or Lutheran Social Service.

5. In effect, needed services in family counseling services to single parents, marriage counseling etc. will be severely affected unless other community funding sources fill the gap.

SENATE CONCURRENT RESOLUTION 28

Whereas, we believe in assisting families, children, the aged, blind and disabled toward maximum self-support; and

Whereas, day care services, employment and training services, delinquency prevention services, foster care services, services to the mentally retarded, services to the alcoholic and drug abuser, and family planning services are supportive of this belief; and

Whereas, proposed rules for the Social Security Act (Titles I, IV–A, IV–B, X, XIV, and VI) would reduce federal support of these services in Iowa by at least $5.6 million, effective April 1, 1973,

Now therefore, be it resolved by the Senate, the House concurring, That the Iowa General Assembly urges the Department of Health, Education, and Welfare to rescind or to modify its proposed rules.

Be it further resolved, That copies of this resolution be sent to the President, the Secretary of Health, Education, and Welfare and the Iowa congressional delegation.

ARTHUR A. NEU,
President of the Senate.
ANDREW VARLEY,
Speaker of the House.

I hereby certify that this Resolution originated in the Senate and is known as Senate Concurrent Resolution 28, Sixty-fifth General Assembly First Session.

RALPH R. BROWN.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE PAR VALUE MODIFICATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume its consideration of S. 929, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 929) to amend the Par Value Modification Act.

The PRESIDING OFFICER. By unanimous consent, the Senator from Texas is to be recognized at this time.

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor.

Mr. EAGLETON. Mr. President, will the Senator withhold that request?

Mr. TOWER. For what reason?

Mr. EAGLETON. I have a substitute amendment pending, which I wish to modify.

Mr. TOWER. I ask unanimous consent that I may yield to the Senator from Missouri for that purpose without losing my right to the floor.

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

Mr. EAGLETON. I thank the Senator from Texas. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAGLETON. Is my amendment offered yesterday the pending matter before the Senate?

The PRESIDING OFFICER. It is the pending question.

Mr. EAGLETON. I would like to send up a modification of that amendment.

The PRESIDING OFFICER. The Senator has that right. The modification will be stated.

The legislative clerk proceeded to read the modification.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the modification be dispensed with.

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

Mr. EAGLETON'S modification of his amendment (No. 58) is as follows:

On page 2, beginning on line 11, strike all beginning with the words "the amounts' and

ending on line 11 with the word "proposal" and insert in lieu thereof:

"on a proportionate basis the amounts necessary to comply with paragraph (a) of this section (Other than amounts made available for expenditures for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants, medicaid, social service grants under Title IV of the Social Security Act, food stamps, military retirement pay, and judicial salaries.)"

On page 2, line 17, beginning with the "if, before," strike all through line 22.

Mr. EAGLETON. Mr. President, the purpose of the modification is twofold; first, to provide that where Congress fails to come up with alternative budget reductions, the President will be required to make the reductions on a pro rata basis. This is in place of the original amendment which provided that should Congress fail to act, the President's recommendations would stand.

Second. The second modification eliminates that provision of the bill which says in the event the President vetoes the reduction passed by Congress, the ceiling will be adjusted upward accordingly. Rather than that, I think it better to simply require a pro rata reduction in the event the President vetoes.

The basic thrust of the amendment as it stands is:

First, to establish the President's recommended ceiling of $268.7 billion; second, to provide for pro rata cuts in the event that that is necessary; third, to give Congress an option of making other kinds of cuts.

Mr. President, inflation has become a bread-and-butter issue for millions of American families. The cost of food has risen to the highest level in 20 years. Interest rates, after a brief decline, are again on the climb. Rents have soared out of sight in many areas of the country. The prices of other goods and services are not far behind.

In my opinion, the inflation we are experiencing today owes far more to the failure of this administration's economic policies than any failure of Congress to establish a statutory spending ceiling. The administration says Congress is spending recklessly and that is what is heating up inflation. The fact is, regardless of any act of Congress, the Federal Government is spending this year only what the administration decides it should.

At the beginning of this fiscal year, the administration called on Congress to establish a spending ceiling of $250 billion, which it said was consistent with efforts to fight inflation. Congress failed to take that step but that did not prevent the administration, through vetoes, impoundments and other means, from holding Federal outlays this year to the recommended figure. In short, we have a de facto ceiling.

I happen to believe that in many instances the administration acted without legal or constitutional authority. But the fact remains it has acted. Federal spending has been held to the level which the administration certified and maintains today is not inflationary. And yet we are experiencing some of the worst inflation in this country since the Korean war.

The administration cannot have it both ways. If it is going to assume the power to impound and to hold Federal expenditures to the level it chooses, it cannot deny responsibility for the inflation which continues. The administration's effort to make a scapegoat of Congress is a crude diversion designed to draw attention away from the obvious failures of its own economic policies.

Nevertheless, that tactic could succeed if Congress fails to expose it. The best way to do that would be to accept a statutory ceiling and provide a means to assure that the ceiling is honored.

In the past, efforts to establish such a ceiling have foundered on the question of how reductions which may be necessary to stay within the limit should be made. I believe the amendment which I have introduced offers a better solution to the problem. Briefly, it would work this way:

First. The President would advise Congress when the cumulative total of appropriations and other spending bills exceeded the ceiling and offer his recommendations for cuts.

Second. Congress would take those recommendations under consideration. If it failed to act within 30 days the President would be authorized to proportionately reduce all budgets, except for certain uncontrollables, in the amount necessary to meet the ceiling.

Third. However, Congress would have the right, operating under special procedures to assure that the resolution reaches a vote within the 30 days allowed, to substitute its own rescissions equal to the amount needed to stay within the ceiling. Such a resolution would be open to amendment.

Fourth. If, after both Houses passed such a substitute measure, the President failed to sign it into law or vetoed it, the reductions would have to be made on a pro rata basis.

I consider this approach preferable to others which have been offered. But I would agree with the observation made yesterday by the Senator from Minnesota (Mr. MONDALE) that the best approach of all would be to link the spending ceiling and whatever procedure we agree upon for making necessary reductions to legislation which controls executive impoundments. As was pointed out yesterday, this proposed legislation is now before the Government Operations Committee with action on the bill scheduled soon.

Since introduction of my amendment, I have had discussions with other Senators who have amendments. I now understand that the Senator from Wisconsin (Mr. PROXMIRE) will accept modifications of his amendment which will meet my other reservations; namely, that the ceiling is too low and that too much discretion is given the President.

Mr. President, I see that the distinguished Senator from Wisconsin (Mr. PROXMIRE) has now come into the Chamber. May I be privileged to ask a brief question of him, as to whether he will accept modifications of his amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Missouri (Mr. EAGLETON) and the distinguished Senator from Wisconsin (Mr. PROXMIRE), without losing my right to the floor.

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

Mr. EAGLETON. I thank the Senator from Texas.

I ask the Senator from Wisconsin, it is my understanding that perhaps he will accept some modifications to his amendment, the combined Proxmire-Bentsen amendment discussed and debated yesterday.

Mr. PROXMIRE. Yes, indeed. I expect to do that. I expect it to be modified along the lines the Senator from Missouri is interested in. We had discussion with some Senators on it this morning. It is desirable and necessary. I will be very happy to do that.

Mr. EAGLETON. I thank the distinguished Senator from Wisconsin.

Now, Mr. President, I want to make it clear, however, that I believe it is essential that Congress early this year impose on itself a statutory spending ceiling. It is necessary not only to restrain Federal spending but also to bring into focus the real causes of our economic difficulties.

Mr. President, I withdraw my amendment, reserving the right to bring it before the Senate if necessary at another time.

The PRESIDING OFFICER. The amendment is withdrawn.

QUORUM CALL

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without losing my right to the floor.

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

Mr. TOWER. 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. TOWER. Mr. President, I ask unanimous consent that the other for the quorum call be rescinded.

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

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from Louisiana (Mr. JOHNSTON) without losing my right to the floor.

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

Mr. JOHNSTON. Mr. President, I should like to direct a question to the Senator from Wisconsin.

The PRESIDING OFFICER. Will the Senator from Wisconsin send his modification to the desk, or is he going to do it later?

Mr. PROXMIRE. I will do that a little later.

Mr. JOHNSTON. The so-called Bentsen amendment provides that if there is to be a reduction, that reduction must be applied pro rata—"proportionately," I believe the word is—on all appropriations or other obligational authority. It

further states, in section 3, that in carrying out the provision of the paragraph, "no amount specified in any appropriation or other obligational authority for fiscal 1974 for any activity, program, or item within such appropriation or other authority may be reduced by more than 10 percent."

My question is this: In applying this amendment, if it becomes necessary to reduce any of the appropriations or obligational authority, is it not a fact that all those appropriations or obligational authorities or activities, programs, or items within the appropriations must be reduced proportionately?

Mr. PROXMIRE. Yes, that is certainly the purpose of it.

Frankly, I say to the Senator from Louisiana that we have not absolutely decided on the modification. I had a discussion with Senator BENTSEN and others this morning, and we have considered the possibility of simply providing that any deviation from a proportional reduction would be prohibited, that any cut would have to be proportionate; and the 10-percent leeway matter is something that we have not absolutely determined would be in the modification.

Mr. JOHNSTON. Without regard to the question of 10 percent but with regard to the proportionate nature of each cut, it would seem to me that this language with respect to proportionate cuts for any "activity, program, or item" would require, for example, with respect to the defense budget, that military personnel in the Army, which is a line item within the military budget, would have to be cut, as well as military personnel for the Navy, for the Air Force, for the Marine Corps, for operation and maintenance of the Army or aircraft procurement or weapons procurement—Navy. All these are line items, and there are quite a number of them just in the defense budget itself.

Mr. PROXMIRE. That is correct. The idea is that if that is not feasible, the President can propose a different kind of cut and come back for congressional approval. We want to have some trigger, so that the President would not be in the position of abolishing programs as he has been doing and substitute his priorities for what Congress intended. For example, the President might want to make all the military cuts in the Army. He would no doubt have other preferences, and Congress would go along, to the extent that they were appropriate and logical and did not destroy some of the programs we were interested in.

Mr. JOHNSTON. Is it not true, though, that under the language of the amendment, the coming back to Congress applies only should the President find it necessary or desirable to exceed the 10-percent limitation?

Mr. PROXMIRE. Under the Bentsen language, that is correct. As I say, we have been considering the possibility of further modification, and we are holding our options open on that.

Mr. JOHNSTON. Is it not true that under the present language, until or unless it is changed, the President has no authority even to come back to Congress, except in those cases in which it exceeds the 10 percent, and in all other cases the reductions must be made pro rata, in every line item in every budget, regardless of the fact that, for example, he may find it possible to exceed the proportion with Navy procurement and might need every cent of it in Army personnel salaries?

Mr. PROXMIRE. That is right. That is one of the reasons why we are concerned with it and want to modify it. That is an excellent point.

May I just say that the one kind of language we are considering here is that if it is a roughly proportionate cut, the President does not have to come back to Congress. If it is disproportionate, he would have to do so.

Mr. JOHNSTON. As a matter of fact, it is not a question of being roughly proportionate. It must be exactly proportionate.

Mr. PROXMIRE. That is correct. That is the way it is in its present form. That is why we are concerned with modifying it.

Mr. JOHNSTON. One of the things that concerns me about this amendment—and I say this as a strong supporter of the idea that Congress must seize the initiative, that Congress should be the one to set a spending limit and to set the priorities—is that, without the time for committees to consider this bill, without the time for committees to go over every word very carefully and to consider the implications, we may reach inadvertently the kind of situation, I just outlined, where neither the President nor Congress intends for different items to be cut in the budget, but we might be stuck with a situation where we would have to do it with absolutely no discretion and no flexibility.

Mr. PROXMIRE. I think the Senator raises a highly legitimate point. But the problem is if we do not act now, the other options for acting are limited would not occur until the very end of the fiscal year, and that would be too late. If so, we are in a difficult position. It is not easy to resolve this matter. We will do the best we can.

The matter the Senator is raising on the floor is helpful in highlighting one of the most difficult problems.

Mr. TOWER. Mr. President, I am fully in sympathy with the purpose of the amendments of Senators who would like to see some meaningful restraint placed on governmental spending. A spending ceiling is something that I myself will support in a separate measure, and I think that the President will approve such a separate measure if it is reasonable. The impoundment question does need to be resolved, perhaps through some defined procedure for obtaining congressional participation and approval, as long as adequate allowance is made for some discretion in the Executive to deal with this problem unilaterally where justified. This, too, merits consideration in a separate measure, or together with the spending ceiling measure—but these issues should not be dealt with in the devaluation bill.

There are three very strong reasons why these items should not be taken up in connection with this bill—any one of which is sufficient to justify tabling these amendments:

First. The House will not consider this type of amendment as germane nor as complying with the Constitutional requirement that revenue bills originate in the House.

They would take our bill and not act on it. They would pass a bill of their own and bring it to conference and they would not accept this in conference. Representative MAHON is already considering legislation on the question of impoundment, on the question of a spending ceiling, and certainly the House is not going to preempt the Committee on Appropriations. I think we should study the House a little more in depth, because it is not going to happen.

Second. The Senate has already established a Subcommittee on Budget Management and Expenditure in the Government Operations Committee, given it a budget of $180,000, and asked it to come up with well-considered legislation on spending limitations. This subcommitee does not start hearings until next week, and already the Senate is jumping the gun to take the issue to the floor as a rider on another bill. This is a complex and very important measure and should be the subject of hearings and committee action before the Senate acts—if it is important and justified, it can meet the challenge of passing both Houses and obtaining the President's signature on its own merits, and not because it has to be coattailed onto another measure. Let us give this issue the separate and full consideration that it deserves.

In this same connection, the Government Operations Committee also has before the full committee an Ervin bill on impoundment procedure, which will apparently be acted upon next week. The same considerations apply to this question—the Senate should wait until a committee has taken action on a measure of this type after due deliberation, rather than to jump the gun by going directly to the floor and acting precipitously on a very complex measure.

Third. And, finally, the Senate should take recognition of the fact that this devaluation bill has a very significant role to play in assuring foreign governments and dollar-owners that our Government will meet its international obligations that are involved in parity changes. Money markets are notoriously skittish and subject to sudden and drastic changes due to even a casual word from a major country's finance minister or a mild delay in the legislative process on a bill affecting the monetary system. Right now the United States is in the hotseat of the international monetary system. Any unusual treatment of the devaluation bill will tend to start the international rumor mill going again. One interpretation that might be placed on such amendments as the one presently before us could be an assumption by nervous dollar-owners that Congress does not think that the dollar has yet reached its market-bottom and is, therefore, trying to shore it up with special budgetary action. In any event, any dilatory action by Congress will tend to cause uncertainty

in the money markets about U.S. intentions, and uncertainty is an anathema to restoring stability in the moneymarkets and to preventing another—this time unjustified—devaluation of the dollar.

Mr. President, I, therefore, ask that the Senate support the motion I will make in due course to table this amendment, not to voice opposition to the substance of this and other related amendments, but to express the view that they should properly be taken up independently and after the Committee on Government Operations has reported such measures to the floor.

Mr. President, I ask unanimous consent that I may yield 3 minutes to the Senator from Ohio without losing my right to the floor.

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

Mr. TAFT. Mr. President, I shall at a later time on this bill have a considerably broader discussion and I anticipate presenting the Bellmon-Taft amendment as it presently has been proposed, with minor changes. However, I do wish to address myself at this time merely to the question of the budget ceiling proposed in the Proxmire amendment.

Despite my concurrence in the belief that budget control for the immediate future must be one of our highest priorities, I do not think that it would be wise to enact a $265 billion budget ceiling for fiscal 1974. I feel that such action would result in an unnecessarily high level of impoundments by the executive branch, and could be the cause of needless unemployment, perhaps unemployment in the Federal Government and otherwise in the Nation generally, and other economic developments, and I think it would also unnecessarily broaden the powers whatever they be of the executive to engage in impoundments.

The enactment of any spending ceiling is necessarily accompanied by the implied power to impound funds if it is likely that the spending ceiling would otherwise be exceeded. The Office of Management and Budget can justify impoundments on the grounds that they are necessary to faithfully execute the spending ceiling law. In fact, an OMB official indicated to my staff that in view of the uncertainty of appropriations totals until all 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.

It follows that the lower the spending ceiling figure is set, the more massive the impoundments are likely to be. We must, therefore, be careful not to set a ceiling which is lower than necessary, particularly if we are likely to have difficulty keeping spending at or below the ceiling level.

The $265 billion spending ceiling is certainly a case in point, because that goal is going to be tremendously difficult to achieve. It is $3.7 billion below what the President wants to spend, which means that a total of $3.7 billion more in budget cuts than those proposed by the President would have to be made. Senators on both sides of the aisle have already expressed their disapproval with many of the proposed cuts and indicated their intention to restore these cuts. The only way to do this and still keep the budget in line would be to cut expenditures in some budget categories by much more than the President has requested.

I believe that achieving a congressional consensus to make cuts of this type which are large enough to keep the fiscal 1974 budget within the President's proposed spending level is going to be an extremely difficult task. Since the 93d Congress began slightly more than 2 months ago, this body has already approved measures opposed by the President which make available for obligation $2.54 billion. The combined vote on these measures was 529 to 67. Although this record may simply indicate a difference of priorities between Congress and the President, it certainly does not instill overwhelming confidence into the hearts of those who are relying upon Congress to fight inflationary Government spending.

If we require that an additional $3.7 billion of cuts must be made to reach the spending ceiling, our task will become even more difficult. Yet, once we set a budget ceiling at $265 billion, we must either accomplish the task or face inevitable impoundments, possibly on a large scale.

This effort should be made despite its formidable nature only if such an effort is likely to contribute significantly to inflation restraint. The administration does believe, however, that $268.7 billion can be spent without generating inflationary pressures. We should not complicate our job significantly by adopting a budget ceiling much lower than this figure unless we are extremely confident that the administration's assessment is wrong. I have not seen convincing evidence to this effect.

We should also be concerned that if the administration's analysis is correct, a $265 billion budget would be less expansive than the economic situation demands. To the extent that this is true, our efforts to promote full employment would be compromised. Considerable progress has been made during the last year on the employment front. Nevertheless, at 5.1 percent the unemployment rate is still too high. I am sure most of us agree that Government policy must continue to combat unemployment in every responsible way.

I believe, therefore, that it would be wiser to set a ceiling at the President's proposed level of spending than at the $265 billion level.

I noted that in the colloquy which occurred a few moments ago the Senator indicated that perhaps he might be willing to compromise on this point.

Of course, this would not prevent the Government from spending less than $268.7 billion. Congress could still limit the budget to $265 billion, or any other level below $268.7 billion, if it decides that this is desirable and it is able to agree upon cutbacks of sufficient magnitude. On the other hand, if Congress accepts the $265 billion ceiling and then agrees to spend $268.7 billion, $3.7 billion has to be impounded.

I am well aware that some Senators consider the idea of setting a spending ceiling below the President's proposed budget level to have great political attractiveness. In my judgment, however, it would be unwise to support this amendment on partisan grounds. Democrats, at least as much as Republicans, have emphasized the necessity for Congress to retain control of spending priorities and for minimizing the budget control process. Setting an unrealistically and perhaps unnecessarily low budget ceiling level is likely to work against these extremely important goals.

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield an additional 1 minute, with the same understanding that I do not lose my right to the floor.

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

Mr. TAFT. I thank the Senator.

These budget ceiling amendments are too important to be decided upon political considerations. We should enact the amendment which is most likely to facilitate responsible budget control by the Congress. I am convinced that such an amendment should set a budget ceiling of $268.7 billion rather than $265 billion, and that we should set it now. I think that is important.

We have had much discussion as to whether this type of amendment is proper on this particular piece of legislation. I believe it is proper. It has been thoroughly considered. It has been argued in Congress, and actually was done by the Senate last fall when it took the Jordan amendment requiring proportionate cutbacks. So the principle is understood by all Senators. This is not a matter requiring additional committee hearings or additional explanations by Senators as to what is required.

I think what is needed is an expression by the Congress now, before we reach the point in June when it is too late, and that we should proceed under the principle of setting a budget ceiling, and setting it at a responsible level, at this time, at $268.7 billion. So, along with other Senators, I hope that the amount can be cut.

Mr. TOWER. Mr. President, the point remains as to whether this is an appropriate vehicle. The House will not take it; that is all there is to it. So all we are doing is using the Senate as a forum for a very enlightening discussion as to whether this bill is an appropriate vehicle for an amendment that should not be on it.

But the discussion is useless, because the House has said it will not take the bill with the amendment in it. The House is going to be very tough, and we do not have much chance to get the bill through conference.

We are holding up the passage of an important measure, one that the money market people in Europe are waiting for to see what will happen.

The spending ceiling is an extremely important question, one that should be taken up in special legislation. It is entitled to be considered thoroughly by the various committees of Congress, not only those in the Senate.

I hope that when the motion to table is offered, it will be acted on favorably, because this is an extremely important bill.

Mr. President, I ask unanimous consent that I may yield 3 minutes to the Senator from Virginia without losing my right to the floor.

Mr. HARRY F. BYRD, JR. I thank the Senator from Texas, but I cannot do much in 3 minutes. Suppose I wait and get the floor in my own right. I prefer to do that.

Mr. TOWER. If the Senator wants the floor, he will have to wait until the motion to table is acted upon.

Mr. HARRY F. BYRD, JR. I do not think the Senator wants to do that.

Mr. TOWER. How much time does the Senator wish?

Mr. HARRY F. BYRD, JR. Ten minutes.

Mr. TOWER. Mr. President, I yield 10 minutes to the Senator from Virginia—12 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Texas yields 12 minutes to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from Texas.

I think this question should be put in perspective. There has not been a reduction in the budget. I will read into the RECORD in a little while the new figures, the new budget submitted by the President, which calls for an increase in spending in the amount of $19 billion. There is no reduction by the President.

I support the amendment offered by the Senator from Wisconsin (Mr. PROXMIRE), because I think there should be a ceiling on expenditures. The question is, What ceiling? As I understand the proposal by the Senator from Ohio (Mr. TAFT), he would set the ceiling at $268.7 billion. The ceiling proposed by the Senator from Wisconsin (Mr. PROXMIRE) would be $265 billion. The way to put this question in perspective, as I see it, is this: If we take the Proxmire proposal, there would be an increase of $15 billion in spending permitted under the proposal. If we take the Taft proposal, the increase in spending would be $18.7 billion. I favor the lower proposal, although I think that even it is too high.

As to which bill it should be attached and what the House might do, I am not impressed by the argument that the House might not agree with what the Senate does. The Senate is a responsible body.

The Senate has a responsibility. If the House does not want to accept what the Senate does, that is the prerogative of the Members of the House. However, the Senate has a responsibility. And I submit that the Senate has a responsibility to put a ceiling on expenditures. And that ceiling should be not more than—and in my judgment it should be less than—$265 billion. That in itself is a 6-percent increase over what is being spent this year.

What better proposal to put such a ceiling expenditure amendment on than a dollar devaluation bill? Why is this legislation before the Senate today? Why is the dollar devaluation bill before the Senate today? It is because of the excessive governmental spending by Congress and by the President.

It is before the Senate and House for consideration, because of the excessive expenditures and the huge deficits the Government has constantly been running which have caused a deterioration in the value of the dollar. That is why the devaluation measure is before the Senate. If that were not the case, we would not have the bill up for consideration. The devaluation bill formally recognizes what has already taken place, namely that the dollar is less valuable now than it was in the past.

Secretary Volcker under questioning before the Senate Finance Committee said that devaluation is a radical step. Those are not the words of the senior Senator from Virginia. They are the words of Under Secretary of the Treasury Mr. Paul Volcker. He says that devaluation is a radical step. And there have been two devaluations in 14 months.

I think the Senate should proceed and should put a ceiling on expenditures at a time when so clearly what is needed more than anything else, as I see it, is to put a ceiling on the amount of money that the Government can spend.

The proposal of the Senator from Wisconsin (Mr. PROXMIRE) provides for an increase of $15 billion in spending. I think that is too much. However, it is better than the other proposals. The other proposals would permit an increase in spending of $18.7 billion.

I say again that the new budget submitted by the President calls for an increase in spending of $19 billion. The proposal which the Senator from Wisconsin has introduced and which I have cosponsored proposes that the increase be held to $15 billion.

If we are going to do anything about Government spending at all, certainly we should be willing to go as far as to say that $15 billion is the maximum increase that will be permitted. I think it should be much lower than that. However, I do not think there is any chance of getting through legislation much lower than that. And for that reason I am supporting the $265 billion figure. And I hope that the Senate will approve it, because I do believe that we are in a very dangerous financial position.

I say again that the appropriate vehicle for a debt ceiling is the devaluation bill. The figures that are significant to me, Mr. President—and I will put them in the RECORD in a moment—are that during the 4 fiscal years 1971 through 1974, the accumulated unified budget deficit—and that means after we apply to the total deficit the surplus from the trust funds—will be $85 billion. If we take only the Federal funds deficit—and that is in my judgment what we should take, the Federal funds deficit, the administrative budget—then the accumulated total deficit in that 4-year period will be $121 billion.

I suggest that we are in a very awkard and a very difficult position financially, and that Congress would be well advised to put a ceiling on expenditures. And I understand that is what the President would also prefer. Of course, he prefers the figure of $268.7 billion, while the Senator from Wisconsin and the Senator from Virginia want a figure of $265 billion.

Mr. TAFT. Mr. President, I wonder if the Senator from Texas would yield for the purpose of my engaging in a colloquy with the Senator from Virginia for a few minutes.

Mr. TOWER. Mr. President, could the Senator give me any idea about the time frame?

Mr. TAFT. Mr. President, I think that certainly within 5 minutes I could cover the points I want to cover.

Mr. TOWER. Mr. President, I will first yield to the Senator from Minnesota, because I promised him I would do so, and I will then yield to the Senator from Ohio for that purpose.

Mr. MONDALE. Mr. President, I would be pleased to follow the Senator from Ohio.

Mr. TOWER. Mr. President, I yield 5 minutes to the Senator from Ohio and the Senator from Virginia for the purpose of engaging in a colloquy with the understanding that I do not lose my right to the floor.

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

Mr. TAFT. Mr. President, I thank the Senator from Texas for yielding. The matter on which I want to engage in a colloquy with the Senator from Virginia relates back to the remarks of the Senator from Texas. The Senator from Virginia just mentioned that we should not take note of what the House might or might not do in connection with the legislation if we should put on a spending ceiling and send it to the House.

I find myself very much in agreement with him. In that regard I point out that the House has in their various proposals in this regard set a ceiling after having had only a very few preliminary hearings and no executive session hearings at all. As I understand it, the legislation which would come to the Senate from the House would not come until far later in the fiscal year when there would still be doubt as to what the financial picture of the Nation might be.

Would the Senator from Virginia comment on what the effect of that might be?

Mr. HARRY F. BYRD, JR. The Senator is quite right. This is now Thursday. By next Monday it will be April 2. The fiscal year ends on June 30. The new budget and the appropriations for fiscal year 1974 are under consideration now. Under the rules of the Congress, they should be enacted by the 30th day of June. There is not much more time left between now and the end of this fiscal year.

It seems to me that the more we would like to put on a ceiling—if we are going to put on a ceiling on expenditures at all—the more difficult it will be for the entire appropriating process because, as I mentioned, it is only 3 months from now that the fiscal year will end. And most of the legislation I have seen to help correct this situation for the future would require that a ceiling be put on in January.

Yet we are almost into April.

Mr. TAFT. I thank the Senator for his remarks. Continuing on the same subject, I feel strongly in agreement with the views expressed by the Senator that there is no telling what the House of Representatives might do with this legisla-

tion unless we enact it in this form and send it over to them. Particularly, I would note the comments yesterday of the distinguished chairman of the Finance Committee, in which he admitted, in effect, that this is not a revenue measure, but stated that the House of Representatives would nevertheless not agree to go ahead with it.

I certainly agree that it is not a revenue measure in any sense, under the Constitution, requiring initiation in the House of Representatives. I do not believe anyone in the Senate would take the position that it is, and I doubt whether many Members of the House of Representatives would take such a position. The facts as to the House problems in this regard really relate far more to committee jurisdiction, and the Ways and Means Committee jealously guarding its jurisdiction in relation to debt ceilings, than anything else.

I ask the Senator from Virginia if he would not agree that this is the problem, and that it could be very easily solved by the House of Representatives, if they should agree that this is a proper time and a proper vehicle on which to go ahead with the debt ceiling, by simply referring the matter to Ways and Means, or Banking and Currency and then Ways and Means, both procedures which I think could be handled in a fairly expedited way.

Mr. HARRY F. BYRD, JR. Yes, I think the Senator from Ohio makes an excellent point, and it occurs to me that there probably is no other bill that would be more appropriate to put a spending ceiling on——

Mr. TOWER. Why not independent legislation?

Mr. HARRY F. BYRD, JR. Than this piece of legislation.

Mr. TOWER. What is wrong with independent legislation? I think the matter is sufficiently important to deserve independent legislation, rather than being just the tail on a smaller dog.

Mr. TAFT. Mr. President, in response to the Senator's inquiry, I can only say that independent legislation does not seem to be forthcoming from the appropriate committees, on one of which the Senator from Texas serves.

I refer again to the remarks of the Senator just a few minutes ago as to whether the world money markets might not be shaken if we failed to pass gold devaluation legislation right away. I ask the Senator from Virginia what effect a spending ceiling might have on those markets. I feel that in this field there is no single step we could take that would be more helpful in stabilizing the overall world monetary situation than an expression of the Senate by a strong vote to the effect that we wish to establish and support a spending limitation.

Mr. HARRY F. BYRD, JR. I strongly agree with the Senator from Ohio. It seems to me that would be one of the best things that could be done to stabilize a weakening dollar, for the Senate and Congress to establish a ceiling. That is far more important to the money markets of the world, in my judgment at least, than formal legislation devaluing the American dollar.

Mr. TAFT. I thank the Senator for yielding, and I thank the Senator from Texas.

Mr. HARRY F. BYRD, JR. If the Senator from Texas will permit me to put an insertion in the RECORD, Mr. President, I ask unanimous consent to have printed in the RECORD three tables which I have prepared, one showing receipts and expenditures for fiscal years 1968 through 1974, another showing deficits in Federal funds and interest on the national debt for the 20-year period 1955 to 1974, inclusive, and a third showing U.S. gold holdings, other reserve assets, and liquid liabilities to foreigners.

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

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	111.4	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.

	Fiscal year						
	1968	1969	1970	1971	1972	[1] 1973	[1] 1974
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 retirenent, 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
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 by Office of Management and Budget.

Source: Prepared by Senator Harry F. Byrd, Jr., Jan. 29, 1973.

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. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from Minnesota (Mr. MONDALE) without losing my right to the floor.

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

Mr. MONDALE. Mr. President, I understand that shortly the Senator from Texas will move to table the pending amendment, and I shall vote to support that motion.

I want to make it clear that I believe Congress must swiftly impose an overall spending ceiling on Federal Government expenditures. I also believe that we should impose rules on the Executive which would determine the manner in which the President may reduce expenditures, so as to assure that congressional priorities would be observed. And third, I think we must pass an amendment like the Ervin amendment, which, without any doubt, would prevent the President from continuing on his present course of illegal and unconstitutional

impoundment of duly enacted laws and funds.

For several reasons, I do not believe the pending amendment fulfills these objectives. First of all, it does not deal with impoundment. If the present amendment is enacted, the President can cut as much as he wishes under this amendment, and then cut anything else he wants to under his present invalid views of his powers. So not only would impoundments continue, but I predict Congress would be blamed for all the cuts, and that, in addition to endorsing impoundments, we would be voluntarily taking the blame for them.

Second, it seems to me that this amendment is ahead of the proper scheduling, because, as I understand it, the Committee on Government Operations at this time is in the process of marking up a bill dealing with impoundments, a spending ceiling, and the rest. Also, we meet at a time when Senator ERVIN, chairman of the Government Operation Committee and chief sponsor of the bill, cannot be here because of a personal tragedy in his family which prevents him from participating in this debate.

Finally, of course, we have the point which the Senator from Louisiana (Mr. LONG) made yesterday—that these spending ceilings have traditionally been included as part of a revenue measure, on the grounds that the House of Representatives, properly or improperly, considers them to be revenue measures and not germane to nonrevenue measure such or the bill now before the Senate.

It seems to me we would be very foolish—indeed, I think it would be among the worst mistakes we have ever made—to pass a spending ceiling without also including ironclad protections against the kind of illegal impoundments that we see today; because I predict that if we give this President official power to impound, we will never get an anti-impoundment bill across his desk. We have got to make him limit his powers of impoundment as a part of the bargain of getting a spending ceiling; otherwise, I think we will never get a limitation upon illegal impoundment. And if we do not get that, let us face it, Congress is nothing more than an overpaid advisory body. The legislative dictates will henceforth be purely advisory to the administration, and we can point out hundreds of examples now of that kind of disrespect for the law.

Therefore, for all these reasons, I think the worst thing we could possibly do at this point is act on this amendment and, I, therefore, shall support the motion to lay on the table to be made by the Senator from Texas.

However, I hope that shortly we can have recommended out of the Committee on Finance the debt ceiling legislation, and that on that legislation we can attach an amendment which will meet the need which Senator PROXMIRE has raised for an overall spending limitation which would meet the need which Senator BENTSEN has raised to require balanced program reductions in all controllable expenditures, together with Senator ERVIN's amendment on impoundment. Then I think we would have a package an overwhelming majority of the Senate could agree with, it would be on a proper bill, we would have Senator ERVIN here to help, and we could do the job the way I think it ought to be done.

So I shall support the motion of the Senator from Texas.

Mr. TOWER. Mr. President, I want to finally emphasize again my dedication to legislation supporting a spending ceiling, and I shall support such legislation when it is presented to the Senate. I should also like to reiterate my conviction that Congress must be responsible, and I shall demonstrate that conviction by voting against some rather popular measures, and to sustain some rather unpopular vetoes. Let there be no mistake about that.

But this is not the appropriate vehicle for that kind of amendment. Such legislation should be more carefully considered.

Therefore, Mr. President, I move to lay on the table the amendment of the Senator from Wisconsin; and I ask for the yeas and nays.

Mr. PROXMIRE. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 66

Mr. PROXMIRE. Mr. President, I call up my amendment No. 66 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

At the end of the bill, add the following:

TITLE II—FOREIGN CURRENCY REPORTS

STATEMENT OF FINDINGS

SEC. 201. The Congress finds that—

(1) the stability of the international monetary system is threatened by the existence of substantial sums of short-term liquid assets at the disposal of large United States business enterprises and their foreign affiliates;

(2) only a small percentage of United States business enterprises need to engage in speculative foreign exchange transactions in order to trigger an international financial crisis;

(3) the Government of the United States does not receive adequate and timely information on foreign exchange transactions conducted by large United States business enterprises and their foreign affiliates; and

(4) periodic and timely reports on foreign exchange transactions on the part of large United States business enterprises and their foreign affiliates would be useful in deterring the possibility of speculative exchange transactions and in providing the Government of the United States with information needed to deal with international financial crises.

AUTHORITY TO PRESCRIBE REGULATIONS

SEC. 202. (a) The Secretary of the Treasury (hereafter referred to as the "Secretary") is authorized and directed, under the authority of this title and any other authority conferred by law, to prescribe regulations requiring the submission of reports on foreign currency transactions consistent with the statement of findings under section 201. Regulations prescribed under this title shall require that such reports contain such information and be submitted in such manner and at such times, with reasonable exceptions and classifications, as may be necessary to carry out the policy of this title.

(b) Reports required under this title shall cover foreign currency transactions conducted by any United States person and by any foreign person controlled by a United States person as such terms are defined in sections 7(f)(2)(A) and 7(f)(2)(C) of the Securities Exchange Act of 1934.

ENFORCEMENT

SEC. 203. (a)(1) Whoever fails to submit a report required under any rule or regulation issued under this title may be assessed a civil penalty not exceeding $10,000 by the Secretary.

(2) In the event of the failure of any person to pay any penalty assessed under this subsection, a civil action for the recovery thereof may, in the discretion of the Secretary, be brought in the name of the United States.

(b) Whenever it appears to the Secretary that any person has violated any rule or regulation issued hereunder, the Secretary may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a mandatory injunction commanding such person to comply with such rule or regulation, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond.

EFFECT ON OTHER LAWS

SEC. 204. Nothing in this title may be construed to alter or affect in any way the authority of the Secretary under any other provision of law.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) without losing my right to the floor.

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

Mr. HARRY F. BYRD, JR. Mr. President, I want to say that I regret very much the Senator from Wisconsin has withdrawn his amendment providing for the spending ceiling. I submit that today is the time to vote for a spending ceiling.

Mr. PROXMIRE. I could not agree more with the distinguished Senator from Virginia. I intend to press for a spending ceiling before we are through with the bill. We have had a series of conferences with Senators and I have come to the conclusion that this is not the time, today, at this moment at least, to offer this particular spending ceiling provision. There is an excellent chance that, before this bill passes, we can attach a spending ceiling to it.

I want to thank the Senator from Virginia for his excellent speech just a few minutes ago in which he supported the proposal I made. I agree with everything he said, and that the spending ceiling should be lower than $265 billion. I should like very much to have the opportunity to attach a spending ceiling to the bill, which I plan to do subsequently. But at the moment, it is necessary, for a number of reasons, that we postpone that for at least a little while.

Now, Mr. President——

Mr. NUNN. Mr. President, will the Senator from Wisconsin yield briefly?

Mr. PROXMIRE. I am happy to yield.

Mr. NUNN. I should like to commend the distinguished Senator from Wisconsin for advocating a spending ceiling, and also for his sound judgment in withdrawing the amendment at this time. We will have it at the proper time. I should

also like to associate myself with the remarks of the Senator from Minnesota in saying that the impoundment measure and the spending ceiling should be joined as one unit, because that is what we are dealing with here.

Also, I should like to restate the position which 13 new Members of this body took in a letter to the majority and minority leaders, in which we said that this is very important, and that in view of the public interest we have in the overall situation this year, and with the great financial crisis we face today, in devaluation, and otherwise, it is imperative that we deal with the subject of the spending ceiling, and also with the subject of impoundment, and do it prior to going into appropriation measures. If we are going into appropriation measures, it will be a great mistake, because it is important for us to put our congressional house in order first. I shall be happy, at the appropriate time, to join the distinguished Senators from Wisconsin and Virginia and other Senators who are pushing for a spending ceiling and I hope that we will not in any way dilute that effort.

Mr. PROXMIRE. Mr. President, I cannot agree with the Senator from Minnesota when he said that we should wait for the debt ceiling, because that will not come up until next week, and then it will be discussed next week, and the next week, and the next week, and that will take a great deal of time. It will originate in the House with hearings and could not come down to us until a few days before the end of the fiscal year, perhaps. The President himself has said that we should act, as the Senator from Georgia just said, on the spending ceiling, before we take any kind of spending action for 1974. That means that we have to act, in my view, within the next week or so.

I thank the Senator very much for the point that he has made, that one of the reasons why we have done this is that we think, on next Monday, we will be in a much better position to act when the distinguished Senator from North Carolina (Mr. ERVIN) comes back to give us his most important advice. Yesterday the Senator from Georgia raised that point, that he should be consulted and be given the opportunity to give us his opinions on the impoundment measure, as the Senator from North Carolina is the most expert Senator in this body on the subject of impoundment. So we want very much to have his counsel and advice before we proceed.

Mr. NUNN. Mr. President, I should like to state at this point in the RECORD so that it will reflect my understanding, that the Government Operations Committee will be considering the Ervin impoundment measure, originally scheduled to be held yesterday, but because of Senator ERVIN'S family tragedy, he had to be absent from the Senate. It is my understanding that there will be a considerable series of hearings as early as possible. I would join the Senator in hoping that we can get any benefit we may from it and that we should deal with the spending ceiling before we go into appropriations.

Mr. PROXMIRE. I thank the Senator from Georgia.

Mr. President, the amendment now before the Senate would require reports on the foreign exchange transactions of these companies. My amendment would in no way restrict the freedom of large firms to buy or sell foreign currency. Nor does it require the repatriation of foreign currency holdings. Instead, it merely requires that periodic and timely reports be furnished by these companies when they buy or sell foreign currency.

NEW MONETARY SYSTEM

There was a time when the fixed exchange rate system agreed to at Bretton Woods functioned with reasonable stability. However, in the past few years, the international monetary system has been rocked by one financial crisis after another. One of the most important developments leading to instability in the international monetary system has been the growth of large, multinational corporations whose international financial transactions are virtually unregulated. The financial resources at the disposal of multinational corporations are now truly staggering.

I recall reading a book by a distinguished French journalist Servan Schreiber on "The American Challenge," and he pointed out that the largest group of resources in the world, after only the United States and the Soviet Union, is not a third country, but American corporations abroad.

That is something that indicates the great power and strength of America. It is something that offers a challenge and indicates the great competence and know-how of our country.

But I think there are some problems involving some of these multinational corporations with which we must deal, especially in this particular bill.

The financial resources at the disposal of multinational corporations are now more than double the total volume of financial reserves held by all countries and more than triple the reserves held by industrialized countries.

We sometimes think of international money speculators as consisting of Arab sheiks, deposed Latin American dictators, international gamblers, and other sinister characters. However, in today's market, the bulk of currency flows are accounted for by large, multinational corporations.

Fortunately, there is a newly released study, and a superlative study, by the Tariff Commission—I hold a copy of it in my hand—of some 929 pages. It is a very timely study. The findings by the Tariff Commission point toward action by Congress on the amendment I am offering today.

FINANCIAL ASSETS OF MULTINATIONALS

According to a recent study of multinational corporations by the Tariff Commission, the short term assets of companies and individuals active in the international money market reached the staggering sum of $268 billion by the end of 1971. Moreover, these assets have grown at the rate of 30 percent a year over the past 2 years.

U.S. multinational corporations including banks have acquired the lion's share of private funds in international finance. Of the total $268 billion available to private firms and individuals, U.S. firms and individuals accounted for $190 million, or 71 percent of the total. From these figures, it is clear that U.S. multinational corporations dominate our international monetary system.

To put the problem in perspective, consider the $88.5 billion in currency reserves and other assets held by the central banks of the major developed nations. The combined holdings of U.S. multinational corporations alone, is nearly twice this amount.

Who, then, are the really big boys in international currency speculation? It is very clear that they are U.S. owned, multinational corporations. They dominate.

Consider—if the U.S. multinational corporations were to shift their total holdings by just 3 percent, the resulting currency flows would total nearly $6 billion, or more than enough to trigger an international financial crisis. No single country has the reserves to sustain a concerted attack upon its currency on the part of large corporations.

In the words of the Tariff Commission report, central banks are "outclassed" by the resources of the private sector. Given the size of multinational corporations and their rapid growth, it is amazing that the international monetary system agreed to at Bretton Woods has survived as long as it has.

DO U.S. CORPORATIONS SPECULATE?

In reviewing our changing international financial system, a key question must be asked concerning the role of large multinational corporations: Are their activities stabilizing or destabilizing? Do they merely react to financial crises, or do they precipitate those crises? Are U.S. corporations to blame for the attack upon the dollar or were they merely acting to prevent losses in their financial position?

After reviewing the operations of multinational corporations, the Tariff Commission study concluded that—

> While it is not appropriate to judge that speculative behavior characterizes the international financial dealings of the great majority of multi-national corporations, it is appropriate to stress that they have been a primary force in the growth of the international money and capital markets. This is the sense in which the multi-national corporations have altered the international realities around which policies of governments—and the international monetary system in general—are framed. . . . In an earlier time, central banks and governments had more freedom to work out appropriate monetary policies because the institutions of international finance were sufficiently underdeveloped that national money markets remained partially isolated from one another. The development of a strong, flexible international money market has taken away that advantage, allowing the international financial community to focus its flows quickly and directly— a focus which, as the recent international monetary crises have shown, has caused serious problems for the world's central banks.

WHO SOLD THE DOLLAR SHORT?

This conclusion was written before the latest dollar devaluation. Recent events have thus amply confirmed the warnings contained in the report. The role of U.S. corporations in the latest financial crisis

is difficult to assess. German bankers report that over one-half of the dollars purchased by the West German Central Bank came from U.S. corporations. The AFL–CIO has charged that by selling dollars abroad, "U.S. corporations and banks put profits ahead of patriotism, selling their country's currency in order to make swift profits for themselves."

Although U.S. corporations were heavily involved in selling dollars, corporate spokesmen maintain their actions were defensive rather than speculative. A GM vice president told a Senate committee that—

General Motors has not and will not speculate in the world money markets.

On the other hand, the Los Angeles Times on March 4 reported that—

Interviews with international bankers, multi-national corporation treasurers, economists and commercial banking officials show the outlines of a speculative pattern.

Business Week, which I think all of us recognize as a responsible and conservative publication, reached a similar assessment. In its February 17 issue, it reported that—

With the announcement of the mammoth $6.4 billion U.S. trade deficit, many multinationals approached the thin line between protection and outright speculation.

The New York Times cites unconfirmed reports that American banks were selling dollars in Frankfurt in the final days before the devaluation.

PROFITS FROM DEVALUATION

All told, American corporations made at least $300 million by switching from dollars to marks. While some or most of this profit may have been "defensive," when the stakes are this large, it is difficult to draw the line between protection and speculation.

Corporations also profit from devaluation to the extent that they have fixed assets in hard currency countries. The value of these assets increase with the upward appreciation of the country's currency. Peter Baer, a partner of the Baer banking house in Zurich, said that IBM, ITT., and Eastman Kodak were among concerns that got a devaluation dividend because of their substantial assets in hard-currency countries.

In one of the most forthright statements on the dollar crisis, the chairman of Gulf & Western Industries warned that—

Continued speculation on the dollar could lead to a wave of protectionism in the United States which in turn would result in the greatest depression ever. . . . The speculators operating in Europe today make Monte Carlo look like a silly little place. . . . There is a $90 billion thundercloud hovering over Europe now which smells bad, and it is equalled only by the wind of isolationism sweeping throughout the United States.

This corporate official hinted that multinational corporations were adding to the wave of currency speculation in Europe, but vehemently denied that Gulf & Western Industries did any speculating.

Similar denials were issued by IBM, Union Carbide, and Pepsi-Cola.

TREASURY DOES NOT KNOW

Mr. President, with all these large companies denying they were involved in speculation, it makes one wonder just who was involved. The sad fact is that we simply do not know. The Treasury does not have the foggiest idea which companies were dumping dollars in foreign currency markets.

This was something that bothered me during the committee's hearings; and when Under Secretary Volcker came before the committee, I questioned him on it. It seemed to me that the Treasury of the United States should have some knowledge, some basis for understanding, about speculation against our dollar, in view of the fact that by far the biggest element in the holding of reserves were the multinational corporations. In view of the great importance to their well-being, as well as the well-being of our country, of a stable dollar and a sound dollar, it seemed to me that the Treasury Department should know the extent to which these very large corporations were involved. So during the committee hearings on the devaluation bill, I asked Treasury Under Secretary Volcker what role U.S. multinational corporations played on the speculative inflow of funds to Germany and Japan. As I say, we have established the fact that more than two-thirds of all the internationally held assets are held by these multinational corporations, that they dominate the field.

Secretary Volcker replied:

I can't answer that question. We don't have the data.

Mr. Volcker went on to say that he would like to have the information, but that a reporting system just had not been set up.

Now, Mr. President, I cannot imagine a more absurd situation. The Government collects statistics on practically everything. Small business firms are flooded with a sea of paperwork, yet the Treasury does not know which corporations are selling dollars during foreign exchange crises, when they are such an important element.

Large multinational corporations receive daily reports on their kinds of businesses. They employ computers and the most sophisticated techniques and management science in managing their cash balances. They collect and disseminate information on a worldwide scale.

By contrast, our Government officials and those of other countries are still scribbling figures on the backs of envelopes.

According to the Tariff Commission report, much of what happens in the international monetary crisis is listed under errors and omissions in the balance of payments accounts. That category has always fascinated me. It is always billions and billions of dollars. It is a confession that we don't know what is going on. The corporations know what is going on. It would not involve a great deal of paperwork. They have the information, but we make no effort to pick it up.

The Tariff Commission report concluded with this strong recommendation:

There is a need for governments—primarily central banks—to develop information systems at least as good as those possessed by the multi-national corporations. Since the multi-national corporations, at least the important ones, already are developing such information for themselves about themselves, it would seem possible and not excessively costly for central banks to require such information, on a confidential basis, from the multi-national corporations. Access to reports on short-term asset and liability positions and where they are held would greatly enhance the perspective of the monetary authorities respecting international financial problems as they develop, and it would provide insights into the possible solutions to solve such problems before they degenerate into international monetary crises.

Mr. President, I think a strong case can be made for keeping this bill as germane as possible. I hope we can still adopt a ceiling amendment. I think that is highly germane. But what could be more relevant and central to our being able to prevent this kind of problem in the future than an amendment that requires the multinational banks to make confidential, regular, periodic reports—which is what my amendment does—to the Treasury.

After all, this is a congressional power we are talking about. The Constitution is very clear on this matter. Congress has the right to coin money and regulate the value of that money. It is our power. The President acted, rightly or wrongly, when he devalued the dollar. This was a devaluation, a usurpation of congressional authority.

I am saying it was necessary for the President to take that action, but when we accept his devaluation action we should at the minimum require a reporting system so that we have data on which the Treasury can inform Congress in the future as to the basis of speculation in the dollar so that we can take the steps necessary to correct the situation.

Mr. TOWER. Mr. President, the Senator might be surprised to know I agree with him. This is germane and an appropriate vehicle for this legislation. I shall oppose the amendment of the Senator, but I am in agreement with him in spirit that something must be done. I will cite my reasons for opposing it. But I do feel the Senator has offered an amendment that is quite germane and pertinent.

Mr. PROXMIRE. I thank the Senator from Texas. He has looked into this matter carefully and he is very well informed in this area.

I am willing to modify my amendment, if there is an amendment by the Senator from Texas with the same thrust, but I think we should act now rather than in a future bill. This is an amendment that would go to the devaluation problem. This is the only time it will be before us forever because Dr. Burns said we will not have another devaluation.

Would the Senator enlighten us as to why we cannot act now?

Mr. TOWER. Rather than give all my argument now I would prefer to wait until the Senator completes his remarks and then I will make my presentation and perhaps we can engage in a colloquy.

Mr. PROXMIRE. Mr. President, the European financial officials also support the need for better information on U.S. multinational corporations. We tend to regard this as a situation in which Monte Carlo gamblers and sheiks are doing this, but Europeans are not under that illusion. They know the facts. About three-fourths of this activity is within the con-

trol of U.S. multinational corporations. They have indicated in about as emphatic and clear way as they can, without being undiplomatic and rude, that the United States should know what is going on by its own companies.

The current chairman of the Common Market Council of Ministers, Mr. Willy Leclerq, suggested that governments should require multinational corporations to disclose how much and what kind of money they are holding, both at their home offices and their foreign branches. This official placed most of the blame for monetary instability on large multinational corporations.

That is about as appropriate an official as I can imagine to comment, who has a position in this area. He is chairman of the Common Market Council of Ministers. He placed most of the blame for monetary instability on large multinational corporations. These gentlemen who occupy positions of this kind are inclined to be extraordinarily careful and guarded in their statements. His conclusion was clear and emphatic:

Most of the blame for monetary instability is on large multinational corporations.

I am not suggesting we should limit them or prohibit their opportunity to buy and sell currency. All I am saying is they should let us know what is going on so Congress can be informed and the President and the country can be informed about these matters, and we would then be in a position to act.

Mr. President, my amendment authorizes and directs the Secretary of the Treasury to require periodic and timely reports from large U.S. corporations dealing in foreign currency.

Originally we had decided we would require daily reports. That might seem to be a great burden. The fact is that the reports are confined to large corporations. They know what is going on. I have modified and changed my amendment before the Senate. It does not require daily reports. It gives that discretion to the Treasury. But it does require timely and periodic reports. These reports could be daily if the Treasury needs the information to keep itself informed about a potential currency crisis.

The reports would cover the activities of the U.S. parent as well as any foreign affiliate. While U.S. laws cannot directly extend to foreign companies, the United States can require U.S. corporations to assemble and report information from their foreign affiliates. Moreover, most of this information is already available in corporate headquarters. As the Tariff Commission report points out:

Basic to the efficient, centralized management of the finances of a large multinational corporation is the existence of only one or a few central profit centers with the ability and the resources to plan the firm's worldwide operations in fine detail.

Under my amendment, the Treasury would have flexibility to determine the extent and timing of these currency transaction reports and to make reasonable exceptions and classifications. For example, it is expected that the reports would be required of only the largest corporations and then only to the extent their foreign exchange operations had a significant effect upon the market. I would envision that daily reports would be required for large and unusual currency transactions which depart from the firm's customary trading pattern.

That would be my intention. The language of the law requires simply periodic and timely reports. I think the experts in the Treasury, under those circumstances, would require daily reports under these circumstances. With the kind of crisis the country and the world had to undergo in January, for example, daily reports would have been enormously helpful.

Furthermore, I believe the following advantages will flow from my amendment if it is adopted:

First, the mere requirement of disclosure would help eliminate unwarranted currency speculation.

So that to the extent that there is speculation—and I think it is obvious that there has been a substantial amount of it—the speculative activity is very likely to be restrained except to the extent that it can be fully justified and that it would not be construed as being counter to the best interests of our country.

Under today's climate of instability, the foreign exchange market is not unlike the securities market of the 1920's. Foreign currency markets can be subject to manipulation the same as securities markets.

We had all kinds of talk about how gold speculators were deliberately driving up the price of gold and making killings along the way; how they were deliberately driving down the value of the dollar and making enormous sums moving their currency into marks and into yens. Of course, there was an opportunity for firms to make tens of millions of dollars, and in some cases hundreds of millions of dollars, in a matter of days, with just a few decisions, and those decisions become easy with colossal assets in the hands of corporations, and with the momentum they generate it is not very difficult to do that.

What is lacking here and in our securities markets is disclosure, so that we can have some knowledge of what is going on, that there is concerted action to drive up a price, which action can be disclosed and watched.

We therefore need to apply the same disclosure approach. Given the size of our international financial system, it only takes a few companies to trigger a worldwide financial crisis. I am not charging that this has been done in the past. But we need to insure that it cannot be done in the future.

Second, my amendment will give our financial officials the information they need to understand what is happening and to prevent another currency crisis. A reporting system will serve as an early warning system for detecting possibly disruptive currency movements.

So not only would it tend to discourage unwarranted and unjustified speculation; it would also give our financial officials information with which to understand what is happening and to prevent and avert a monetary crisis.

Third, my amendment will serve to build confidence in the stability of the international financial system. Because the financial currency transactions of large corporations are often conducted in absolute secrecy, many people feel that they contribute to instability. A reporting sysem will provide some assurance to our major trading partners that our multinational corporations are subject to some governmental scrutiny.

Mr. President, I believe the events of the last few weeks have demonstrated the need for my amendment. No one knows for sure how much power multinational corporations really have and whether their activities are destabilizing. We will never know unless we have more information. That is what my amendment calls for—more information. I am hopeful that the disclosures called for by my amendment will help us to understand the role and function of large multinational corporations.

Mr. President, I would like to read some of the highlights from this very appropriate and pertinent report.

Mr. TAFT. Mr. President, I wonder if the Senator would yield for some questions at this point.

Mr. PROXMIRE. I am happy to yield to the distinguished Senator from Ohio.

Mr. TAFT. I thank the Senator for yielding.

I have listened with interest to his remarks about the possible effect of American multinational corporations dealing with currencies. I am not certain as to what the situation is with respect to disclosure. As I gather from the simple wording of the amendment before us, the information required to be made available to public officials here involved would be disclosed to the public generally. I would like to inquire if that is the case and whether the Senator thinks there are some other restrictions upon disclosure that would apply.

Mr. PROXMIRE. Well, it would depend. It would not be disclosed if it was not required under the Freedom of Information Act. It would be a matter of determination and judgment—the judgment, in the first place, of the Secretary of Treasury, and, in the second place, of the courts if it were challenged. That act does permit the withholding of confidential business information.

Mr. TAFT. If the American multinational corporations are indeed engaging in transactions in money markets for the purpose of making money or taking favorable advantage of foreign exchange situations—whether they are in it or not, they are good businessmen and are aware of the situation in foreign exchange, and whether in addition to their regular operations abroad, nevertheless they are from day to day making decisions as to foreign exchange—would not this really mean they would have to disclose such information, and should not we try to provide a basis over and beyond that which would protect them from being put at a disadvantage insofar as dealing in foreign exchange markets is concerned, with large foreign competitors who would not have to disclose such information?

It seems to me we do not want to put American companies at a great disad-

vantage, particularly at a time when many see some new bogeyman coming into the international money market with respect to our dollars as a result of our energy crisis?

Mr. PROXMIRE. The Senator makes an excellent point. Certainly we do not want to put our companies at a disadvantage as compared with other corporations. The way this amendment would operate, the Secretary of the Treasury would have authority to decide the extent to which information which was confidential should be confidential.

And it would be up to him to comply with the Freedom of Information Act.

It would seem to me that he would have the discretion to protect the interest of American corporations so that they would not be subjected to a competitive disadvantage. At the same time, he would be in a position to inform both himself, the President of the United States, the Chairman of the Federal Reserve Board, and other relevant and appropriate officials as to the situation.

There would be sometimes, such as during the currency crisis we have gone through, when some of this information should be disclosed without seriously inhibiting the action of American corporations in competition with other corporations.

Mr. TAFT. Mr. President, I thank the Senator.

Mr. PROXMIRE. Mr. President, I might say to the Senator from Ohio that this amendment comes from a recommendation in the Tariff Commission report. It is not just my recommendation.

As the Senator knows, the Tariff Commission is a bipartisan body. It explained this matter with great comprehensiveness and thoroughness. It is a remarkable report.

The report in discussing the role of the multinational corporations in generating liquid short-term capital flows and international monetary crises, says:

> Since 1967, the international monetary system has been subjected to a series of shocks that have threatened its foundations, called into question the utility of the Bretton Woods Agreements of 1944 on which it is based, and, finally, forced the abandonment of the parity of its lynchpin, the United States dollar. The only comparable period of such strain on the system within living memory was that of the hectic international monetary history of the 1920's and 1930's. Indeed, the threat of a return to the disordered condition of those two decades—and the fear of it—lend urgency and fire to the current debate about just what is wrong with the present system. It should be clearly underlined, however, that despite the recurrence of severe international *financial* crises in recent years (especially since 1967), the economic troubles which beset the major countries in the 1920's and 1930's have been absent. Despite disruptions in the monetary sphere, world economic growth, world trade, and international investment have reached record levels.
>
> THE TYPICAL "CRISIS"
>
> The international monetary crises of recent years have been more alike than different. They have so many characteristics in common that it is an easy matter to describe the "typical" financial crisis, which begins with a balance of payments disequilibrium between one country with a relatively large deficit and one or more countries with large surpluses, the counterparts of that deficit. National policies are applied with greater or lesser enthusiasm in order to correct this disequilibrium. Generally, they are applied more severely in the deficit country than in the surplus ones, and sometimes the policies applied by the surplus countries turn out to be perverse, from the balance of payments point of view. That is, they find themselves, despite payments surpluses, in inflationary situations which they attempt to combat with tight money and high interest rates. These kinds of policies work to increase rather than decrease payments disequilibria.
>
> In any case, exchange rates begin to reflect the payments problems. The deficit country's rate becomes "weak" and the surplus countries' rates become "strong." Under a par value system of the Bretton Woods type, exchange rates are fixed within the short run; in practice, the monetary authorities of the developed countries have attempted to keep them fixed in the long run too. Central banks have bent every effort to defend existing rates. In this process, the deficit country must sell off its reserves, while the surplus countries accumulate them.
>
> In fairly short order, this process has led to huge and heavily disequilibrating flows of liquid short-term capital. Funds move away from the weak currency and toward the strong ones.
>
> The deficit country loses its reserves at a rapid rate; the surplus countries gain them equally as fast. The deficits get bigger, and so do the surpluses. Soon, the question of the appropriateness of policies to rectify balance of payments problems in the long run—or even the extended short run—becomes academic. Capital flows have depleted the deficit country's reserves and swelled the surplus countries' holdings to the point of unwelcomeness.
>
> THE ACCUSATION AGAINST THE MNCS
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> Opponents of the MNCs argue that they play a crucial, destructive role in international monetary crises. The argument sometimes includes an accusation that they bear responsibility for at least part of the balance of payments problems that originally generate the crises, but this accusation is not central to the argument. Rather, the central point is that the MNCs are a source of the large flows of liquid short-term capital that are the proximate cause of the wreckage. Moreover, it is argued that these flows arise because the MNCs are predilected toward sustained, unstoppable "speculative" attacks upon exchange rates. Thus, it is held, speculators, with the MNCs in the van, can cause enough havoc within the system to produce the threat of devaluations or revaluations of exchange rates *even if* underlying national economic policies are appropriate and severely enough applied to rectify the balance of payments disequilibria—if only the speculators would give them the necessary time, which they do not.

Mr. President, this is an extraordinary indictment by the Tariff Commission. What they are saying is that no matter what kind of monetary policies are adopted by the United States and other countries, and no matter how sound those policies may be, they can be frustrated by the actions of multinational corporations and banks.

We can have an effective monetary policy limiting the growth in the money supply to an annual rate of 3 percent. We can adopt other policies to improve our balance of payments including restrictions on tourism and direct investment abroad. These policies would all go for naught if the multinational corporations, two-thirds or three-quarters of which are American, took a different course.

I am not asking for regulation; I am asking for information, so that we will know what they are going to do.

Mr. President, the Tariff Commission goes on to say:

> An evaluation of the allegations made against the MNCs should involve an anlysis of flows of liquid, short-term capital as they show up in the balance of payments, isolating and measuring those flows that are attributable specifically to the MNCs. Unfortunately, this is not possible.

Unfortunately, we do not have the information with which to do that. But this is just the information my amendment would provide. Data for the flows attributable to the MNC's are not available In this respect, central banks and governments are technologically inferior to the MNC's which, in their own operations are able to gather, analyze, and act upon the information necessary to them.

Let me say that this amendment takes no pro or con position on multinational corporations, which are highly controversial. Many people in international business feel that multinational corporations are an addition to our economic operations and serve us well. Many in labor organizations are highly critical, saying they have resulted in an exportation of jobs.

Either position may be partly right or entirely right, or partly wrong or entirely wrong. My amendment does not move to that at all. Regardless of the position one takes pro or con on multinational corporations, I do not know how anyone could say that the Treasury of the United States, under the Freedom of Information Act, with a proper opportunity to safeguard confidentiality, should not have this information available so that we would be in a position at least to know what is going on.

As a matter of fact, Under Secretary Volcker, in the hearings before the Senate committee, confirmed that. I asked if he had information on the part that the multinational corporations played. He said, "No." He said, "I would like to have it."

He would like to have it, but he did not have it. This amendment would give it to him.

As the Tariff Commission points out, there is a useful alternative, however. This approach, the one taken in the following analysis, involves, first, an identification of all those kinds of institutions—banks and business firms—which have dealings in the international money markets, as opposed to strictly domestic ones. Once this identification is made, the next step is to add together, as accurately as possible, the total resources—assets and liabilities vis-a-vis each other—which these institutions have at their command. Essentially, this procedure estimates the amounts of short-term funds that can flow in a crisis situation. If the numbers turn out to be small, then it can be concluded that these institutions' financial muscle is overrated by the critics. If they are large, then it can be concluded at least that the possibility of disequilibrating behavior becomes strong. All that is left to ask in the latter two cases is whether this behavior is speculative. That is, do the

MNC's speculate aggressively—by risking assets for financial gain — or do they merely react protectively, to guard their assets against possible loss in value due to an exchange rate change brought on by the underlying balance of payments disequilibrium?

How do you find that out? Well, the Tariff Commission suggests at least seven discrete types of institutions can be identified as significant participants in the international money markets. These are:

First. United States commercial banks;

Second. United States "nonbanks"—that is, nonbanking business enterprises, including the parent firms of the MNC's;

Third. Foreign commercial banks, not including foreign branches of U.S. banks;

Fourth. Foreign governments, central banks, and international organizations;

Fifth. Foreign nonbanks, the counterpart of U.S. nonbanks in second above;

Sixth. Foreign affiliates of U.S nonbanks—the MNC's affiliates;

Seventh. Foreign branches of U.S. banks.

Assets and liabilities of these groups should be included only to the extent that they are connected closely with the international markets, either because of the nature of the institutions which hold them or because of the kinds of transactions from which they derive. Also, the balances measured should be defined as carefully as possible as those short-term, liquid items that could and would move across international boundaries in times of crisis. Thus, one should exclude reserve holdings of the principal central banks, even if they happen to be held as deposits in commercial banks, because it is highly unlikely that the major central banks would engage in speculation with those assets; they probably would remain so loyal to their fraternity that even protective movements against a weak-currency central bank would not take place.

The appropriate estimates for the seven sets of participants appear in a table, which I ask unanimous consent to have printed in the RECORD at this point.

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

ESTIMATED SHORT-TERM ASSET AND LIABILITY POSITIONS OF PRINCIPAL INSTITUTIONS IN INTERNATIONAL MONEY MARKETS, 1969–71

[Billions of U.S. dollars]

Holder of assets or liabilities	Denominated in dollars		Denominated in foreign currencies		Total	
	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities
U.S. banks: [1]						
1969	8.9	28.1	0.5	0.2	9.4	28.3
1970	10.1	21.8	.6	.2	10.7	22.0
1971	12.1	15.8	.9	.2	13.0	16.0
U.S. nonbanks:						
1969	3.5	1.7	.7	.4	4.2	2.1
1970	3.6	2.2	.6	.5	4.2	2.7
1971	4.7	2.2	.5	.4	5.2	2.6
Foreign banks: [2]						
1969	[3] 64.9	[3] 52.3	[3] 10.7	[3] 10.6	[3] 75.6	[3] 63.0
1970	43.0	31.7	5.8	5.8	48.8	37.5
1971	44.3	38.3	8.4	8.2	52.7	46.5
Foreign governments, central banks, and international organizations: [4]						
1969	4.9	([5])	.4	([5])	5.3	([5])
1970	10.0	([5])	2.8	([5])	12.8	([5])
1971	10.7	([5])	8.0	([5])	18.7	([5])
Foreign nonbanks:						
1969	7.3	6.2	([6])	([6])	7.3	6.2
1970	7.6	9.4	([6])	([6])	7.6	9.4
1971	6.8	11.4	([6])	([6])	6.8	11.4
Foreign affiliates of U.S. nonbanks: [7]						
1969	([6])	([6])	([6])	([6])	59.9	34.9
1970	([6])	([6])	([6])	([6])	80.6	46.9
1971	([6])	([6])	([6])	([6])	110.0	63.0
Foreign branches of U.S. banks: [8]						
1969	([9])	([9])	([9])	([9])	([9])	([9])
1970	34.6	36.1	12.7	11.3	47.3	47.4
1971	40.2	42.1	21.2	19.4	61.4	61.5
Totals:						
1969	89.5	88.3	12.3	11.2	161.7	134.5
1970	108.9	101.2	22.5	17.8	212.0	165.9
1971	118.8	109.8	39.0	28.2	267.8	201.0

[1] Data are total foreign short term assets and liabilities of U.S. banks as reported in U.S. sources, less claims on and liabilities to official monetary institutions.

[2] Basically, these data are those reported to the BIS by banks in 8 European countries (Belgium-Luxembourg, France, Germany, Italy, Netherlands, Sweden, Switzerland, and the United Kingdom), plus Canada and Japan. Figures from U.S. sources relating to foreign branches of U.S. banks have been subtracted from these figures and are shown separately in the table for 1970 and 1971. Also, the 8 European countries' asset and liabilities vis-a-vis the United States (denominated in dollars were removed from the totals, and data from U.S. sources on total dollar claims and liabilities against foreigners were added.

[3] Includes foreign branches of U.S. banks.

[4] Data cover (1) identified official holdings of Eurodollars, (2) unidentified holdings of Eurocurrencies plus residual sources of reserves—both as estimated by the IMF—plus (3) claims on U.S. banks of nonmonetary official institutions such as the IBRD and IADB.

[5] Not available.

[6] Available data cover United States and foreign banks' claims on and liabilities to all foreign nonbanks, including foreign branches/affiliates of U.S. nonbanks. To insure elimination of double-counting, since positions of the U.S.-affiliated firms are shown separately, the available data have been reduced by 50 percent—i.e. it is assumed that half of the assets and liabilities reported by United States and foreign banks against foreign nonbanks actually are liabilities and assets, respectively, of foreign affiliates of U.S. nonbanks.

[7] Data are estimated current assets and liabilities of nonfinancial affiliates of U.S. firms.

[8] Figures are from U.S. sources citing total assets and liabilities of branches. Therefore, some long term items are included.

[9] Included under "foreign banks."

Sources: Federal Reserve Bulletin, September 1972; U.S. Treasury Bulletin, September 1972; Bank for International Settlements, Annual Report, 1971 and 1972; International Monetary Fund, Annual Report, 1972; U.S. Commerce Department, Office of Foreign Direct Investment, Foreign Affiliate Financial Survey, July 1971 and Foreign Direct Investment Program, Selected Statistics, July 1971; and data furnished by U.S. Department of Commerce, Bureau of Economic Analysis, Foreign Investment Division.

Mr. PROXMIRE. This table contains some purposeful double counting, in the following sense: as the table is constructed the assets of any one set of factors listed constitute the liabilities of all the others to it. The powers of debtors as well as creditors should be borne in mind. The decision to move a balance from one location to another depends not only on the motivations of the balance's owner—who clearly can shift a deposit, say, from a bank in one country to a bank in another—but also upon those of the institution which owes the money; it can transfer its liability with equal facility. The thrust of the analysis is to identify the decision points and measure the resources that are available at each of them.

There is absolutely no doubt that the table I have placed in the RECORD contains figures that should not be there, either because they are not to be considered volatile or because they represent balances of an essentially domestic, rather than international character. On the other hand, it fails also to account for large balances that should be included, such as the assets and liabilities of non-U.S. MNC's. On balance, there is an error in the overall estimates, in one direction or the other. However, as the subsequent analysis will imply, substantial errors could be present in the estimates without necessitating any fundamental alteration of the conclusions which are derived from them.

The key figures in the table are the overall total asset and liability estimates in the lower right-hand corner. These measure the amounts of short-term funds that may have been capable of flowing within the system at the end of each of the 3 years covered—$162 billion in 1969, $212 billion in 1970, and $268 billion in 1971 on the assets side. Mr. President, note that enormous increase in 3 years: An increase of $100 billion between 1969 and 1971. In fact, in 2 years—and on the liabilities side—$135 billion in 1969, $166 billion in 1970, and $201 billion in 1971.

These indeed are very, very large numbers, and what is even more important, they are increasing and expanding at an enormous, almost geometric rate. They should lay to rest any doubts that the seven sets of organizations involved are capable of generating figures that could disrupt normal payments relationships among countries and, in fact, help to generate international monetary crises and tensions.

As I say, no matter how sound our fiscal policy and monetary policy may be, no matter how truthful and careful we are and our Government may be, and all other governments may be, unless we are able to get the Treasury report, how can we know what is going on and have some basis for activity, so that we can protect the dollar?

Consider the total assets estimated as available at the end of 1971: $268 billion. A movement of a mere 1 percent of these, or $2.7 billion, in response to exchange rate weakness or strength, is quite sufficient to produce a first-class international financial crisis.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. 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. PROXMIRE. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were not ordered.

Mr. PROXMIRE. Mr. President, I modify my amendment, and I send the modifying language to the desk.

The modification is as follows:

On page 3, strike lines 6 through 11 and insert the following:

"may be assessed a civil penalty not exceeding $10,000 in a proceeding brought under subsection (b) of this section."

On page 3, line 13, after the word "has", insert the following:

"failed to submit a report required under any rule or regulation issued under this Title or has".

On page 3, line 21, change the period to a comma and insert the following:

"and additionally the sanction provided for failure to submit a report under Section (a)".

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, let me briefly summarize this amendment by saying that what this amendment requires is that U.S. multinational corporations, which have $190 billion of the $268 billion that was available at the end of 1971—much of which is available for speculation or for legitimate transactions in foreign currencies—should make periodic and timely reports to the Treasury of the United States, so that the Treasury can inform Congress and inform itself on the speculative activities of these corporations.

It is not a regulatory amendment. It is an amendment that prevents these corporations from doing whatever they wish. They are protected, under the Freedom of Information Act, at the discretion of the Secretary of the Treasury. He is in a position that he does not have to disclose confidential business matters which would in any way prejudice or endanger the competitive strength of these corporations.

Mr. President, I have modified my amendment, in accommodating the Senator from Ohio, to provide that in order to impose a civil penalty to require compliance, it would be necessary for the Secretary of the Treasury to go to court, and only the court would be in a position to require that compliance.

Mr. President, I yield the floor.

Mr. TOWER. Mr. President, the Senator from Wisconsin has hit on an important subject, the matter of short-term capital flows across national borders that have been attacking monetary stability. There obviously is a large supply of dollar balances, particularly, in the hands of both foreign holders and U.S. citizens and corporations, which have been wired across national boundaries in great volume every time there is any tremor in the fixed-rate system. Some of this movement is totally justified for business reasons that come under the category of "hedging"—that is, preparing in advance against the risk that future payments against debts or obligations in foreign currencies will become more expensive to the holders of dollars, if they are depreciated. Some of this movement is "speculative," however, and is simply the result of betting against the dollar's future value by holders of dollar balances who have no business purpose in mind, and who are simply pursuing possible gain from international monetary developments.

We do not really know the extent to which multinational corporations are engaging in the speculative type of foreign exchange operations, as opposed to the hedging type. Many dollar-balance holders are not U.S. citizens or corporations, and we know even less about the extent to which they speculate against the dollar. It probably would be helpful to know more about the capital transactions of our business firms, and at the present time the Treasury is studying improvements in its information gathering system to accomplish just that. Treasury already has statutory authority to gather any monetary-related information it may desire from U.S. citizens and corporations, under the Emergency Banking Act and the Bretton Woods Agreement Act, and it currently has regulations requiring certain types of capital transactions information to be reported.

The information which Treasury now requires is the following:

First. Banking liabilities to foreigners, deposits and assets held in custody—end month;

Second. Banking claims on foreigners—loans, acceptance credits, deposits and other assets held abroad—representing assets of the banks and their domestic customers—end month;

Third. Transactions in long-term securities with foreigners—monthly;

Fourth. Nonbank firms' liabilities to nonaffiliated foreigners—borrowings, trade payables, other payables—end of quarter,

Fifth. Nonbank firms' claims on nonaffiliated foreigners—loans, trade receivables, deposits abroad, other assets—end of quarter.

In addition, the Commerce Department gets quarterly reports from business firms covering their accounts with their foreign affiliates—branches, subsidiaries, and head offices—including short-term claims and short-term liabilities, under authority of the Emergency Banking Act.

As I said, Treasury is studying improvements in this information system now, which we can expect would meet the purposes of the Senator's amendment. Also, the International Monetary Fund in a meeting 2 days ago issued a communique expressing the Fund's intention to study this problem. I quote from the release:

An intensive study should be made of effective means to deal with the problem of disequilibrating capital flows by a variety of measures, including controls, to influence them and by arrangements to finance and offset them. It was noted that the Deputies are establishing a technical group on disequilibrating capital flows, including those associated with Euro-currency markets.

Under Secretary Volcker of the Treasury Department has written to me expressing his concern about his proposal, and I will subsequently read his comments to the Senate before this matter is voted upon. As the Senate is aware, Under Secretary Volcker has been the principal negotiator for the United States in the recent monetary negotiations and is the official most knowledgeable about the impact of the present amendment on the international situation.

I should like to read into the RECORD at this time the letter from Under Secretary Volcker:

THE UNDER SECRETARY OF THE TREASURY FOR MONETARY AFFAIRS,

Washington, D.C., March 28, 1973.

Hon. JOHN G. TOWER,

U.S. Senate, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR SENATOR TOWER: I understand that in connection with consideration in the Senate of the Par Value Modification Bill (S. 929), some members have expressed a desire to institute a new reporting system which would be designed to obtain information on short-term and speculative capital flows. I would very much hope that such initiatives would be resisted. This is a real problem area here, but I feel that a mandatory legislative initiative of this kind would be untimely and might well have undesirable side effects.

I can assure you that the Administration is quite concerned about the problem of speculative capital flows and that it is being given serious attention both internationally and domestically.

We are examining this problem in cooperation with the other leading financial countries. I have just participated in the meetings which were held by the Committee of 20 on international monetary reform in Washington, in which the Committee specifically endorsed an intensive study of effective means to deal with the problem of disequilibrating capital flows. The Deputies of the Committee of 20 are establishing a technical working group for this purpose.

We are also considering internally how our existing reporting system on capital flows and related statistics can be improved. Decisions on changes that may be administratively feasible and statistically meaningful require very careful planning and study. Our existing legislative authority on reporting is fully adequate to implement any improvements that may be found desirable.

Since we have adequate existing authority in this field, there is a clear danger that new legislative action could be misinterpreted as evidencing an intention to go beyond mere statistical reporting. However unfounded, such misinterpretation could readily fuel new capital movements of the kind that have disturbed exchange markets in recent weeks.

Sincerely yours,

PAUL A. VOLCKER,

In short, one thing the Treasury, I believe, is concerned about is that if the

amendment of the Senator from Wisconsin is passed, it will appear to many to be the harbinger of exchange controls and in anticipation of exchange controls, Mr. President, you could set off another round of speculation that could have very serious consequences.

The department now feels it has the authority it needs and it is in opposition to the amendment of the Senator from Wisconsin.

I agree in spirit with what the Senator is trying to do, and I think we are perhaps very like minded on this matter. But the Treasury Department and Mr. Volcker, who has been an adviser in this matter, feel they have adequate authority and the information the Treasury will require will be available.

Mr. President, I urge that the amendment be rejected.

Mr. PROXMIRE. Mr. President, I shall be brief. I already have spoken on this matter.

I do wish to point out that this is something the Secretary of the Treasury says formally he does not want but I wish to read from the hearings. During the hearings I asked:

Senator PROXMIRE. What role did these corporations play on the speculative inflows of funds to Germany and Japan?

Mr. VOLCKER. I can't answer that question. We don't have the data.

Senator PROXMIRE. Isn't that pretty important to understand what is causing this type of thing to the extent that these are companies that may have an obligation to the United States and be to some extent under our jurisdiction?

Mr. VOLCKER. I would like to know the answer. If we had a good enough statistical reporting network I would respond more intelligently than I am.

We are told we cannot do anything on this; but the President devalued the dollar. There is clear congressional authority and responsibility to determine the value of currency. Of course the President has to act under these circumstances. I do not believe he should not have acted but I say we have every right to modify the bill and that we must act in any way we can to prevent devaluation in the future. It has been established by Senator BYRD and others that devaluation is very expensive. It requires additional appropriations and additional spending by American consumers. So if Congress is going to act on any measure the administration sends down, we have the duty to say that it does not have to be left to big brother, that only he knows. That may be true in some areas. It may be true in connection with foreign policy or military policy, but not in something of this kind.

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

Mr. PROXMIRE. I yield.

Mr. DOMINICK. I gather the Treasury was against this on the ground they already have sufficient authority to do what the Senator is asking. What is the Senator's answer to that?

Mr. PROXMIRE. This is not an indictment of Secretary Volcker or Secretary Shultz, or the President. This is something that the President has had authority to act on for 40 years, ever since the Emergency Banking Act of 1933. In the last 10 years multi-international corporations have gotten so big and have such enormous influence on short flow assets of this kind. They have done nothing. It seems to me this will perpetuate action by them in a modest way.

Mr. DOMINICK. I thank the Senator.

Mr. PERCY. Mr. President, I intend to vote against this amendment. I have read the letter dated March 28 from Under Secretary Volcker to Senator TOWER with regard to this matter. I believe we must be cautioned by, and honor, the Under Secretary's assertion that there is a "clear danger" that our approval of this amendment could be misinterpreted by speculators, and that it could thus "readily fuel new capital movements of the kind that have disturbed exchange markets in recent weeks." In my view this is too great a risk to run. I am in full agreement with my distinguished colleague from Wisconsin (Senator PROXMIRE) that capital flows originated by multinational corporations may pose a serious problem. I also agree that, in ordinary circumstances, a reporting requirement of the kind he suggests would not seem inappropriate.

There is another reason for my vote against the amendment. The Multinational Corporations Subcommittee of the Committee on Foreign Relations, of which I am a member, is in the process of conducting a thorough study of all aspects of the operations of multinational companies. We will certainly look into the problem of such corporations' alleged speculation against the dollar. I think we will be able to frame well-considered legislation to deal with the problem, if we determine that, in fact, the problem is a real one, and that it requires legislation in addition to that which Under Secretary Volcker assures is already available to the Treasury.

Mr. PROXMIRE. Mr. President, we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified. The yeas 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 Nevada (Mr. CANNON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that the Senator from North Carolina (Mr. ERVIN) is absent because of death in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Florida (Mr. GURNEY), and the Senator from Wyoming (Mr. HANSEN) are necessarily absent.

The Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Nebraska (Mr. CURTIS) is detained on official business and, if present and voting, would vote "nay."

The result was announced—yeas 46, nays 40, as follows:

[No. 70 Leg.]

YEAS—46

Allen	Hollings	Moss
Baker	Huddleston	Muskie
Bayh	Hughes	Nelson
Bible	Humphrey	Pastore
Biden	Jackson	Pearson
Burdick	Javits	Pell
Case	Johnston	Proxmire
Chiles	Kennedy	Ribicoff
Church	Magnuson	Schweiker
Clark	Mansfield	Stevens
Cranston	Mathias	Stevenson
Eagleton	McClellan	Symington
Gravel	McGovern	Taft
Hart	McIntyre	Williams
Haskell	Metcalf	
Hathaway	Mondale	

NAYS—40

Aiken	Dominick	Percy
Bartlett	Eastland	Randolph
Beall	Fannin	Roth
Bennett	Fong	Saxbe
Bentsen	Goldwater	Scott, Pa.
Brock	Griffin	Scott, Va.
Buckley	Hatfield	Sparkman
Byrd, Harry F., Jr.	Helms	Stafford
	Hruska	Talmadge
Byrd, Robert C.	Long	Thurmond
Cook	McClure	Tower
Cotton	McGee	Weicker
Dole	Nunn	Young
Domenici	Packwood	

NOT VOTING—14

Abourezk	Ervin	Inouye
Bellmon	Fulbright	Montoya
Brooke	Gurney	Stennis
Cannon	Hansen	Tunney
Curtis	Hartke	

So Mr. PROXMIRE's amendment (No. 66), as modified, was agreed to.

Mr. HATHAWAY. Mr. President, I ask unanimous consent to insert in the RECORD at this point a communication I have received from the Hon. Paul A. Volcker, Under Secretary of the Treasury for Monetary Affairs, in response to a question I posed in the hearings on this bill.

I asked whether it would be possible to devise a formula for automatic adjustments in currency values in response to changes in certain economic indices. I believe it is essential to search for ways to avoid the monetary crises and abrupt devaluations which have plagued the international monetary system in recent years.

Under Secretary Volcker, in his reply, discusses the problems involved in developing such a formula, from the standpoint of both economic theory and national policy, and concludes that major changes in reserve positions provide the best indicator of payments disequilibrium, and thus of need for adjustments. He encloses a paper which discusses these points in greater detail. I ask unanimous consent that these materials be inserted at this point in the RECORD.

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

WASHINGTON, D.C.,
March 28, 1973.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATHAWAY: This is in response to your letter of March 13, requesting information on the state of inquiry into the possibility of developing a formula for automatic exchange rate adjustment in accord-

ance with economic indices. I should mention that I was not aware that you desired a further response on this question for the record—had I been, we certainly would have attempted to provide any information requested.

The possibility of developing an automatic formula or indicator of the need for exchange rate change has been studied extensively. A bibliography of the major publicly available studies in this area is enclosed.

These studies examine a number of schemes for linking exchange rate adjustments to various economic indices. The most commonly advocated indices have been movements in spot or forward exchange rates or a country's international reserves. Other criteria which have been discussed include movements in various price indices, and in categories of the balance of payments, such as the "basic" balance. Our assessment of the various studies suggests strongly that no single index or set of indices appears to give a reliable enough indication of needed longer run changes in exchange rates to make it desirable or feasible to link exchange rate adjustments automatically to the behavior of an index. Research looking at how various proposals for automatic exchange rate adjustments would have worked in the face of international monetary experience during the postwar period suggests that, while several of these indices might have been helpful guides to adjustment, none is precise enough to serve as a reliable basis for automatic parity adjustments.

In my view, all of the various schemes for automatic adjustment contain three basic problems. First, as indicated above, no single indicator or set of indicators has proved capable of pointing unambiguously and unerringly to the form which payments adjustment should take. Second, even if it were possible to develop such an indicator, I would have strong doubts that it would always point to the exchange rate as the instrument to be used. Important as the exchange rate is, it is not the only instrument of adjustment policy available; nor, in specific instances, will it necessarily be the most desirable. Third, all proposals for automatic adjustment formulae, whether tied to the exchange rate or not, fail to recognize the need and desire on the part of governments to have flexibility of choice in the use of sensitive and powerful economic policy instruments. We believe countries should have the ability to choose from a range of internationally acceptable adjustment policies those best suited to their own particular needs and circumstances.

In developing U.S. proposals for monetary reform, we have attempted to establish a framework within which countries will have effective and equitable incentives to correct their payments imbalances, but will also have needed discretion as to the choice of adjustment policies to be used. Conceptually, and on the basis of historical experience, we believe that major changes in reserve positions provide the best, most comprehensive and least ambiguous indicator of serious payments disequilibrium. We have therefore proposed that movements in countries' reserves be used as a quantitative indicator of the need for payments adjustments. The adjustment actions taken might involve exchange rate changes or other types of measures. While we believe that this indicator would be highly reliable, we also recognize the need to have available provisions enabling the international community to "override" the indicator in cases where it is judged to be wrong.

I am also enclosing a paper presenting the U.S. proposal for the use of a reserve indicator which discusses these questions in greater detail. I hope this information is of use to you. If you have further questions, please do not hesitate to call me.

Sincerely yours,

PAUL A. VOLCKER.

THE U.S. PROPOSALS FOR USING RESERVES AS AN INDICATOR OF THE NEED FOR BALANCE-OF-PAYMENTS ADJUSTMENT

I. INTRODUCTION

1. There appears to be general agreement that a reformed international monetary system should promote prompter and more effective adjustment of balance-of-payments disequilibria. The U.S. proposals are based on the premise that each country will be willing to work within the context of a system that provides strong, equitable and balanced incentives to achieve and maintain external balance.

2. In the U.S. view, the most promising approach is a system in which disproportionate changes in a nation's reserves in either direction serve as objective indicators that balance-of-payments adjustment measures are needed. We visualize a system in which disproportionately large gains in reserves for a particular country indicate the need for adjustment measures to eliminate a balance-of-payments surplus, just as, in any system of convertibility into reserve assets, disproportionately large losses of reserves indicate the need for adjustment to eliminate a balance-of-payments deficit. A variety of adjustment instruments would be acceptable. The purpose of this paper is to develop the logic of this approach.

3. The international monetary system in past years has failed to provide adequate inducements to achieve and maintain balance-of-payments equilibrium, defined as a situation in which external payments are in reasonable balance at normal levels of employment and economic activity, and without inappropriate utilization of controls. This failure was reflected in both large and persistent imbalances, and in recent years in some tendency toward increased use of controls. Deficit countries could often maintain disequilibria for a considerable period through measures distorting trade, capital flows, or the internal economy; they were usually permitted or even encouraged to borrow extensively. (In the case of the United States, this "borrowing" in large part took the form of increased holdings by foreign monetary authorities of U.S. dollar obligations.) Surplus countries, able to accumulate reserves more or less indefinitely, felt under even less pressure to adjust, and an increasingly common response has been controls on the inward flow of capital.

4. Viewed from the perspective of a single country—particularly a country in a relatively advanced stage of development—balance-of-payments surpluses have been considered a more comfortable and more desirable state of affairs than deficit or balance. A surplus country could avoid the politically ambarrassing adjustment actions which a deficit country might be forced to take. A strong trading position was frequently considered a vehicle for domestic economic expansion and maintenance of full employment. A persistently strong currency and large reserves might be felt to provide useful protection against unexpected external influences, and even to symbolize prudent economic management. Prior to the introduction of the SDR scheme, the system depended on balance-of-payments disequilibrium for growth in reserves—growth in global reserves over time could be accomplished only as other countries ran surpluses offset by U.S. deficits, financed through an expansion of U.S. liabilities.

5. Some of these incentives to run surpluses were recognized in the discussion leading up to Bretton Woods, and they were reflected in the strictures placed on competitive devaluation. Nevertheless, while overt competitive devaluations have not been important, many countries still more or less consciously have aimed for payments surpluses and adapted their economic policy instruments to that end. At the very least, surpluses were tolerated while deficits were a source of concern and action. There was nothing in the system to assure compatibility of nations' balance-of-payments objectives—nothing to assure that the surpluses which many countries sought would be offset by targeted deficits in equal amounts on the part of other countries.

6. Within this general context, there were systematic tendencies for surpluses and deficits to fall in a particular pattern. From the viewpoint of the United States, as the largest unit in the world economic system and in important ways in the least flexible position, these pressures toward surplus and currency underevaluation by others have had their counterpart in a persistent deficit in its own accounts. It was long felt inappropriate, in the light of the disturbing implications for stability in world financial markets, for the United States to initiate exchange rate action to correct this deficit. When the imbalance increased substantially and such action was undertaken the resistance by its trading partners seemed to confirm their reluctance to lose a surplus position as well as to demonstrate the difficulty of achieving the needed adjustment in the absence of agreed criteria for reconciling balance-of-payments objectives. From the viewpoint of some other countries, the mechanism that permitted the chronic U.S. deficit and their surpluses to persist—namely, the tendency for that imbalance to be financed, in part, by increased dollar holdings of other countries—indicated that the United States was not subject to the usual constraints of a deficit country. In concept, the introduction of the SDR successfully freed the system of the need for continuous U.S. deficits to meet reserve needs. But by itself that reform was not sufficient to change the basic bias in the system.

7. While the system operated satisfactorily for a number of years—in fact it may have been preferable to any realistic alternative—it was a system of continuous imbalance, of protracted disequilibrium. From the viewpoint of both the U.S. and other nations, the results were increasingly unsatisfactory, creating major stresses that undermined stability. The system failed, in the end, because it depended on a measure of broad equilibrium for sustained satisfactory operation, yet failed to induce the adjustments required to achieve equilibrium. The actions taken by the United States on August 15, 1971, signaled the untenability of the previously existing arrangments. The interim arrangements developed since that time, including the Smithsonian Agreement of December 1971, do not provide a long-term solution to these problems.

8. The U.S. proposals for a future system are designed to encourage equilibrium by promoting needed adjustments actively, rather than simply prohibiting unwarranted moves; and to apply equivalent incentives for adjustment evenhandedly to all nations. The proposals are evolutionary, in the sense that they would build on certain areas of widespread agreement incorporated in past arrangements: the SDR, convertibility, the prohibition on competitive devaluation, and emphasis on the need for international financial arrangements to support liberal trade and payments. They would differ from the past in building these and other elements of the system into arrangements for actively promoting adjustment, reconciling balance-of-payments objectives, and overcoming the systematic bias toward surpluses.

II. THE NEED FOR OBJECTIVE CRITERIA

9. The U.S. proposals take as a point of departure that the stability and durability of a new monetary system will be crucially dependent on finding an equitable and effective means of promoting the adjustment of external imbalances.

10. In approaching that objective, we be-

lieve success is dependent upon finding an appropriate blend among there possible approaches, each of which contains some advantages, but none of which is satisfactory by itself. The three approaches are:

(a) national discretion—a degree of which is essential in a world of sovereign nations and desirable in allowing maximum practicable freedom of action among individual countries, but which, relied on alone, assures neither equilibrium nor an equitable sharing of adjustment responsibilities;

(b) discretionary authority of a central institution—which can bring to bear the influence and collective wisdom of the entire world community on particular adjustment problems, but which can lead to endless debate, indecision or unbalanced decisions in a potentially politically charged atmosphere, and which requires at least the appearance of ceding more authority to an international body than nations will yield at this stage of interntional development; and

(c) objective criteria—which can be helpful in establishing measurements for indicating adjustment needs for various nations and various situations on a standardized basis, but which do not unerringly point to appropriate adjustments or permit needed discretion by national authorities.

11. The U.S. proposal aims at a balance among these approaches—to utilize the advantages of each, while avoiding the disadvantages which might result from excessive or single-minded reliance on any of the three. We propose that objective criteria be established to note and locate the existence of an undesirable degree of balance of payments disequilibrium, and to create a strong presumption that effective adjustment policies should be implemented. But we would leave to the country concerned substantial discretion in determining the composition of those adjustment policies. And international consultations would be utilized to determine the applicability of the criteria to particular situations and to consider exceptional cases in which the rules might be overriden.

12. Use of objective indicators as an important element of the adjustment mechanism appears essential on grounds of efficacy and equity. Adjustment decisions are frequently difficult for any government, and there is a tendency to postpone and avoid such decisions until long after the time when adjustment policies should have been adopted. Equally, international groups are reluctant to deal promptly with difficult and politically sensitive adjustment questions. Without objective indicators there is a danger that needed actions will not be taken. It is much better to get advance agreement in principle that when certain internationally agreed indicators, recognized as being objective, signal adjustment is needed, there will be a strong presumption that appropriate measures will be adopted—but recognizing there might be valid reasons for overriding the indicators in exceptional cases. Such an approach is much more likely to result in equal treatment for all nations: it would call for comparable adjustment inducements for all countries—whether large or small, developed or developing, reserve currency country or not—to eliminate payments disequilibria, whether surplus or deficit.

III. ADJUSTMENT, RESERVES, AND CONVERTIBILITY

13. The U.S. proposals assume that most nations will want to maintain established values for their exchange rates—par values or central rates—in conjunction with a generalized system of convertibility of national currencies into international reserve assets. In a system of established exchange values and convertibility, there is a close relationship between balance-of-payments disequilibria and reserve changes. Accordingly, in our view the single most valid indicator that a country is in actual or emerging disequilibrium—as well as the most readily available, the most comprehensive, and the least ambiguous—is a persistent movement of its reserves in one direction or another.

14. To be viable, a convertibility system must be capable of satisfying the sum of individual countries' normal needs for and secular growth in reserves. Nations individually, either explicitly through formulation of overt balance-of-payments objectives, or more implicitly through their behavior, express an effective demand for reserves. Unless the international monetary system is capable of meeting these national demands in the aggregate and changing the level of reserves to meet changes in such needs over time, a satisfactory reconciliation of national balance of payments aims, and therefore sustained balance-of-payments equilibrium, cannot be assured. For if reserves are not adequate to these demands in the aggregate, nations are incapable by definition of reaching their desired reserve positions simultaneously. A decision to provide the system with too few reserves induces—and sanctions—a destabilizing and ultimately fruitless competition for scarce reserves. Creation of too many reserves pushes too great a share of the adjustment pressures onto surplus countries and facilitates world inflation.

15. A critical defect of the system in the past was that while it tried to promise unlimited convertibility, and while fundamentally it required a broad measure of balance-of-payments equilibrium for sustained operation, it did not provide the supply of acceptable reserve assets or the discipline on adjustment policies necessary to achieve these objectives. A basic feature of the U.S. proposal is that nations must, through the process of negotiation, reach a collective decision on the appropriate normal stock and rate of increase of reserves, and be prepared to accept the consequences of that decision in terms of their own individual reserve positions and their own freedom of action to run surpluses or deficits.

16. It would be essential in the proposed system that countries regard their balance of payments disequilibria, whether surplus or deficit, as a source of concern before the agreed indicators came into play. In other words, countries would not be expected to ignore imbalances blithely until their disequilibria had become so extreme as to prompt strong *international* concern through the indicator mechanism. Reserve fluctuations would signal emerging disequilibria; movement to outer indicators signalling strong international concern would occur only when countries failed to make the appropriate responses as the disequilibria built up.

17. Convertibility itself cannot promote adequate or equitable adjustment. Convertibility is in that sense an asymmetrical tool, operating only on deficit countries. In the framework of the U.S. proposal, the inherent link of convertibility to reserve fluctuations would result in broadly symmetrical pressures upon surplus and deficit nations.

18. In short, the logic of the U.S. proposals is that a) better balance of payments adjustment is required and is essential to the maintenance of a convertibility system; b) such an adjustment process, in turn, requires recognition by both surplus and deficit countries of their obligations and responsibilities to take action; c) in that context, objective indicators of the need for adjustment are essential; (d) a broad equality between the availability of, and demands for, reserves in the system must be satisfied; and e) all of these needs can be brought together, in the context of a system of established exchange rates supported by convertibility, by the use of reserve movements as the main indicator of the need for adjustment.

IV. DESCRIPTION OF THE PROPOSED ADJUSTMENT/RESERVE/CONVERTIBILITY SYSTEM

19. These principles could be incorporated into several alternative operational frameworks. Such alternative formulations could, for example, (a) emphasize the use of net or gross reserves as the basis for measuring fluctuations in reserves; (b) focus attention largely on changes in reserves from an existing starting level or on an appropriate distribution of individual countries' reserves in relation to some "objective" standard; and (c) provide for either relatively narrow or relatively wide ranges of fluctuation in reserves before international disciplines come into play. While the underlying principles and logic of the various approaches would be broadly similar, the particular formulation chosen would determine the speed, force and manner with which the adjustment pressures would operate. For its part the United States wishes to continue to examine the advantages and disadvantages of the alternatives with care, and would welcome the contribution toward this effort that others can make.

20. The use of fluctuations in countries' reserves as the main indicator of adjustment need requires a judgment about a "base" level and trend of reserves for each country. Abstracting from transitional problems (noted later), these "base levels" could be established in several different ways. For instance, the distributional pattern of national quotas in the IMF (allowing for any agreed revisions in the future) might represent one approach toward determining a broadly acceptable distribution of reserves in normal circumstances. Another approach would be to give heavy weight to the actual level of reserves at the start of the system for the majority of countries, relying on separate negotiations for those countries whose reserves at the start of the system were judged to be seriously excessive or inadequate. Countries' "base levels," in any case, would be expected to rise over time, consistent with collective decisions about world SDR creation. The manner in which "base levels" should be calculated would clearly be a matter for careful negotiation. What is necessary is that *some* pattern be accepted that is generally satisfactory.

21. Use of reserves fluctuations to achieve an evenhanded stimulus to adjustment will require a broad consistency between the total of established "base levels" for individual countries and the actual supply of reserves in the system as a whole. Conceptually, in a system which did not provide for reserve currencies, this need could be met simply by assuring that the aggregate of gold, SDR's and IMF positions—that is, "primary reserves"—equaled the aggregate of countries' "base levels" of reserves. If in such a system aggregate "base levels" were above total primary reserves, a destabilizing and potentially deflationary competition for reserves could result; if "base levels" were below the total of primary assets, too large a share of adjustment pressures would be shifted toward surplus countries and world inflation might be facilitated.

22. In practice, we assume that some nations will wish to hold foreign exchange in their reserves and should be permitted to do so. Some nations will want flexibility of reserve management, and the system as a whole will benefit from an ability to respond flexibly to sudden and reversible increases in the need for liquidity during periods of strain related to speculative or other factors. Thus, in structuring the proposed system consideration will need to be given to the complication introduced by the existence of a possibly fluctuating margin of foreign exchange holdings. In a convertibility system, foreign exchange holdings are potential claims on primary reserves. Consequently, a stable system must provide enough primary reserves in relation to the whole to meet reasonable demands for conversion of these potential convertibility claims and/or must limit demands for conversion by individual countries

that would otherwise claim an excessive proportion of the available supply of primary reserves.

23. There are a number of complementary approaches which could reconcile the existence of foreign exchange holdings in reserves with the stability and even-handed working of a system of reserve indicators. One approach would be to equate the aggregate of "base levels" with the total of primary reserves and provide limits on the disproportionate accumulation of primary reserves by a country above its base level. Some assurance against excessive claims for primary reserves growing out of past accumulation of foreign exchange could also be provided by arrangements providing for bilateral or multilateral funding of existing foreign exchange reserves to the extent the holder wished to fund such balances, or by a facility for exchange of such balances—initially or over time—into SDR's. These aspects of the question should receive careful study, but are not further considered here.

24. Under a reserve-indicator system, certain points would be established above and below each country's base level to guide the adjustment process and to assure even-handed convertibility disciplines. Such points would be set according to uniform procedures for each country, and could be described as follows, again abstracting from special arrangements that would be appropriate during a transitional period.

(a) A "low point" would be set at some point below the "base level." In concept, this might approximate a level of reserves considered to be close to the minimum level ordinarily necessary to maintain confidence and to guard against extreme emergencies. If a country's reserves fell below its "low point" for a period of time, definite adjustment pressures would be anticipated and acceptable adjustment measures would be expected. In the absence of adequate policies over a specified period, international sanctions—for example, refusal to provide credit, or loss of scheduled SDR allocations—might become effective. Such sanctions would be avoided only if the IMF, through approval of a satisfactory program of adjustment, made a finding that sanctions were not warranted. Negotiated credits to deficit countries would ordinarily be permitted—but excessive or prolonged borrowing to circumvent the indicators would not be allowed.

(b) A "lower warning point" would be set at a point between a country's "base level" and the "low point." Small devaluations would be freely permitted a country at any time its reserves were below its base level. Proposals for larger devaluations would always require IMF approval; such proposals would not ordinarily be looked upon with favor unless a country's reserves had fallen below its "lower warning point."

(c) An "outer point" would be established above a country's "base level." As a country moved toward its "outer point," it would be expected to apply adjustment measures of progressive intensity. If reserves rose to the "outer point," remained at or above that level for a specified period, and an adequate program of adjustment were not in place, international action to induce adjustment would take effect. For example, the IMF might authorize other countries to impose general import taxes or surcharges against the country concerned, there might be a loss of scheduled SDR allocations, or there might be a tax on the country's excess reserve holdings with proceeds to go to development assistance. Such sanctions could be avoided, or postponed, only if the IMF made a positive finding they were not warranted, on the basis of an agreed program of adjustment—involving, for example, major moves toward liberalization of import restrictions, removal of any controls on the outward flow of capital, provision of concessional untied aid, or revaluation. Standards should be developed for judging the adequacy of such programs and their consistency with progress toward a liberal world economic order. If reserve gains persisted despite the agreed program, authorization for sanctions would, after a further period, take effect. In any event, the IMF would review the country's position periodically, and make such recommendations and authorizations as it deemed appropriate.

(d) An "upper warning point" would be set between the "base level" and the "outer point," analagous to the lower warning point, representing an international judgment that adjustment is called for. The IMF would be expected to report on the country's balance of payments position and prospects, and revaluation or other adjustment measures would be anticipated.

(e) Depending on the volume of total reserves relative to primary reserves in the system, this "upper warning point" might coincide with a "convertibility point" representing the maximum accumulation of *primary* reserves for each country that would be justified, consistent with the level of aggregate primary reserves in the entire system, for the convertibility mechanism to operate equitably with respect to both deficit and surplus countries. Both to provide an incentive for adjustment, and to prevent countries from placing further convertibility pressures on others, a country reaching such a "convertibility point" would be unable to acquire additional primary reserves, through either purchase or SDR allocation.

25. A reserve-indicator system such as the one sketched above should be supplemented and elaborated by consultative procedures within the IMF concerning adjustment programs and problems. For such procedures to be effective, national policy officials at a politically responsive level should be drawn into the process. Such IMF review could take into account supplementary criteria in considering the nature and magnitude of any need for adjustment.

26. Countries would not be expected to delay adjustment action until they had reached the indicator points. The purpose of a reserve-indicator system is to provide strong incentives for countries to act in limited steps, using a variety of tools suited to their circumstances before their situation becomes so urgent as to involve international concern and action. Moreover, while countries would at given points be brought under overt international pressure for adjustment, they would still have a range of policy options at their disposal. The range of "acceptable adjustment measures" for the system would, however, be limited to those consistent with market mechanisms and a liberal world trade and payment order. Exchange rate changes are not seen as the only, or necessarily the most desirable, means of adjustment in all cases.

27. Even though the aim of the system is to promote equilibrium, some scope for fluctuation in reserves is obviously necessary and desirable. No workable system can or should try to assure lock-step economic performance from 124 nations differing greatly in size, stage of development, and economic circumstance. Through the process of negotiation, an international consensus should be reached in defining the indicator points so as to get "enough" elbow room for some fluctuation in reserves to meet transitory payments imbalances, but not "so much" that adjustment is inappropriately delayed.

28. The reserve-indicator system should be designed to permit countries maximum flexibility to the extent compatible with maintaining the system's basic principles:

(a) As noted, a *small* devaluation without requirement for approval might be permitted at any time a country's reserves were below base level. Small revaluations might be permitted at any time. While in practice, situations would seldom, if ever, arise for withholding international approval from larger revaluations, restraint will continue to be necessary to guard against competitive devaluation.

(b) A country could opt for a transitional float, under agreed rules, in lieu of a discrete exchange rate change. If it intended to reestablish and maintain a central value for its currency within a given period, a reserve-deficient country could be permitted, under suitable guidelines, to increase its reserves toward its base level. If a country's reserves were above its base level at the time of initiation of the transitional float, it would not be permitted further reserve accumulation.

(c) A country could depart from the regime of established parities to float for a period of indefinite duration but only if it adhered to internationally agreed standards that would assure the consistency of its actions with the basic requirements of a cooperative order. These standards would relate, for example, to movements in its reserves, its intervention policies, elimination of controls on the inward flow of capital, avoidance of restrictive trade controls imposed for balance-of-payments purposes and elimination of any existing extraordinary balance-of-payments measures. Exchange rate systems nominally establishing a central or par value but envisaging very frequent changes such as those now in force in some less developed countries, could be integrated with this rule.

(d) Any group of countries in the process of forming a monetary union—with an implicit high degree of political and economic integration—could choose to operate as a unit. In this instance, the relevant criteria would be applied to the unit as a whole, which would be expected to speak with one voice in international forums. The reserve norms for the unit would have to be recalculated to reflect external trade and appropriate treatment of intra-unit assets.

(e) On a selective basis, consideration should be given to special arrangements for exclusion from reserves, and thus from measurements of adjustment need, of an "investment fund" of foreign securities or other foreign assets held by official agencies. Such funds might be appropriate for selected countries that wanted to hold over a prolonged period of time within official accounts (or with official inducements), foreign assets for long-term investment purposes. Such countries could be asked to observe certain criteria with respect to term, size and nature of the holdings. Oil producing countries with relatively large external assets would be candidates for such arrangements.

(f) Negotiated official credits (including IMF credits) should be permitted. Satisfactory procedures for the recording of such credits under the reserve-indicator system would need to be devised.

(g) In general, the system should neither ban nor encourage official holdings of foreign exchange. However, in the context of the proposed system, such holdings would presumably not loom so large relatively as in recent years. Each country should have the right to place limits on the further accumulation of its own currency of issue by official instructions in any other individual country or group of countries. Each country that chose to permit foreign official holdings of its currency must provide reasonable and normal investment facilities for those holdings.

29. The United States proposal neither gives special rights to nor imposes special obligations on any country or group of countries. It assumes a monetary system in which all countries are treated equally. All would have the same freedom to use the full exchange rate margins permitted in the system. All would have the same rights to allow their currencies to float, transitionally or indefinitely, under the same internationally agreed rules of behavior and surveillance. All maintaining established values for their currencies would have the same obligation to

assure convertibility of their currencies—meaning that officially held balances of foreign currencies could be freely presented to the issuing country for conversion into primary reserve assets, with the choice among SDR's, reserve positions in the IMF and gold to be made by the issuing country.

V. TRANSITIONAL ARRANGEMENTS

30. At the present time there is a highly unbalanced pattern of reserves and balance-of-payments positions among the major industrial nations. Unquestionably there would be a need for special transitional arrangements to put into being the system proposed by the United States. Various approaches for dealing with these problems can be developed. For example, proposals that have been put forward for funding, consolidating or otherwise dealing with foreign exchange balances which holding countries may regard as excess may be particularly relevant. The U.S. has an open mind on particular arrangements that might be proposed. We merely want to note that some generally acceptable transitional arrangements are necessary. This transitional problem is not unique to the proposed system. Any monetary system based upon concepts of equilibrium and convertibility will require special measures to deal with transitional problems.

VI. SOME QUESTIONS ABOUT THE PROPOSALS

31. Three questions which might be raised about the operational feasibility of the U.S. proposal are discussed below. These questions could arise under any system based on reserves as an indicator of adjustment need. Indeed, we should note comparable problems will arise, perhaps in a different form, in any par value-convertibility system, and often in more severe form.

32. The first question is: Is it possible to *define* reserves so as to assure they are useful and accurate criteria?

33. Based on reserves as the key indicator of disequilibrium and the need for adjustment, the system proposed by the U.S. depends on clear and reliable definitions of what constitutes both primary and total reserves, to assure that they give the appropriate signals in a given situation and to assure that the rules cannot be easily circumvented by artificial reserve transactions or concealment of reserves.

34. Primary reserves are more easily defined. They would consist of SDR's, reserve positions in the IMF, and monetary gold. There would be a precise and known amount of primary reserves for each nation and for the system as a whole.

35. Primary reserves would, of course, be widely transferred among nations for settlement purposes. Primary reserves might also be borrowed and lent. In order to assure the consistency of the aggregate level of primary reserves in the system with the operation of the system, appropriate rules would need to be devised to assure against double counting of primary reserves. For example, it might be agreed that lending and borrowing should not increase the calculated primary reserves of the borrower, nor reduce those of the lender.

36. Definition and measurement of reserves other than primary reserves have in the past been more complicated and more ambiguous. Possibilities for evading the adjustment rules might arise unless there were agreement on a suitability broad definition of what constitutes reserves. An appropriate approach to this problem would be to start from a very broad definition of reserves—all official claims on foreigners, liquid or non-liquid, whether held by or on behalf of the monetary authorities or by other government agencies. Exceptions would be made as appropriate. Long-term aid loans, for example, and normal export credits would presumably be omitted; approved "investment funds," as described above, would be excluded—though care must be taken that such funds not be used as a subterfuge for reserve increases. At any rate, with experience in operating the system, technical discussions would probably help to refine the definitions, so as to reduce the risks of window-dressing and make the system function as effectively as possible.

37. The second question is: How do we deal with problems of *heavy speculative capital flows?*

38. Speculative problems will be a factor in *any* system—indeed, they proved to be a critically important factor in the Bretton Woods system. The system proposed by the U.S. actually contains a number of features which should reduce the problems of speculation, as compared both with the past and with other approaches to reform of which we are aware.

39. The proposal aims at a system which fosters balance, and prompt adjustments to restore equilibrium, through a variety of adjustment measures. Thus, the persistent payments imbalances which in the past were a major factor in generating massive speculative capital movements would be eliminated or sharply diminished.

40. With the system based broadly on the concept of equilibrium, it cannot be overemphasized that national behavior which is truly in the spirit of this concept must help to assure that crisis points are not reached. The existence of the various indicator points on reserve movements does provide limits on disequilibria, and it is possible that movement close to those limits could stimulate some speculative activity, just as very large reserve gains or losses trigger speculative activity in the present system. But for fully satisfactory operation of the system, countries should endeavor to adjust their positions as the disequilibria emerge, and well before they reach the extremes, both because of the consequences involved in reaching the limits, and because they have accepted external balance as a practical, operative balance-of-payments objective. If a country persists in avoiding adjustment, it will eventually—and appropriately—be subject to the disciplines of the system, including speculative pressures. Much as in the past system, adjustment of some kind becomes unavoidable when disequilibria become extreme. What is missing in the past and present systems, and what the proposed system attempts to provide, is a real incentive for needed adjustment to occur before it is forced by crisis.

41. Also, the proposal has to be looked at in the context of a system of adequately wide exchange rate bands, which would be expected to reduce the prospect for large capital flows significantly.

42. Nonetheless, even with an improved adjustment system there could still be some question of whether false signals could result from speculative capital flows. The answer is that the proposed system contains several important "safety valves." First, there are areas, or zones, within which reserves can move in response to speculative or other pressures without bringing overt international requirements for adjustment measures. Second, there is a time factor envisaged at both the "low point" and the "outer point" which would provide scope for speculative or other flows to occur and reverse themselevs, without bringing strong international action to induce adjustment. (This factor could also play an important role in inhibiting speculative movements themselves.) Third, if a nation were pushed across its "outer point" by, say, a heavy inflow of speculative capital, and remained above that point, it need not necessarily appreciate its exchange rate—the requirement is for any "acceptable" adjustment program. Fourth, if the reserve increment were due to capital inflows based on unfounded speculation on an exchange rate change—and the IMF agreed that basic adjustment was not needed—a program dealing exclusively with that problem in an internally acceptable manner would presumably satisfy the international community. The international community could vote to override the reserve indicators in a case where the signals are judged to be obviously wrong.

43. In discussing these "safety valves," however, it should be remembered that signals are not necessarily "wrong" simply because speculative capital flows arise—such flows may indicate a genuine need for adjustment measures. The system cannot enable nations to avoid *needed* adjustments simply by blaming their problems on speculation.

44. The third question is: Aren't reserve indicator *retrospective* and insufficiently refined, pointing to past maladjustments rather than present or future needs and unable to take account of the composition of the balance of payments?

45. Reserves are more comprehensive, more reliable and more quickly available indicators than other criteria of external balance. While reserves may be distorted in the short run, no other single series provides a superior basis for analysis. In a convertibility system, reserve data are necessarily indicative of disequilibrium in the adjustment process: this has always been understood in terms of inducements to adjust for deficit countries—and the concept applies with equal logic to adjustment needs of surplus countries. While other data may provide useful information affecting international judgments of adjustment need, such data should be supplementary.

46. It would, of course, be helpful to have *reliable* indicators of future economic performance. But we don't. It would be useful to know each nation's balance-of-payments position for the next year or two or three—but the present state of the art does not provide data of such reliability that governments can place primary reliance on them in formulating policies for the future. Nor are governments likely to agree on any given assessment of prospects. Attempts to rely on such projections can lead to endless disputes. One has only to recall the discussions prior to the Smithsonian Agreement, of prospective cyclically adjusted current account balances, to realize the opportunities for disagreement.

47. The U.S. proposal does envisage that such "supplementary criteria" as are available should be used to assist the reserve indicators in pointing to adjustment needs. In particular, some countries may have objectives with respect to certain elements in their balance of payments, such as for the current account. And these elements in some cases may be considered more stable. Since inconsistent objectives in that respect could inhibit the process of balance-of-payments adjustment, attention to current account results and objectives could be useful. However, in the end we will require a consistency in the total balance-of-payments results (as reflected in reserve movements) and primary attention to one sector of the balance of payments, however important, would not be consistent with this requirement.

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Mr. TAFT. Mr. President, I call up amendment No. 52, as modified, on behalf of Mr. BELLMON and myself and ask unanimous consent that the Senator from Wisconsin (Mr. PROXMIRE) be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. BARTLETT). Without objection, it is so ordered. The clerk will state the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

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) or pursuant to subsection (d) below, 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 and net lending 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 sixty 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 sixty-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 receipts 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, 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 (i)(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.

(o) In order to assist Congress in its efforts to prevent expenditures and net lending during the fiscal year ending June 30, 1974, from exceeding $268,700,000, the President shall promptly report to Congress any revised estimates of total expenditures and net lending for fiscal 1974 which have been made by the Office of Management and Budget for those budget categories listed in subsection (b), and any other revised estimates of total expenditures and net lending for fiscal 1974 which have been made by the Office of Management and Budget.

(p) For the purpose of effectuating the provisions of subsection (b) the amount of any single budget account which shall be considered to be available during fiscal 1974 prior to any reservation which may be made pursuant to subsection (b) shall be the amount made available for such budget account for obligation by the Congress during fiscal 1974, or in the case of a budget account available for obligation in more than one fiscal year, the estimated amount to be obligated during fiscal 1974 in the Budget of the United States Government for fiscal year 1974.

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

Mr. TAFT. Mr. President, I yield to the distinguished majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent, if I may have the attention of the Senate, that the pending business be laid aside until the hour of 12 o'clock noon, Wednesday next.

Mr. TOWER. Mr. President, if the distinguished majority leader would yield, I think that if the Senator would perhaps propose the entire unanimous-consent request, the Members of the Senate would be more familiar with the matter.

Mr. MANSFIELD. Mr. President, I yield to the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader, after having consulted with various Senators on both sides of the aisle, to propose the following unanimous-consent request:

That further debate on S. 929, the dollar revaluation bill, be limited to 4 hours; that time on any amendment thereto be limited to 1 hour; that time on any amendment to an amendment be limited to 30 minutes; that time on any debatable motion or appeal be limited to 30 minutes; that time under the control of the managers of the bill may be yielded to any Senator on any amendment, debatable motion or appeal;

Provided further that no nongermane amendment be in order with the exception of any nongermane amendments which may be at the desk at the close of business today, regardless of their germaneness;

Provided further that any amendment dealing with ceilings or impoundments may be in order regardless of its germaneness;

Provided further that the time on the bill is to be under the control of the distinguished manager of the bill, the Senator from Alabama (Mr. SPARKMAN), and the distinguished Senator from Texas (Mr. TOWER), with the time on any amendment, debatable motion, or appeal to be divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. MANSFIELD subsequently said: Mr. President, the Senate may recall that before the unanimous-consent request was made, I had made a unanimous-consent request which I had intended to incorporate in the request that has just been agreed to.

Mr. President, I ask unanimous consent that the pending business, S. 929, be laid aside until the hour of 12 o'clock noon, Wednesday next, at which time it will become the pending business again, at which time the distinguished Senator from Ohio would be recognized for the consideration of his amendment, and at which time the limitation already agreed to would begin to run.

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

The unanimous-consent request reads as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, effective Wednesday, April 4, 1973, during the further consideration of S. 929, a bill to amend the Par Value Modification Act, debate on any amendment shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment and the manager of the bill, the Senator from Alabama (Mr. SPARKMAN), and that in the event that the manager of the bill is in favor of any such amendment, the time in opposition thereto shall be controlled by the minority leader or his designee; and that debate on any amendment to an amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of the amendment and the author of the amendment in the first degree, and that in the event that the author of the amendment in the first degree is in favor of the amendment, the time in opposition thereto shall be controlled by the manager of the bill; and that debate on any debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover and the manager of the bill, and that in the event that the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided*, That no amendment that is not germane to the provisions of the said bill (except those at the Desk at the close of business Thursday, March 29th, or those dealing with expenditure ceilings or impoundments) shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Texas (Mr. Tower) and the Senator from Alabama (Mr. Sparkman): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion or appeal.

CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY AND THEFT ACT OF 1973

Mr. MANSFIELD. Mr. President, I move that the Senate turn to the consideration of Calendar No. 84, S. 13, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

Calendar No. 84, 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.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill.

Mr. SCOTT of Pennsylvania. Mr. President, I rise to point out that this is the first of a series of five crime bills, so that Senators may be on notice that following action on this bill it is expected that other crime bills will be called up. I did not mean to say that crimes will be perpetrated.

Mr. MANSFIELD. Many of them are perpetrated on the floor, I am sure.

Mr. SCOTT of Pennsylvania. At any rate, other crime bills will be called up. I was going to ask whether they would be brought up today or tomorrow or when.

Mr. MANSFIELD. Mr. President, it is anticipated that they will be brought up today.

These bills were passed unanimously in an omnibus package by the Senate last year. They were not taken up in the House. It would be the hope of the leadership that no one would request a roll-call vote, because basically there is no opposition to them.

I express that hope because some of our Members on both sides of the aisle would like to get away at a reasonable hour. And if we finish this bill at a reasonable hour, we will go over until Monday. If not, we would have to go over until tomorrow.

I would like the Members of the Senate to keep that in mind. There is certainly no doubt how anyone feels on any of these bills.

Mr. SCOTT of Pennsylvania. That is why I spoke with malice prepense. I hope that Senators will find it possible to cooperate. These bills, I am told, are noncontroversial.

Mr. MANSFIELD. Quite the contrary, Mr. President, I think they fit in very well with the splendid crime message sent down by the President on yesterday, which shows that the crime rate has gone downward.

May I say to the distinguished Republican leader that if we finish these crime bills today, we will go over until Monday.

On Monday we will take up the meat inspection bill and also the bill authoriz-

ing an additional appropriation for an international center for foreign chanceries.

On Tuesday we will have the vote on the veto.

Mr. SCOTT of Pennsylvania. Do we have a time limitation on that measure?

Mr. MANSFIELD. We do. The time will begin to run at 12 o'clock.

Mr. SCOTT of Pennsylvania. Mr. President, I thank the distinguished majority leader.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Nebraska, the ranking member of the Judiciary Committee, may be allowed to have Mr. Lazarus of his staff on the floor at this time.

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

Mr. BAYH. Mr. President, I make the same request in behalf of Mr. William Hickman and Mr. Mike Helfer.

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

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the following members of the staff of the Subcommittee on Criminal Laws and Procedures may be allowed the privilege of the floor of the Senate during the consideration of S. 13, S. 15, S. 33, S. 300, and S. 800: G. Robert Blakey, Paul C. Summitt, and Dennis C. Thelen.

Mr. HRUSKA. Including the votes, if any, thereon.

Mr. McCLELLAN. Yes; including the rollcall votes, if any, on these measures.

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

CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY AND THEFT ACT OF 1973

The Senate continued with the consideration of the bill (S. 13) to amend title 18 of the United States Code to provide civil remedies to victims of racketeering activity and theft, and for other purposes.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is S. 13 the pending business?

The PRESIDING OFFICER. S. 13 is the pending business.

Mr. McCLELLAN. Mr. President, S. 13 was introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA). Its provisions also reflect S. 742, introduced by the distinguished Senator from Nevada (Mr. BIBLE). They would extend certain of antitrust type remedies—injunction, treble damages, and so forth—to the victims of the typical techniques employed by racketeers to invade legitimate businesses. They would also strike at the problem of cargo theft by enabling persons entitled to legal possession of goods to sue for treble damages persons responsible for stealing, buying, or reselling goods moving in interstate commerce.

This legislation was introduced last year as S. 16 and S. 2426. It was also processed by the Subcommittee on Criminal Laws and Procedures—see hearings, supra. It was reported by the Judiciary Committee on August 16, 1972—see Senate Report No. 92–1070, 92d Congress, second session—1972. And it passed the Senate by a record vote of 81 to 0 on September 5, 1972—see CONGRESSIONAL RECORD, volume 118, part 22, page 29379. No action was taken by the House.

Since there was no objection last year by the Senate to the passage of this bill, and I know of none this year, I think that further debate is unnecessary.

However, I notice the distinguished ranking minority member of the Subcommittee on Criminal Laws and Procedures is present. I am delighted to yield the floor to him for his comments.

Mr. HRUSKA. Mr. President, I am pleased to join the distinguished chairman of the Subcommittee on Criminal Laws and Procedures as a cosponsor of S. 13, the Civil Remedies for Victims of Racketeering Activity and Theft Act of 1973, and I now take pleasure in urging Senators to support the measure as reported.

A similar bill (S. 16) passed the Senate last year, but, unfortunately, it did not receive action in the House. It is hoped that the measure will receive House consideration this year.

The Department of Justice supports the enactment of S. 13 with the expectation that it will afford civil remedies to those victims who suffer loss due to theft or embezzlement of cargo by allowing injunctive relief and civil actions to recover threefold actual damages and costs of the action.

I salute the senior Senator from Arkansas for his imagination and initiative in processing the bill and for bringing it to the point of Senate passage.

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

Mr. BIBLE. Mr. President, may I commend the distinguished senior Senator from Arkansas (Mr. McCLELLAN), chairman of the Subcommittee on Criminal Laws and Procedures of the Judiciary Committee, for the prompt and efficient manner in which his subcommittee has reported this series of anticrime bills for Senate action. His concern for victims of all types of crime merits great commendation, because government in our society these days is unable to protect the lives and property of our citizens.

For the benefit of other Senators, may I trace the background of S. 13 and indicate just how deeply the problem has been examined. It was my pleasure to first propose this legislation (S. 2426) in August, 1971. Through the cooperative efforts of the distinguished senior Senator from Arkansas (Mr. McCLELLAN) and the capable staff of his Criminal Laws Subcommittee, we refined this concept with legislation introduced as my proposed amendments to S. 2994 on December 11, 1971.

We believed at that time and we believe even more strongly today that the Federal tool supplied by this legislation would provide an antitrust-type, treble damage, civil remedy approach to get at all types of property thievery, estimated to cost the American public $16 billion per year.

The Senate Judiciary Committee favorably reported and the Senate subsequently passed, on September 5, 1972, this concept as a part of S. 16, by a vote of 81 to 0. Several weeks later, on September 18, 1972, S. 16 as an amendment (No. 446) to H.R. 8389, a House-passed, drug abuse bill, cleared the Senate for the other body. Because the Congress was approaching sine die adjournment, the other body was unable to consider either measure. Early in this session, steps to enact this anticrime concept were taken again through S. 800 and the identical bills S. 13 and S. 742.

Today the Senate has an opportunity to do what it did in passing this bill last September and move it along to the other body for appropriate consideration.

Mr. President, the genesis of this legislation came out of some 3½ years of hearings before the Senate Small Business Committee, which I have the honor to chair, during which time our committee listened to testimony about thievery of goods from air, truck, rail, and maritime carriers, showing that the American shippers lose over $1.5 billion a year to the cargo thief. These losses are naturally passed on to the American consumer in the form of crime-inflated prices.

Witnesses before our committee have repeated the same theme, that these goods stolen from trucks, railroads, air carriers, and maritime carriers are passed on to unscrupulous buyers for eventual resale in both legal and legitimate markets.

My bill would place a new enforcement tool in the Federal arsenal to reach these criminal dealers, taking the profit out of marketing these stolen goods.

We believe that in past years the criminal fence has been ignored in our efforts to develop measures to curb crimes of theft and burglary. For example, Robert Earl Barnes, one of the better known thieves, said:

> Perhaps the most underrated criminal in the underworld is the receiver of stolen property, the burglar's fence. Few citizens actually understand just how essential the fence is to the burglar. When you think about where your stolen property has gone, don't think about the burglar. He usually doesn't have it, and probably would have trouble getting rid of it alone.
>
> The fences are the key, not only to the burglar, but also to the shoplifter, the petty thief, the automobile-parts thief, mail par-

cel-post thieves, shipping-dock thieves, hijackers, and narcotics addicts—all dealers in merchandise which can be resold in a legitimate market. In connection with all of these criminal acts, the fence indeed plays as major a part as the persons actually doing the stealing. In some cases he may be more important.

Without the receiver of stolen property, none of the burglars—cat burglar, monkey man, or business specialist—could survive. For their efforts, they would have garages full of goods, and merchandise is useless to the thief unless he can sell it.

Mr. President, in my judgment there are two basic elements of a property theft crime: One, the theft itself, and two, the distribution of stolen property. Most prevention efforts have been geared toward combating the crime of theft itself but little is being done to stop the equally, if not more important, aspect of illegal distribution of stolen property or, as it is most commonly known, fencing.

Our Small Business Committee prepared a staff report which analyzed the criminal redistribution systems and their economic impact on small business. Three basic assumptions were made in this report which I think succinctly describe the role of the criminal fence:

First, fences play a vital role in the successful completion of a crime involving a major theft. Without the fence, the theft is a meaningless act.

Second, stolen goods eventually reach a legitimate marketplace. The magnitude of theft is so great that the only reasonable outlet must be to legitimate consumers.

Third, the illegal distribution system from the thief to the marketplace must adversely affect legitimate business enterprises such as storage companies, transporters, manufacturers, wholesalers, retailers, lending institutions, and others who are normally involved in a legal distribution system.

The logic that follows is that whether the theft and distribution process takes place interstate, intrastate, intracity, or even intracommunity, the detrimental effects on legitimate business and commerce have national ramifications.

The logic behind this legislation is to help destroy the thief's market for stolen goods. If a thief does not have a buyer to purchase and resell his "hot cargo," it becomes valueless to him. It is self-evident that if a fence or purchaser of such hot cargo is vulnerable to a lawsuit in a civil proceeding which is governed by a less stringent rule of evidence than a criminal trial, for threefold the fair market value of the stolen goods, then the hot cargo purchaser's marketing ability will be adversely affected, not to mention his pocketbook.

For the benefit of my colleagues, I would like to advise that a number of States are now considering comparable legislation to deal with the intrastate criminal middleman. An example is California, whose legislature last year unanimously passed an act similar to the provisions of this bill.

It was signed into law by Governor Reagan on August 16, 1972.

To acquaint the remaining 49 States with the scope of the problem and to assist them deliberate as to the merits of this approach, I wrote to each of the Governors and provided them with an in-depth background of both the Federal concept and the new California law.

If I remember correctly, in the heyday of the Al Capone reign in Chicago, he was convicted not for murder, theft, the Volstead Act, or other mobster activity, but for income tax evasion. It is now time we go after the modern-day cargo thieves indirectly, too, as this bill proposes and more directly as other pending legislation suggests.

We are hopeful that a coordinated program may evolve, with criminal and civil enactments of legislation at both the Federal and State levels, aimed at dislocating the marketing ability of the criminal fence, thus lowering the value of billions of dollars worth of stolen goods and the ease with which they are reintroduced into legitimate commercial channels.

This, in turn, should result in a substantial lessening of property crimes such as burglary, theft, and shoplifting, while assisting the legitimate merchant to sell his commodities in the markeplace and not compete against the fencing marketeer.

I thank the distinguished Senator for permitting me to provide additional information for Senators with respect to the basis for this legislation. I hope both the Senate and the other body will act expeditiously on this measure and thereby add a new tool to the Federal arsenal of tools to combat this criminal activity, one which nurtures and supports so many forms of thievery for which every consumer pays a higher price in increased costs for goods and services.

Mr. President, I know of no amendments to be offered to the bill. Since there are none, I ask for the third reading and passage of the bill.

The PRESIDING OFFICER. If there are no amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 13) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 13

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 "Civil Remedies for Victims of Racketeering Activity and Theft Act of 1973".

RACKETEER CIVIL REMEDIES

SEC. 1. (a) Section 1964 of title 18 of the United States Code is amended by—

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction".

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking the word "action" in subsection (b) and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) of such section and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger or irreparable loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action before a final determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The United States may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "instituted by the United States"; and

(3) inserting in subsection (d) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a party".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States", and inserting in lieu thereof "or proceeding".

(e) Section 1968 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil

or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

THEFT CIVIL REMEDIES

SEC. 2. (a) Section 659 of title 18 of the United States is amended to read as follows:

"§ 659. Interstate or foreign shipments by carrier; State prosecutions; civil remedies for victims of theft

"(a) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property which is moving as, or which is a part of, or which constitute an interstate or foreign shipment from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform, or depot, or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal, or air navigation facility, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

"(b) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property, which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce, or to break into, embezzle, steal, unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any of the contents of such baggage, goods, chattels, or other property, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing or having reason to know that it has been embezzled or stolen or otherwise unlawfully taken, carried away, concealed, or obtained.

"(c) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce, or from any passenger thereon, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing or having reason to know that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

"(d) Whoever violates any provision of subsection (a), (b), or (c) of this section shall in each case be fined not more than $5,000 or imprisoned not more than ten years, or both; but if the amount or value of such money, baggage, goods, chattels, or other property does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(e) The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to prevent and restrain violations of this section by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct, or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

"(f) The Attorney General may institute proceedings under subsection (e) of this section. In any proceedings brought by the United States under subsection (e) of this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions as it shall deem proper.

"(g) Any person may institute proceedings under subsection (e) of this section. In any proceeding brought by any person under subsection (e) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a temporary restraining order and preliminary injunction may be issued in any action before a final determination thereof upon its merits.

"(h) Whenever the United States is injured in its business or property by reason of any violation of this section, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by the United States, and the cost of action.

"(i) Any person who is injured in his business or property by reason of any violation of this section may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(j) Any civil action or proceeding under this section against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

"(k) In any civil action or proceeding under this section in any district court of the United States in which it is shown that the ends of justice require that any other party residing in any other district be brought before the court, the court may cause such party to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

"(l) In any civil or criminal action or proceeding under this section in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

"(m) All other process in any civil or criminal action or proceeding under this section may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

"(n) The United States may, upon timely application, intervene in any civil action or proceeding brought under this section if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if he had instituted the action or proceeding.

"(o) A final judgment or decree rendered in favor of the United States in any criminal action or proceeding under this section shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(p) Except as hereinafter provided, any civil action or proceeding under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (h) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of this section, the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsection (g) or (i) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.

"(q) A violation of this section shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, chattels, or other property.

"(r) The carrying or transporting of any such money, baggage, goods, chattels, or other property in interstate or foreign commerce, knowing, or having reason to know, it had been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained, shall constitute a separate violation and subject the violator to criminal penalties and a civil cause of action under this section and the violation shall be deemed to have been committed in any district into which such money, baggage, goods, chattels, or other property, shall have been removed or into which it shall have been brought by such violator.

"(s) To establish the interstate or foreign commerce character of any shipment in any criminal or civil action or proceeding under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property. Proof that a person was found in unexplained possession of any money, baggage, goods, chattels, or other property, recently embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section, shall be prima facie evidence that such person knew that such property was, or that such person had, embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception such money, baggage, goods, chattels, or other property in violation of this section. Proof that a person bought or received for consideration substantially below its fair market value money, baggage, goods, chattels, or other property embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section shall be prima facie evidence that such person knew that such property was embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section.

"(t) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any criminal prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject

matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision theerof."

(b) The analysis at the beginning of chapter 31 of title 18 of the United States Code, for section 659, is amended to read:

"659. Interstate or foreign shipment by carrier; State prosecutions; civil remedies for victims of theft.".

SEVERABILITY

SEC. 3. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 4. This Act shall become effective upon the date of enactment.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which S. 13 was passed.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1973

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 85, S. 15.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 15) 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.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments on page 2, line 4, after the word "parts", strike out "G, H, I, and J" and insert "I, J, K, and L"; in line 6, after the word "part", strike out "E" and insert "G"; in line 8, after the word "Part", strike out "F" and insert "II"; on page 7, line 6, after the word "part", strike out "F" and insert "II"; and in line 19, after the word "after", strike out "October 16, 1972" and insert "October 17, 1972".

Mr. McCLELLAN. Mr. President, S. 15 was introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA). It would provide a lump-sum Federal death gratuity of $50,000 to the dependent survivors of public safety officers, including police, firefighters, and correction guards, killed in the line of duty as a result of a criminal act.

This legislation was introduced last year as S. 2087. It was also processed by the Subcommittee on Criminal Laws and Procedures—see Hearings, supra. It was reported by the Judiciary Committee on August 18, 1972 (S. Rept. No. 92-1069, 92d Cong., 2d Sess. (1972)). And it passed the Senate by the record vote of 80 to 0 on September 5, 1972 (CONGRESSIONAL RECORD vol. 118, pt. 22, p. 29379).

The House of Representatives passed similar legislation, a conference was held and a report filed. (See H. Rept. No. 92-1612, 92d Cong., 2d Sess., Oct. 17, 1972.) It was not possible, however, to secure a House vote on the Report prior to adjournment. (See CONGRESSIONAL RECORD vol. 118, pt. 28, pp. 36966 and 37063.)

The text of title III of this proposed legislation is the text agreed upon by the Conference with one exception. The date of the death benefits is made retroactive to the date of the conference agreement, that is, October 17, 1972.

I urge its immediate passage.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Raymond Sifly of the Judiciary Committee staff be allowed the privilege of the floor.

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

Mr. McCLELLAN. Mr. President, I yield now to the distinguished Senator from Nebraska, the ranking minority member of the Criminal Laws and Procedures Subcommittee of the Judiciary Committee.

Mr. HRUSKA. Mr. President, S. 15, the Public Safety Officers' Benefits Act of 1973, has the wholehearted support of this Senator.

On June 4, 1971, President Nixon called for Federal legislation to provide $50,000 to the family of any policeman slain in the line of duty. In the President's words, this was done "in further indication of the administration's support of law inforcement officers across the country."

S. 2087, the subject bill in the last Congress, passed the Senate by a unanimous vote. The House passed another version; a conference was thereafter held and agreement was reached to file a conference report, but the Congress adjourned prior to the time when final action could be taken.

The bill which is currently under consideration is substantially the measure agreed to in the Senate-House conference. The primary amendment of that form of the bill is contained in section 5 of S. 15 and would provide that the effective date of the act be October 17, 1972, so as to authorize a death benefit for public safety officers who have been killed since the day of the agreement reached between House and Senate conferees.

I was pleased to join as a cosponsor of the subject bill and believe it is an appropriate recognition of the support due to State and local policemen, firemen, corrections personnel, court personnel.

I urge its enactment.

Mr. McCLELLAN. Mr. President, I now yield to the distinguished Senator from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, I was pleased to join the able and distinguished Senator from Arkansas and the able and distinguished Senator from Nebraska in introducing this bill. It is a very simple one for the public safety officers of the United States, and I sincerely hope that it will pass.

In recent years many of our public safety officers have been killed by felonious assaults, and it is increasingly apparent that violent crime is spreading. Crime knows no jurisdictional boundary, nor respects the color of a law-enforcement officer's uniform. Each officer, whether sheriff, deputy, highway patrolman, or policeman, must be fully cognizant that death may come to him in the performance of his sworn duties.

The administration supports this measure and believes it is warranted because police officers throughout the country are facing a rising tide of violence and need a minimum death benefit that is not tied into State or local compensation programs.

Public safety officers, dedicated to their law-enforcement careers, are not nearly so concerned with their low salaries as they are maintaining and preserving the security of their families.

Mr. President, this is a vital bill and one of great importance and I sincerely hope that it will be passed.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Safety Officers' Benefits Act of 1973".

SECTION 1. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455 respectively as sections 421 through 425;

(2) redesignating sections 501 through 522 respectively as sections 550 through 571;

(3) redesignating parts F, G, H, and I of title I respectively as parts I, J, K, and L of title I; and

(4) adding at the end of part G of title I of the Act, the following new part:

"PART H—DEATH BENEFITS FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"SEC. 525. As used in this part—

"(1) 'child' means any natural, adopted, or posthumous child of a deceased public safety officer who is—

"(A) under eighteen years of age; or

"(B) over eighteen years of age and incapable of self-support because of physical or mental disability; or

"(C) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code.

"(2) 'criminal act' means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime;

"(3) 'dependent' means a person who was wholly or substantially reliant for support upon the income of a deceased public safety officer;

"(4) 'intoxication' means a disturbance

of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'line of duty' means within the scope of employment or service;

"(6) 'public safety officer' means a person serving a public agency, with or without compensation, as—

"(A) a law enforcement officer, including a corrections or a court officer, engaged in—

"(i) the apprehension or attempted apprehension of any person—

"(a) for the commission of a criminal act, or

"(b) who at the time was sought as a material witness in a criminal proceeding; or

"(ii) protecting or guarding a person held for the commission of a criminal act or held as a material witness in connection with a criminal act; or

"(iii) the lawful prevention of, or lawful attempt to prevent the commission of, a criminal act or an apparent criminal act or in the performance of his official duty; or

"(B) a firefighter; and

"(7) 'separated spouse' means a spouse, without regard to dependency, who is living apart for reasonable cause or because of desertion by the deceased public safety officer.

AWARDS

"SEC. 526. (a) Upon a finding made in accordance with section 527 of this part the Administration shall provide a gratuity of $50,000.

"(b)(1) Whenever the Administration determines, upon a showing of need and prior to taking final action, that a death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under section 527 of this part.

"(2) The amount of any interim benefit paid under paragraph (1) of this subsection shall be deducted from the amount of any final benefit paid to such person or dependent.

"(3) Where there is no final benefit paid, the recipient of any interim benefit paid under paragraph (1) of this subsection shall be liable for repayment of such amount. The Administration may waive all or part of such repayment.

"(c) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by payments authorized by section 12(k) of the Act of September 1, 1916, as amended, 4–531(1) of the District of Columbia Code.

"(d) No benefit paid under this part shall be subject to execution or attachment.

"RECIPIENTS

"SEC. 527. When a public safety officer has been killed in the line of duty and the direct and proximate cause of such death was a criminal act or an apparent criminal act, the Administration shall pay a benefit as provided in section 526 of this part as follows:

"(1) if there is no surviving dependent child of such officer, to the surviving dependent spouse or separated spouse of such officer;

"(2) if there is a surviving dependent child or children and a surviving dependent spouse or separated spouse of such officer, one-half to the surviving dependent child or children of such officer in equal shares and one-half to the surviving dependent spouse or separated spouse of such officer;

"(3) if there is no such surviving dependent spouse or separated spouse, to the dependent child or children of such officer, in equal shares; or

"(4) if none of the above, to the dependent parent or parents of the decedent, in equal shares;

"(5) if none of the above, to the dependent person or persons who are blood relatives of the deceased public safety officer or who were living in his household and who are specifically designated in the public safety officer's duly executed authorization to receive the benefit provided for in this part.

"LIMITATIONS

"SEC. 528. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer."

MISCELLANEOUS PROVISIONS

SEC. 2. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1974, for the purposes of part H."

SEC. 3. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEC. 4. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 5. This Act shall become effective and apply to acts and deaths occurring on or after October 17, 1972.

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE ACT OF 1973

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 86, S. 33.

The PRESIDING OFFICER (Mr. BARTLETT). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 33, 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.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments on page 1, line 4, after the word "of", strike out "1972" and insert "1973"; at the beginning of line 6, strike out "title" and insert "Act"; on page 2, line 8, after the word "through", strike out "521" and insert "522"; and in line 9, after the word "through", strike out "570" and insert "571".

Mr. McCLELLAN. Mr. President, S. 33 was introduced by the distinguished Senator from Massachusetts (Mr. KENNEDY). It would establish a nationwide, federally subsidized program of group life, accidental death, and dismemberment insurance for State and local public safety officers defined to include firefighters, correctional guards, and court officers in addition to police. The plan is patterned closely after the Servicemen's Group Life Insurance program which is available to members of our Armed Forces. Coverage would be at a level of the officer's annual salary plus $2,000, starting from a floor of $10,000 coverage and rising to a maximum of $32,000. The Federal Government would pay up to one-third of the total cost of the premiums, leaving the remainder to be covered by the insured officer or the State or local government.

Where existing State or local group life insurance plans already provide coverage for public safety officers, or where it was desired to establish such a program within a year after the effective date of the bill, eligible officers would choose by ballot between the Federal and the State or local plans. If they chose the State or local programs, it would be eligible for the same subsidy which would go to the Federal plan.

This legislation was introduced last year as S. 33. It was also processed by the Subcommittee on Criminal Laws and Procedures. [See Hearings, supra]. It was reported by the Judiciary Committee on September 13, 1972. [See S. Rept. 92–1124, 92d Cong., 2d sess. (1972)]. And it passed the Senate by the record vote of 61 to 6 on September 18, 1972 (CONGRESSIONAL RECORD, vol. 118, pt. 24, p. 31024). No action was taken by the House.

I urge its immediate passage.

Mr. President, I believe there is opposition to this measure. Therefore, I am glad to yield to my friend from Nebraska (Mr. HRUSKA) who is the ranking minority member on the Judiciary Subcommittee on Criminal Laws and Procedures.

Mr. HRUSKA. Mr. President, I am opposed to the enactment of S. 33 and respectfully request that my colleagues consider my views as set forth in the report of the Committee on the Judiciary relative to the subject bill.

I ask unanimous consent that these views be printed in the RECORD, and I take this opportunity merely to highlight them.

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

EXCERPTS FROM ADDITIONAL VIEWS OF SENATOR HRUSKA

I am opposed to the enactment of S. 33. This opposition does not stem from any lack of appreciation or understanding for the contributions made by public safety officers to all of the citizens of our Nation. Indeed, this Senator was an original sponsor of S. 2087, the Public Safety Officers Benefits Act of 1972, in the last Congress. This bill passed the Senate by a vote of 80 to 0, on September 5, 1972. The House passed another version of the proposal; a conference was held

and agreement was reached to file a conference report, but the adjournment of the 92d Congress did not allow time to take up the conference report.

In the current Congress, I am a cosponsor of S. 15, the Public Safety Officers Benefits Act of 1973, a bill identical to S. 2087.[1] This proposal, which is scheduled for early consideration this year, would provide a $50,000 gratuity to the surviving dependents of public safety officers killed in the line of duty as the result of a criminal act or an apparent criminal act. To this Senator, S. 15 is an appropriate recognition by Congress of its responsibility to provide support for those of our citizens who are in the front lines of our efforts to deter crime in this Nation.

I felt duty-bound to oppose the instant bill in the last Congress and do so again.[2] In my view, it suffers a number of serious defects of both a conceptual and practical nature.

LACK OF NEED

Contrary to the statements made by some of the sponsors of S. 33, there is no established need for this legislation. During the course of its consideration of S. 33, the Subcommittee on Criminal Laws and Procedures contacted approximately 100 life insurance companies across the Nation covering a cross section of small, medium, and large group underwriters.[3] In response to the subcommittee's inquiry with respect to the current availability of group life insurance programs for "public safety officers," there was virtual unanimity in the responses of the insurance companies.[4] Private insurers in this country are ready, willing, and able to supply group insurance to law enforcement personnel. Typical of the reaction of group life underwriters to the question of need was the statement from Nationwide Life Insurance Co.—

"It was somewhat of a surprise to us to read a statement that indicated that insurance programs are not generally available to public safety officers. Nationwide Life Insurance Company makes these programs available to legitimate groups applying for coverage at standard minimum group rates for life insurance * * *."[5]

Any public safety officer interested in group life insurance coverage can easily find numerous insurers looking for an opportunity to serve him. In fact, approximately 82 percent of the 700,000 public safety officers across the Nation have taken advantage of this opportunity and have enrolled in fully or partially paid group life insurance programs conducted under the auspices of State and local governments.[6] This represents a fairly high participation percentage, likely due in no small measure to the fact that under these existing programs, the employer normally pays at least 50 percent of the total premiums involved.[7]

With respect to the cost of existing group life insurance programs, it is a gross distortion of fact to suggest, as some have, that public safety officers pay inordinately high premiums due to any added risks of their profession. The single most important factor in computing premiums for a group life insurance program is the age distribution of enrollees. Since public safety officers as a group are relatively youthful, premiums are low. For example, in New Jersey a group life insurance program covering over 20,000 State and local police and firemen calls for a total premium of $.60 per month per $1,000 of coverage.[8] Compare this with the life insurance protection available to Senate employees which involves a total premium of approximately $.73 per month per $1,000 coverage.[9]

Although the vast majority of life insurance groups covering public safety officers are not "loaded," i.e., charged a higher premium, to cover additional risk across the board as just indicated, that portion of the premium which is attributable to the accidental death and dismemberment feature is in a small minority of cases marginally increased. The most common increase in this regard is $.03 per $1,000 per month.[10] This small difference does little to disturb the basically attractive picture for public safety officers seeking group life protection.

Public safety officers are simply not a high-risk group. General construction workers, miners, bartenders, and longshoremen are rated much higher in risk.[11] Policemen and firemen, with minor exceptions, pay the same rates for group life insurance protection as other employee groups with similar age distributions.

FEDERAL/STATE CONFLICTS

As with so many other aspects of life in this country, Federal assumption of responsibility for life insurance for State and local public safety officers is not the answer. Law enforcement has always been primarily a non-Federal responsibility and function in the United States. It was so conceived at the time of the founding of the Nation and it has remained so. This local responsibility for law enforcement has been an instrumental factor throughout our history in preserving justice and equality during periods of war and peace.

Any effort to establish a national police force has always been strongly resisted by Congress and the great bulk of the citizenry. As recently as the establishment of the Law Enforcement Assistance Administration in 1968 and the numerous crime bills approved in 1970, Congress went on record as approving and adhering to the traditional allocation of law enforcement responsibility to State and local governments. Indeed, the declarations and purpose of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90–351) contained the following:

"Crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively."

This Senator does not contend that Federal life insurance policies will ipso facto result in the creation of a national police force; such a simplistic analysis would be wide of the mark. However, we should be mindful of the maxim that "he who pays the piper calls the tune." A Federal insurance program as envisioned by S. 33 is an additional step away from the traditional policy of having local officials supported primarily by local funds and under local control.

Although the paragraph immediately above sets forth a somewhat academic and general argument with respect to proper State-Federal relations, subpart 2 of S. 33 as presently drafted, in my view all but guarantees the prompt disruption of existing group life insurance programs and is also coercive with respect to the orderly operations of State and local governments.

Subpart 2 would provide assistance to group life insurance programs operated under the auspices of any State or unit of general local government as an alternative to the Federal group life insurance program established by subpart 1.

In order for a State or local group life insurance program to receive a contribution to premiums under S. 33, it would have to be established by date of enactment or within 1 year from the date of enactment. Moreover, there is the additional requirement that eligible public safety officers vote to remain in the existing group. Should they vote to drop out of the State or local program on the other hand, the employer-government must abide by their wishes and seek enrollment under the Federal group established by subpart 1.

One year after enactment of S. 33, all public safety officers desiring a Federal contribution to a group life insurance program would be forced to enroll in the Federal program. This fails to take into account a basic tent of federalism—the differing needs of citizens of different States and localities. In this regard, I can only note that appropriate benefits for public safety officers may differ from one jurisdiction to another. For example, one State may provide substantial death benefits under a retirement program which would obviate any need for large amounts of life insurance. Costs and expenses vary from region to region across the country and are appreciably different in rural and urban areas.

Rather than a single national program of life insurance, separate ones molded to meet the specific and individual needs of the State or community would be far more equitable, workable, and realistic. Other aspects of public safety employment such as pay, working conditions, pension plans, and types of hospitalization coverage are allowed differing regulation from jurisdiction to jurisdiction. Why should life insurance be singled out for special national treatment?

The second disturbing feature of subpart 2 noted above, raises a problem of perhaps greater dimension. A substantial number, if not a majority, of the existing group life insurance programs operated under the auspices of State and local governments include within the group not only public safety officers but also all other employees of the respective government entity.[12] Under the provisions of S. 33, public safety officers may elect against their current enrollment. This would require modification of the existing plans and a potential increase in premiums for the perhaps older enrolees left behind. This points to the inherent disruptive potential of S. 33's "rippling" effect with respect to the order operation of employment affairs by State and local governments.

ANTICOMPETITIVE FEATURE

Section 501(a) of the subject bill requires that the primary insurer of the Federal group life program established by subpart 1 be:

(1) licensed to issue insurance in every State and the District of Columbia; and (2) have control of at least 1 percent of the group life insurance market in the country.

Although this might not sound terribly restrictive at first glance, detailed study would reveal that only the 10 largest group life insurance underwriters in the country could qualify under the provision.[13] Arguably, the class of eligible primary insurers need not be so restricted.[14]

Section 502 of the bill authorizes reinsurance with other life insurance companies which elect to participate in the insurance pool and this provision, to some extent, ameliorates the harshness of section 501. However, the overall effect of sections 501 and 502 is to severely restrict competition in this segment of the group life insurance market. Although small underwriters are allowed to maintain their status quo if they have an identifiable share of the market, they are prevented from increasing their current share of available business. This approach is of dubious validity, in my view, in a multi-employer situation as is the case in these circumstances and it is ironic that this anti-competitive feature has been condoned by the very Committee on the Judiciary which is charged with the responsibility of maintaining the vigil over our laws in the area of antitrust and monopoly.

INEQUITY

If the Senate approves S. 15, the "Public Safety Officers Benefits Act of 1973," referred to above, all that the adoption of S. 33 would mean is that Congress is approving the purchase out of Federal funds of ordinary life insurance to protect against off-duty mishaps and natural events that are not a function of the occupations of public safety officers. Having provided for protection against the

Footnotes at end of article.

risks that are a function of the public safety professions, why should these citizens be singled out for Federal insurance against an automobile accident which occurs on the way to the grocery store or the movie, a fall sustained on a family picnic, or even simply death in bed? There are numerous other citizens, particularly other public service employees, who legitimately may feel that they are entitled to the same consideration.

To the extent that contributions to life insurance premiums are properly considered as just another mode of employees compensation—part of a "wage package," as it were—other State and local government employees would, of course, question the singling out of public safety officers for preferential treatment.

BUDGETARY LIMITATIONS

In addition to the obvious and substantial cost of providing the insurance specified in the bill, there are indications that large administrative and additional expenses would be involved.[15] As public safety officers are now defined, the one-third Federal share of the premium for all public safety officers would be more than $20 million annually. However, this figure does not include the extra expense of collecting the premiums from State and local units of government or administrative costs.

One estimate of this cost of collection and administration is one dollar ($1) per month for every public safety officer insured. This expense would have to be borne by the employing agency or the Federal Government and could amount to approximately $8 million annually for the more than 700,000 public safety officers who would be eligible for insurance under this bill. The appropriation necessary to carry out the purposes of S. 33 should be borne in mind as the Senate considers this bill.

Last year, general revenue sharing became a reality. This revenue sharing program should go a long way in free up State and local funds to meet the increasing wage needs of their personnel.

President Nixon has indicated his desire to hold Federal spending this year to $268.7 billion. By passing ill-conceived and loosely drafted legislation with significant cost considerations such as the subject bill, the Senate would be contributing to mounting congressional pressures for a tax increase.

For the above-stated reasons, I cannot support S. 33. With respect to proper Federal responsibilities, it is my view that S. 15, the "Public Safety Officers Benefits Act of 1973" logically supplants rather than supplements the subject bill. I urge my colleagues to reject S. 33.

FOOTNOTES

[1] See 119 Cong. Rec. S.2262 (Feb. 7, 1973, daily ed.).

[2] See S. Rep. 92–1124, 92d Cong., 2d sess. 1972.

[3] See "Victims of Crime," hearings before the Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate (92d Cong., 1st sess. (1972) at p. 755. (Hereinafter cited as hearings.)

[4] Hearings, pp. 955–1004.

[5] Hearings, p. 991.

[6] Hearings, p. 750.

[7] Hearings, p. 962.

[8] Hearings, p. 980.

[9] Federal Employees' Group Life Insurance (FEGLI), 5 U.S.C. 8701 et seq.

[10] Hearings, p. 980.

[11] Hearings, p. 973.

[12] Hearings, beginning at pp. 531 and 955.

[13] Hearings, at pp. 968 and 1002.

[14] Hearing, p. 999.

[15] Hearings, p. 1003.

Mr. HRUSKA. Mr. President, this opposition does not stem from any lack of appreciation or understanding of the contributions made by public safety officers to all of the citizens of our Nation. For example, in the current Congress, I am a cosponsor of S. 15, the Public Safety Officers Benefits Act of 1973.

S. 15 is an appropriate recognition by Congress of its responsibility to provide support for those of our citizens who are in the front lines of our efforts to deter crime in this Nation.

The subject bill, however, suffers a number of serious defects.

It should first be pointed out that there is no established need for this legislation. Private insurers in this country are ready, willing and able to supply group insurance to law enforcement personnel.

As a matter of fact, approximately 82 percent of the 700,000 public safety officers across the Nation have taken advantage of this opportunity and have enrolled in fully or partially paid group life insurance programs conducted under the auspices of State and local governments.

With respect to the cost of existing group life insurance programs, it is a distortion of fact to suggest that public safety officers pay inordinately high premiums due to any added risks of their profession. The single most important factor in computing premiums for a group life insurance program is the age distribution of enrollees. Since public safety officers as a group are relatively youthful, premiums are low.

Public safety officers are simply not a high-risk group. General construction workers, miners, bartenders, and longshoremen are rated much higher in risk.

The second basis of my objection to S. 33 is that it all but guarantees the prompt disruption of existing group life insurance programs and is also coercive with respect to the orderly operations of State and local governments.

One year after enactment of S. 33, all public safety officers desiring a Federal contribution to a group life insurance program would be forced to enroll in the Federal program. This fails to take into account the differing needs of citizens of different States and localities. In this regard, I can only note that appropriate benefits for public safety officers may differ from one jurisdiction to another. For example, one State may provide substantial death benefits under a retirement program which would obviate any need for large amounts of life insurance.

Additionally, a substantial number, if not a majority, of the existing group life insurance programs operated under the auspices of State and local governments include within the group not only public safety officers but also all other employees of the respective government entity. Under the provisions of S. 33, public safety officers may elect against their current enrollment. This would require modification of the existing plans and a potential increase in premiums for the perhaps older enrollees left behind.

Third, under the provisions of S. 33 only the 10 largest group life insurance underwriters in the country could qualify as the primary underwriter of the Federal group. The bill does authorize reinsurance with other life insurance companies which elect to participate in the insurance pool and this has some ameliorating effect. Nonetheless, even though small underwriters are allowed to maintain their status quo if they have an identifiable share of the market, they are prevented from increasing their current share of available business.

Fourth, S. 33 is basically inequitable at its core. To the extent that contributions to life insurance premiums are properly considered as just another mode of employee compensation—part of a "wage package," as it were—other State and local government employees would question the singling out of public safety officers for preferential treatment.

Finally, this legislation would be very expensive. The one-third Federal share of the premium for all public safety officers would be more than $20 million annually. Additionally, the cost of collection and administration would be approximately $8 million annually. President Nixon has indicated his desire to hold Federal spending this year to $268.7 billion. This bill would contribute to mounting congressional pressures for a tax increase.

For these reasons, I cannot support S. 33 and urge my colleagues to reject it.

Mr. KENNEDY. Mr. President, first, I commend the chairman of the Criminal Laws Subcommittee, the Senator from Arkansas (Mr. MCCLELLAN), for bringing this measure to the floor this afternoon and for his cooperation and help in the development of the bill.

The bill before the Senate, S. 33, is based upon a recommendation that was made in the 1967 Report of the National Crime Commission. The 1967 study was, of course, the basis for the 1968 Law Enforcement Assistance Act, but this was one recommendation that was not included in the law at that time.

I have introduced it as a separate measure in each Congress since then. This is the third time it has been before the Senate. Each time it has been considered, it has been overwhelmingly supported by Members of the Senate, for a very simple and fundamental reason—because there is a crucial need for it among our first line of defense in our communities and towns, our law enforcement personnel, as well as our firefighters and correctional personnel.

We on the Criminal Laws Subcommittee have had an opportunity to work with the International Conference of Police Associations, the Fraternal Order of Police, the International Association of Chiefs of Police, the National Sheriffs' Association, and the International Association of Fire Fighters, all of whom have made a very important contribution in the development of the proposed legislation, and all of whom support the measure.

The fact remains that 70 percent of the State law enforcement personnel in this country have insurance of less than $5,000. In my State of Massachusetts, the level in the State program is $2,000, which it has been for approximately 20 years. The cost of individual insurance for those involved in law enforcement is often exceedingly high.

This is an extremely modest measure. The Senator from Nebraska has quoted the figures accurately: approximately $20 million if all the public safety people in the country would take full advantage of the program. Quite clearly, it

will not be so, although I hope it would be so. In any event, it seems to me that $20 million is not an excessive sum to provide security to the families of people who every day of their lives are providing security to the homes and streets and villages of America.

I cannot think of an effort we could make in the whole area of law enforcement that could do as much for the morale and the standing and security of the families of law enforcement personnel as this measure would.

I am hopeful that, once again, the measure will be passed here. I think it is important.

In my own State, police officers have been supported by a club called "The Hundred Club," which is a charitable club made up of public-spirited citizens, mostly in the business community, who contribute a hundred dollars to help pay off the mortgages of firefighters and policemen killed in the line of duty. This club has been very successful in doing so, and similar organizations have been started in various parts of the country. I commend the leadership within the business community that has shown this kind of social consciousness, and I have fully supported their efforts. But I say that the law enforcement people of this country should not have to depend on the charity of well-intentioned businessmen and other citizens to pay off the mortgages of families whose loved ones have been killed in the line of duty. This effort is a modest step toward eliminating that possibility, and the other tragedies which occur when public safety officers die without adequate insurance coverage largely because of their occupation.

Mr. President, for these reasons, I hope this bill will become law, and I want now to go into some detail on its origins, history, and content.

In 1967 the President's Crime Commission submitted its comprehensive report, which spoke of the need to provide our police with more adequate benefits such as group life insurance. In that year I first proposed a national program to make such coverage available to all State and local police officers. Since then the public has become more and more aware of the need for life insurance for policemen, as the rate of assaults on law enforcement officers has risen tragically. And as we have continued to work on legislation in this area, we have become familiar with the difficulties many officers encounter in getting enough insurance at regular rates and conditions, and with the low coverage for which many are forced to settle.

The Senate took action on this problem in 1970 when it passed, as part of the Omnibus Crime Control Act, a law enforcement officer's group life insurance program. Early in 1971 I reintroduced the program as S. 33, and the corresponding House bill was sponsored by Chairman Emanuel Celler of the House Judiciary Committee. The bill was considered at hearings in the last Congress, substantially revised and strengthened and passed by the Senate both separately and as part of the victims of crime package.

This year the bill is again numbered as S. 33 and is also title II of S. 800, the current victims of crime bill. In this Congress a companion bill has been introduced in the House by the new chairman of the House Judiciary Committee, Congressman RODINO.

The arguments against the bill are old, outworn, and unpersuasive. Despite all the protestations from certain narrow commercial interests about what might be able to happen without this legislation, nothing has happened and vast numbers of public safety officers remain without low cost, comprehensive life insurance protection on and off the job. There has now been ample consideration on both sides; there were full hearings in both the Senate and the House during the last Congress. The Senate Criminal Laws Subcommittee, under the leadership of Senator MCCLELLAN, has now twice reported a much improved and broadened bill along with other proposals to aid civilian and governmental victims of crime.

S. 33 in its reported form would establish a nationwide, federally subsidized program of group life, accidental death, and dismemberment insurance for State and local public safety officers, defined to include firefighters, correctional guards, and court officers in addition to police. The plan is patterned closely after the highly successful Federal employees' and servicemen's group life insurance programs, which are available to all Federal civilian employees and to members of our Armed Forces. The Law Enforcement Assistance Administration would buy a national group policy from a nationwide life insurance carrier, so that the underlying coverage would be provided—and much of the administrative work would be handled—by the private sector.

The standard reinsurance formula, favoring small companies, would be used to spread the risk and the income beyond the principal carrier.

Any unit of State or general local government could apply to participate in the program. Officers in participating units could elect not to be covered; those remaining in the program would have their share of the premiums deducted from their wages. Coverage would be at a level of the officer's annual salary plus $2,000, starting from a floor of $10,000 coverage and rising to a maximum of $32,000. Accidental death and dismemberment insurance would be included with the usual double indemnity feature. LEAA would pay up to one-third of the total cost of the premiums, leaving the remainder to be covered by the insured officer or the employing agency.

Where existing State of local group life insurance plans provide coverage for public safety officers, or where it was desired to establish such a program within a year after the effective date of the bill, eligible officers would choose by ballot between the Federal and the State or local plans. If they chose the State or local program, it would be eligible for the same subsidy which would go to the Federal plan. In this way the bill respects existing insurance programs and allows governments and insurance companies a reasonable time to set up programs of their own if they want to, but it still protects the officers' interests by leaving the final decision in their hands. Yet, by also having available a single Federal program in which mny officers would presumably participate, the bill ensures the availability of coverage to all officers without regard to their particuar employer's wealth or generosity and at minimum cost because of efficient large scale operation.

Totaling the four categories of public safety officers—police, firefighters, correctional guards, and court officers—the bill would make its benefits available to approximately 700,000 to 900,000 persons, depending on the administrative application of its definitions. LEAA's estimate of the total annual cost to the Federal Government, which must be regarded as the highest possible figure since it assumes the full one-third Federal subsidy and 100-percent officer participation, is under $22 million including all Federal administrative costs, which LEAA estimates at just over $1 million.

For this sum it is estimated that insurance could be provided to officers at a total rate of less than 70 cents per month per $1,000 of coverage. After the Federal subsidy, the cost to the officer—even assuming no State or local government help—would be under 50 cents a month per $1,000, or under $60 per year for the basic $10,000 coverage. At a relatively low cost to the Government, in other words, we could make a decent amount of life insurance available at very reasonable rates to every full-time public safety officer in the country.

There are many reasons why this program is vitally needed. Most tragically and most prominently of all, the rate of crippling and killing assaults on officers is high and rising alarmingly fast. The number of police killed by criminal acts rose from 86 in 1969 to 100 in 1970 and 126 in 1971. Firefighters, too, are still subject to criminal assaults while on their job; from 1967 through 1969 injuries during civil disorders averaged over 200 per year, and in 1970 the rate remained almost the same at 195.

But this problem is only part of a much larger picture, and measures to deal with it alone will ignore much that should be done. For in their service to protect us all, public safety officers must run several other unusual risks of accident, injury, and death. Among police, those who are in situations of such extraordinary hazard include traffic patrolmen, motorcycle policemen, and police helicopter pilots. Firefighters are, of course, in constant danger of death or serious injury from flame, smoke, and collapsing buildings; in 1970, 115 died in the line of duty. Prison guards and court officers are endangered by riot, jailbreak, and violent suspects and defendants.

Because of these hazards, some public safety officers find regular life insurance coverage hard to come by, unusually expensive, or restricted in the benefits offered. For example, in my own State of Massachusetts the State police helicopter pilots encountered reluctance to issue insurance at all and higher rates as well. The chief actuary of the Life Insurance Association of America told our criminal laws subcommittee that rates for accidental death and dismemberment coverage for policemen could

run up to 100 percent above ordinary rates. A major national life insurance company wrote the Criminal Laws Subcommittee that it normally charges a police or firefighters' group about 20 percent extra for group life insurance and up to 2½ times its regular rate for accidental death and dismemberment coverage.

Yet if a public safety officer tries, even though he may run into such obstacles, to buy as much insurance as he needs for himself and his family, he is held back by the disgracefully low salaries we so often pay. As Quinn Tamm, executive director of the International Association of Chiefs of Police, told our subcommittee—

Salary medians for police officers fall below the pay scales for those positions which we may refer to as nonprofessional semiskilled labor.

In a survey this year of 300 New York City police, 95 percent said they felt their salaries were too low for them to afford adequate life insurance. And for public safety officers other than policemen, the salary situation is even worse.

Further, employer-aided group plans to remedy the insurance problems of public safety officers differ widely in their coverage and are frequently not offered at all. Our data are most complete on police officers; for about 30 percent of them, employer-supported group coverage is simply not provided. For almost 40 percent more, coverage is in the very low zero to $5,000 range, meaning that almost 70 percent of our police have State or local group life insurance no higher than $5,000. S. 33 would make available minimum of $10,000 coverage to 100 percent of our police; now, fewer than 4 percent are in State or local government programs which offer as much. To offer a concrete example, in Massachusetts the basic coverage is only $2,000 and we have had to establish an organization called the Hundred Club to help tide over widows of slain officers. When I testified in support of Chairman Cellers' counterpart bill on the House side, two subcommittee members over there mentioned similar organizations in their home communities. But there are not a great many such programs, and a public safety officer should not have to rely on uncertain private charity to assure his family of financial security in the event of his death.

So because of job hazards, low salaries, and employer inaction—all factors which are related to their public service jobs—many officers and their families are inadequately protected against death or disability on or off the job. This is one important problem that is too often overlooked—that public safety officers' work situations make it difficult or impossible for many of them to obtain adequate life insurance to cover them on or off duty. In other words, if we wish to respond adequately to the problems created by the risks of officers' work, we have to enact legislation which will help them whether they are killed or injured on the job or not, whether by a criminal act or by accident or by natural causes. That is precisely what S. 33 would accomplish, and I am confident that is a major reason why the bill has the enthusiastic support of the leading police and firefighters' organizations in the country, including the International Conference of Police Associations, the Fraternal Order of Police, the International Association of Chiefs of Police, the National Sheriffs' Association, and the International Association of Firefighters.

To summarize the situation as we have seen it in our studies, a few public safety officers are offered quite good benefits at reasonable rates, but many more have little or no coverage, high cost, or unfavorable conditions. Many areas are unable or unwilling to provide group life insurance, which is important both to officers personally and to recruiting and keeping highly qualified personnel. The Fedral Government has committed itself in legislation since 1968 to providing major financial aid to State and local law enforcement, in an effort to help all law enforcement agencies attain a 20th-century level of performance. The basic rationale behind the Federal Government's assumption of this limited additional role, then, is like that underlying the law enforcement assistance program, which we created 4 years ago and have generously supported since. In fact, the small Federal administrative role under the S. 33 insurance program would be handled by the Law Enforcement Assistance Administration.

Given the problem as I have described it and the LEAA precedent, and in full recognition that public safety functions are and must remain a local responsibility, I suggest that the best role for the Federal Government is making available a reasonable minimum nationwide level of life insurance protection. If it is felt that particularly outrageous situations demand additional compensation, as the Senate recognized with respect to killings of public safety officers when it passed the S. 2087 gratuity bill earlier this month, these proposals surely deserve serious consideration.

If a locality or individuals want more coverage, obviously they should and would remain completely free to arrange for it. But the national floor concept of S. 33 would assure that no matter how much legislators might be diverted by officers' most headline-getting problems, and no matter how poor or miserly an officer's area in contrast to its neighbors which provide good coverage, no public safety officer in the country would have to face the risks of his job without being able to get a reasonable amount of full life insurance coverage at a reasonable rate. All of this could be accomplished at low cost to the Federal Government because the Federal share would not be 100 percent or anything like it, merely the one-third or less needed to keep rates within officers' reach.

And there would be no Federal intrusion into the running of State or local public safety affairs. The dealings of the officers and their employers would be almost entirely with each other and with the primary insurance carrier, which would be a private company. The Federal Government's role would consist mainly of a small administrative operation within LEAA and the forwarding of the Federal subsidy to the primary carrier. Finally, as part of the law enforcement assistance statute, the program would be governed by the law prohibiting all Federal departments and personnel from exercising "any direction, supervision, or control" over any State or local law enforcement agency.

I mentioned earlier that there are some changes in this bill from the version that passed the Senate in 1970. The most important, of course, is the addition of firefighters, correctional guards, and court officers. In the course of our work we realized that the reasons why we were concerned about policemen's life insurance applied to some other public servants as well. The rationale on which we made our carefully limited expansion of eligible groups is that all perform a public protection function at unusual risk with inadequate provision available for death or disabling injury, and national pooling of risks can help here to reduce administrative costs. I call our extension a "carefully limited" one because it does not even double the number of persons eligible, though it adds three important groups. The basis on which these groups' inclusion rests should dispel any fears of uncontrollable addition of other hazardous occupation categories.

There are many other changes which we think improve the bill substantially, though most of these individually are too minor and technical to discuss here. I do want to mention three of the most significant, however. First, the bill now includes the same reinsurance requirements as are written into the Federal employees' group life insurance statute. Reinsurance is a standard industry technique by which the business and the risks of a large policy are shared among insurers, and this statutory formula is drafted to favor small companies. Since we expect the program will raise both the number of insured persons and the average coverage level substantially, and since the bill also contains a standard conversion provision, many companies will enjoy business that no one would have gotten at all without the bill.

Second, the permission for State and local governments to set up new group life insurance programs of their own for public safety officers for a year after the bill takes effect, and still be eligible for Federal aid, is a new feature. Before, only preexisting State and local plans were eligible for a Federal subsidy; some such cutoff is essential for the viability of the nationwide program. But the cutoff was moved back a year, which is another example of the lengths to which the bill goes to respect the desires of local governments and officers to set up programs of their own if their particular needs will thereby be better served than under the Federal plan. The same balloting protection, to give each group of eligible officers a choice between the State or local plan and the Federal one, would apply to new State or local programs as to existing ones. Of course, any group which wanted to join the Federal program but keep or add a State or local plan without Federal subsidy would be free to do so.

Third, the subsidy available to State and local plans has been raised from 75 percent to 100 percent of the portion being given to the Federal program. Again, this was done to respect State and local programs by not tipping the balance against them. Of course, there would have to be some limitations on the Federal subsidy available to these plans. Consistently with the uniform national floor concept I mentioned, there would be a Federal subsidy only for amounts of coverage up to the level in the Federal plan. Similarly, the Federal subsidy would be limited to the amounts per unit of coverage available for the Federal program; it would make little sense for the Federal Government to subsidize the inefficiently expensive portion of a State or local plan if it were providing a less expensive program itself.

Finally, I should like to mention how this program relates to the S. 2087 gratuity bill which the Senate passed 2 weeks ago. That bill provides $50,000 to survivors of a public safety officer killed by a criminal act in the line of duty, and a lesser amount for dismemberment.

Some of the two bills' relation has been covered in my remarks already; I do wish to emphasize again that officers' duty hazards make them bad general risks, which can create problems for them in getting insurance to cover them on or off duty. This fact means that to respond adequately to the problems which public safety officers' hazardous duties create for them, we cannot be satisfied with measures which only touch on-duty happenings. I would hope, therefore, that S. 33 could be viewed as the basic vehicle for Federal benefits in this area; alone among the bills on this subject now before the Senate, it does not leave off where the problem continues.

S. 2087 can be a valuable complement to the broader S. 33 insurance approach, but the gratuity plan does not even cover all the extra on-duty hazards of the public safety professions. For S. 2087 allows benefits only when death or dismemberment resulted from a criminal act, and we do not need statistics to know that public safety officers—police helicopter pilots and motorcycle patrolmen, for example, but above all firefighters—are unusually exposed to accidents which have nothing to do with criminal acts. Indeed, S. 2087 would do little for firefighters despite their inclusion in its eligible categories; although they are in danger from arson and attacks, the large majority of their deaths and injuries result from accidents and fires not started by criminal acts.

In conclusion, let me say that I regard this bill as one over which there should be no partisan division. I have supported—despite some reservations—all the other bills in the victims of crime package, some primarily Democratic in origin and others primarily Republican. S. 33 itself has attracted support from Republicans and Democrats, liberals and conservatives alike. It is also supported by the major public safety officers' organizations and by many insurance companies. It will help with morale and in recruiting and keeping good public safety officers, and hopefully it will thereby improve the protection we all receive. And it will go a long way toward alleviating a serious human problem on which the Federal Government is uniquely qualified to act. We owe these men and women no less, and the time for action is now.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, I know of no amendment to the bill. Since there is no amendment, I ask for the third reading of the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Safety Officers' Group Life Insurance Act of *1973*."

SEC. 101. It is the declared purpose of Congress in this *Act* to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 522, respectively, as sections 550 through 571;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part F of title I, as amended by this Act, the following new part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 502. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 per centum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 503. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 504. Each policy purchased under this subpart shall contain a provision in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 505. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 504 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (with such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions, established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 506. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 507. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 508. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 506 of this subpart, any sums contributed by the Administration under section 507 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 515 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 517 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

SEC. 509. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writ-

ing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares;

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 517 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"SEC. 510. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. The schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 511. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and Localities for Public Safety Officers' Group Life Insurance Programs

"SEC. 512. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) State and unit of general local government programs eligible for assistance under this subpart shall receive assistance on the same basis as if the officer were enrolled under subpart 1 of this part, subject to proportionate reduction if—

"(1) the program offers a lesser amount of coverage than is available under subpart 1 of this part, in which case assistance shall be available only to the extent of coverage actually afforded;

"(2) the program offers a greater amount of coverage than is available under subpart 1 of this part, in which case assistance shall be available only for the amount of coverage afforded under subpart 1 of this part;

"(3) the cost per unit of insurance is greater than for the program under subpart 1 of this part, in which case assistance shall be available only at the rate per unit of insurance provided under subpart 1 of this part; or

"(4) the amount of assistance would otherwise be a larger fraction of the total cost of the State or unit of general local government program than is granted under subpart 1 of this part, in which case assistance shall not exceed the fraction of total cost available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program:

Provided, however, That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 513. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 514. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the

Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 516. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 517. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Life Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

Subpart 4—Miscellaneous

SEC. 103. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G."

SEC. 104. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEC. 105. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 106. This Act shall become effective on date of enactment.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VICTIMS OF CRIME ACT OF 1973

Mr. McCLELLAN. Mr. President, I ask unanimous consent for the immediate consideration of S. 300, Calendar No. 87.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 300) to provide for compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, on page 2, line 9, after the word "through", strike out "521" and insert "522"; in line 10, after the word "through", strike out "570" and insert "571"; on page 8, at the beginning of line 14, strike out "taking office after June 30, 1972,"; at the beginning of line 16, strike out "after June 30, 1972,"; in line 19, after the word "years", strike out "after June 30, 1972;"; on page 14, at the beginning of line 8, strike out "based upon a change in circumstances of the claimant" and insert "based upon a change in financial circumstances of a victim or one or more of his surviving dependents that eliminates financial stress"; on page 15, line 13, after the word "possession," insert "or related series of such acts, omissions, or possessions,"; in line 20, after the word "may", insert "proportionately"; on page 23, at the beginning of line 25, strike out "section 454(e) of part I of this title and with respect to the adequacy of State programs assisted under section 105" and insert "section 454(e) of part F of this title with respect to the adequacy of State programs receiving assistance under paragraph (10) of subsection (b) of section 301 of part C of this title"; on page 27, at the beginning of line 5, strike out "fiscal year ending June 30, 1973" and insert "fiscal year ending June 30, 1973, $5,000,000 for the purposes of part F." "; and, after line 6, strike out:

"(1) $5,000,000 for the purposes of part F; and

"(2) $10,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C."

Mr. McCLELLAN. Mr. President, S. 300 was introduced by the distinguished Senator from Montana (Mr. MANSFIELD) and the distinguished Senator from Minnesota (Mr. MONDALE). It would establish a direct Federal program, estimated to cost $6 million a year, to meet the financial needs of innocent victims of violent crime, when the crime is committed within the District of Columbia, Federal territorial or maritime jurisdiction or on an Indian reservation.

The program would compensate for out-of-pocket losses by a victim, where there was some showing of "financial stress"; it would exclude only those in the upper income strata from coverage.

The title would also provide for a grant program, estimated to cost $22 million a year, with a 50-State participation, covering 75 percent of the costs of State crime compensation plans.

Nine States now have such programs: Alaska, California, Hawaii, Massachusetts, Maryland, Nevada, New Jersey, New York, and Rhode Island.

This legislation was introduced last year as S. 750. It was processed by the Subcommittee on Criminal Laws and Procedures, and a hearing record of some 1,112 pages was compiled. See Victims of Crime, hearings before the Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate 92d Congress, 1st session, 1972. It was reported by the Judiciary Committee on September 8, 1972—see Senate Report No. 92–1104 92d Congress, 2d session, 1972. And it passed in the Senate by the record vote of 60 to 8 on September 18, 1972—see CONGRESSIONAL RECORD, volume 118, part 24, page 31009. No action was taken by the House.

I urge its immediate passage.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for 1 minute?

Mr. McCLELLAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, as Senators know, the distinguished senior Senator from North Carolina (Mr. ERVIN) is away today because of the death of his brother. He asked me to insert in the RECORD a statement by him in opposition to the bill. I ask unanimous consent that the statement by Mr. ERVIN be printed at this point in the RECORD.

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

ERVIN OPPOSES RAID ON FEDERAL TREASURY

Mr. President, on its face, the Victims of Violent Crimes Act of 1973 is an attractively packaged and labelled extension of Federal generosity. Nevertheless, there are fundamental reasons which compel me to express my opposition to this proposal.

I believe the Federal government must be just—must balance its budget and pay its debts—before it is generous. Currently, the Federal Treasury has a staggering deficit in excess of $450 billion. We cannot continue to add straws to the Treasury's back.

The proponents of the Victims of Violent Crimes Act conservatively estimate the cost per year of this program to be $30 million. The bill proposes to finance compensation to innocent victims of violent crimes with fines collected in Federal criminal courts. Yet, according to the Attorney General's office, the total fines collected thereby in 1971 was only $8 million.

The financial losses to victims which are covered by this bill are all insurable risks. In many cases they are risks insured by private insurance companies. This legislation provides that government compensation to victims will be reduced by the amount of insurance compensation recoverable. Logically, from the date of enactment of this measure, no insurance company interested in taking profits would provide coverage in any instance where the government would provide compensation. Thus, the cost of the program would immediately escalate geometrically, from $30 million to as much as $150 million. As a matter of theory, it seems superfluous and unwise to tax American citizens to establish another Federal bureaucracy and program for the disbursement of benefits which are presently available through private insurance.

In addition, it is interesting to note what persons are compensable under the provisions of this legislation. According to the bill, eligibility is determined by "financial stress" caused by pecuniary loss resulting from an act of violence. Thus, upper middle class and wealthy Americans would not be eligible because they could not demonstrate resultant "financial stress." Moreover, poor Americans would also be ineligible because their "financial stress" would not be the result of the crime. Such as pattern of compensation is patently unjust.

Mr. President, at a time when Americans are opposed to a further extension of Federal omnipotence, more bureaucracy, and more red tape, the establishment of a Federal program funded out of an empty Federal Treasury cannot be justified. Continued deficit financing can only lead us to two unaccept-

able alternatives—national bankruptcy or confiscatory taxes.

Mr. HRUSKA. Mr. President, I appreciate and applaud the concern of the distinguished majority leader for the unfortunate victims of crime in our country. I, too, believe that we pay far too much interest to the rights of the accused when balanced against the rights of the victimized. However, I am compelled to part company with him on the merits of the subject bill. It is my view that S. 300 is largely inapposite to the real problems of victimization and could indeed be counterproductive with respect to the total operations of the Nation's criminal justice systems.

I ask unanimous consent to have the views of Senators THURMOND, ERVIN and myself as contained in the report of the Committee on the Judiciary printed in full in the RECORD.

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

ADDITIONAL VIEWS OF SENATORS HRUSKA, ERVIN, AND THURMOND

It is likely the height of naivete to expect that any argument would convince a majority of our colleagues to vote against a legislative proposal so fetchingly captioned the "Victims of Crime Act of 1973." Nonetheless, we welcome this opportunity to put forward the basis of our opposition to the subject bill.

It is not for any lack of sympathy for the victims of violent crime that we oppose enactment of S. 300 at the present time. Rather, it is because we believe that this legislation is largely inapposite to the real probems of victimization and could indeed be counterproductive with respect to the total operations of the nation's criminal justice systems.

Perhaps if consideration of this measure had been more deliberate, we would not find ourselves in this unenviable position. Although the genesis of the notion that the federal government ought compensate *certain* victims of crime for *certain* financial losses can be traced to a bill introduced by former Senator Ralph W. Yarborough almost eight years ago,[1] only two brief days of hearings have been held in the Senate on the subject to date.[2]

S. 750, the subject in the 92nd Congress, passed the Senate by an overwhelming vote. At that time, only five other members of the Senate joined us in opposing the measure.[3] However, we continue in the belief that the arguments supporting our position are compelling.

BASIC THEORY

Why should government assume the cost of a program to assist those unfortunate enough to have become the victims of violent crime?

We are first told by the proponents of this program that precedent for such action dates back to the Code of Hammurabi (circa 2380 B.C.) and continues undisturbed through various legal systems which have developed during the course of the ensuing 4,000 years.[4] This is interesting, but hardly responsive to the question. Moreover, it should be noted that much of this precedent was based on a questionable premise that denied the existence of free will and called for social responsibility for a crime.[5]

It is elsewhere intimated that such a program is really one of restitution. Thus, through the establishment of a system of criminal fines, subrogation rights and an indemnity fund, the government would be merely acting as a financial clearing house, but the net effect of the program would be that "criminals" as a class would compensate "victims" as a class.[6] However, the Department of Justice reports that total criminal fines imposed by the Federal government in 1971 approximated only $8 million. Since even the proponents of S. 300 readily acknowledge that their program will cost approximately $30 million per year,[7] it is obvious that the net effect of this bill would be government assumption of the substantial portion of associated costs.

Arguments favoring government compensation to the innocent victims of violent crime must properly proceed along one of two defined approaches. First, one can urge that the state is responsible for the maintenance of order and, failing in that responsibility, must compensate the victims of lawlessness and disorder.[8] Alternatively, one can take the premise that criminal violence is endemic to society, and that the only tolerable way to sustain the resultant financial damage is to share it in common.[9] Compensation, therefore, must be viewed as either a matter of individual right or legislative grace.

The rationale that the state is primarily responsible for violent crimes inflicted upon its citizens has fortunately met with little acceptance even among proponents. Most advocates of victim compensation will therefore agree that primary responsibility for the damages inflicted by crime must ordinarily be assigned to the injuring criminal. One obvious reason behind this conclusion is the fact that if one concludes the State is responsible for losses associated with crime, logic would require that property damage also be included. This judgment in turn, would raise the cost of such a program to many billions of dollars per year.[10]

Thus, we come to the realization that the underlying theory for this victim compensation program is the same as that which supports every other mode of public assistance—the responsibility to provide for the general welfare.

REFLECTION ON THEORY: RESERVATIONS

What class of individuals would be eligible for the public welfare dollars which would be distributed through these victim compensation programs?

Proponents of S. 300 take great pains to point out that this proposal does not employ a "means" test.[11] The approach of the bill in determining the economic class of persons eligible for compensation is to require a finding of "financial stress" which is defined as:

* * * * *

. . . the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

(A) a residence;

(B) normal household items and personal effects;

(C) an automobile;

(D) such tools as are necessary to maintain gainful employment; and

(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less.[12]

* * * * *

Thus, it is anticipated that the so-called average middle class American would be eligible for benefits under this program.[13]

The upper middle class and the very wealthy of our nation generally would be ineligible for compensation as they would not be able to demonstrate a state of "financial stress" as the result of any violent crime committed against them. The very poor, on the other hand, would also be ineligible, since under the terms of the bill, the requisite "financial stress" must be the *result* of the crime giving rise to the claim.[14] This latter class of individuals would continue to receive any assistance for which they might be eligible through the modality of existing public assistance programs.

The notion of middle class welfare strikes us as an anomaly.

INSURABLE RISKS

Our misgivings with respect to the basic rationale of S. 300 are heightened by the fact that the losses which are covered by the bill are all insurable risks.

Section 450 (16) of S. 300 sets forth the so-called "pecuniary losses" which would be compensable under this legislation. Included are medical expenses, loss of earnings, child care expenses, burial costs and loss of support. All of these potential losses could, of course, be covered by private insurance coverage with life, medical and income protection policies.

It would be wise for the so-called average American citizens who would come within the purview of this proposal to consider whether they want to be taxed for the establishment of a program which would set up yet another Federal bureaucracy to provide coverage that is now available to them in the private sector. It is our belief that Government participation in this area is best kept to a minimum.

ADMINISTRATION

Statistics available from those states which currently have victim compensation programs in operation reveal that inordinate portions of their budgets are expended to cover administrative costs. For example, during the last fiscal year, the State of New York spent approximately 22 percent of its total budget on administrative expenses.[15] During the same period, the corresponding percentage figure for this purpose in Maryland was approximately 27 percent.[16]

In the Federal victim compensation program which would be established by Part A of S. 300, it is likely that the administrative costs would be even higher. Salaries would be far greater than those provided by the states,[17] and it can also be anticipated that a relatively larger staff would be employed.[18]

STATE PRIORITIES

At the present time, the program of the Law Enforcement Assistance Administration may be characterized as a block grant approach to federal assistance for states and units of general local government in the area of criminal justice.

To these Senators, the subject bill is regressive to the extent it moves toward the outdated notion of categorical grants. Moreover, this suggestion comes at a time when the President has just proposed another logical step towards a "New Federalism"—special revenue sharing in the area of law enforcement.

On March 14, Senator Hruska introduced S. 1234 at the request of the Administration.[19] The sum of this bill is a new mechanism placing crime control at the state and local levels of government where results can be best achieved and where it will be most responsive to the needs of the people. The subject bill flies in the face of this newly proposed direction for LEAA and, in this respect, is ill-advised.

FEDERAL VICTIMS

S. 300 would operate on two levels.

Part A would establish a Federal Compensation Program to provide compensation to victims of crime when the act, omission, or possession giving rise to the claim for compensation occurred—

* * * * *

(1) within the "special maritime and territorial jurisdiction of the United States" within the meaning of section 7 of title 18 of the United Sates Code;

(2) within the District of Columbia; or

(3) within "Indian country" within the

Footnotes at end of article.

meaning of section 1151 of title 18 of the United States Code.[20]

* * * * *

Part B of the bill would function on a second level by providing LEAA funds for similar programs on a State level.[21]

Of the nine States that currently have victim compensation programs in operation, four require as a condition of eligibility, that the offense giving rise to a claim be a crime under State law. Generally, the remaining five States require only that the situs of the crime giving rise to the claim be within the geographic limitations of the jurisdiction.[22]

Under this approach, one can recognize the imminent possibility that in at least four States, a citizen could be injured while assisting a Federal officer in the performance of his law enforcement duties and yet not be eligible for any Federal assistance through the modality of either part A or part B.[23] More importantly, if S. 300 were enacted it would not ensure the availability of compensation to the victims of *Federal* crimes in the future since this would depend upon whether all of the States enacted similar programs.

It would seem to us more appropriate for the Senate to first consider the advisability of providing compensation to the victims of crime which falls within the jurisdictional reach and responsibility of the Federal Government.

COSTS OF COMPENSATION

The proponents of S. 300 urge that the total of this program would approximate only $30 million per annum at a full operational level.[24] I believe this figure is totally unrealistic in view of one extremely significant feature in the bill.

Any compensation due to a victim of crime under this plan would be reduced by the proceeds of insurance which are recovered or recoverable by the victim.[25] This provision all but invites insurance companies to amend their existing life, health and income protection policies so as to disclaim coverage in instances where protection would be afforded by S. 300. This course of action would then permit them to reduce premiums and presumably, attract more business.

The same analysis which led to the $30 million total cost figure referred to above, also indicated that the overwhelming majority (perhaps 80%) of our population is currently covered by health insurance. Should insurers amend their policies around S. 300, the total cost of the bill would increase by perhaps as much as 500%, thus requiring as much as $150 million per year in Federal outlays.

Furthermore, we do not believe it would be advisable to attempt to amend S. 300 to preclude this possibility. Such action would have the net effect of punishing those responsible individuals who have attempted to protect themselves and their families from financial disaster by purchasing insurance.

CONCLUSION

For the above-stated reasons, we are compelled to vote against S. 300, and urge our colleagues to do likewise.

ROMAN L. HRUSKA.
SAM J. ERVIN, JR.
STROM THURMOND.

FOOTNOTES

[1] S. 2155, the "Criminal Injuries Compensation Act", July 17, 1965. 89th Cong., 1st Sess., 111 Cong. Rec. 13997 (1965). Similar bills were also introduced by Senator Yarborough in the 90th and 91st Congresses. S. 646, 90th Cong., 1st Sess. (1967), 113 Cong. Rec. 1491 (1967); S. 9, 91st Cong., 1st Sess. (1969), 115 Cong. Rec. 768 (1969).

[2] See "Victims of Crime", *Hearings* before the Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary. U.S. Senate (92d Cong., 1st Sess. (1972)). Hereinafter cited as *Hearings*.

[3] The vote on final passage of S. 750 was 60–8. 118 Cong. Rec. S. 15099 (daily edition, September 18, 1972). See also the Report of the Senate Committee on the Judiciary on S. 750 (S. Rept. No. 92–1104, 92d Cong. 2d Sess. (1972), and floor debate on the measure at 118 Cong. Rec. S. 15084–99 (daily edition, September 18, 1972).

[4] Secs. 22 to 24 of the Code of Hammurabi referred to in this report, *supra*, p. 2. See also Childres, "Compensation for Criminally Inflicted Personal Injury," 39 N.Y.U. L. Rev. 444 (1964); Wolfgang, "Victim Compensation in Crimes of Personal Violence," 50 Minn L. Rev. 223 (1965); and additional articles gathered at hearings, p. 535.

[5] Italian positivists such as Farofalo and Ferri had a great influence. Mexico, for example, used their concepts as precedent for Article 2, of the Mexican Code which was enacted in 1929 and established a system of reparations. Childress, *supra* at 449–51.

[6] See sections 457 and 458 of part A and section 104 of S. 300.

[7] See hearings, p. 534; and this Report, *supra*, p. 10.

[8] See statement of Senator Walter F. Mondale, *Hearings*, pp. 487–88; and Goldberg, "Equality and Government Action," 39 N.Y.U. L. Rev. 205, 224 (1964).

[9] See statement of Governor Marvin Mandel, *Hearings*, pp. 133–146.

[10] See Report of *The Challenge of Crime in a Free Society* (1967).

[11] See this Report, *supra*, p. 5.

[12] S. 300, Sec. 450 (8).

[13] See this Report, *supra*, p. 5.

[14] S. 300, Sec. 454(a). See similar provision in New York's program, *Hearings*, pp. 627 and 644.

[15] Hearings, p. 728.

[16] Hearings, p. 731.

[17] S. 300, sec. 103.

[18] S. 300, sec. 452.

[19] S. 1234, introduced Mar. 14, 1973. See 119 Cong. Rec. S. 3894–3902 (daily edition, Mar. 14, 1973).

[20] S. 300, sec. 456(a).

[21] S. 300, secs. 105–107.

[22] See Federal Crime Compensation Statute: Major Features, 118 Cong. Rec. S. 15088–91. (Daily edition, Sept. 18, 1973).

[23] This Report at p. 21, *supra*, suggests that such a possibility be eliminated by regulation.

[24] Hearings, pp. 719–48.

[25] S. 300, Secs. 450(15)(c) and (16) and 453(b).

Mr. HRUSKA. Mr. President, we ought first explore the basic underlying theory of S. 300. Why should Government assume the cost of a program to assist those unfortunate enough to have become the victims of violent crime?

There are only two arguments for Government compensation to the innocent victims of crime. First, one can urge that the State is responsible for the maintenance of order and, failing in that responsibility, must compensate the victims of lawlessness and disorder. Alternatively, one can take the premise that criminal violence is endemic to society, and that the only tolerable way to sustain the resultant financial damage is to share it in common. Compensation, therefore, must be viewed as either a matter of individual right or legislative grace.

Since even most proponents disassociate themselves with the former argument, we come to the realization that the underlying theory for this victim compensation program is the same as that which supports every other mode of public assistance—the responsibility to provide for the general welfare.

Now, by the terms of S. 300, the upper middle class and the very wealthy of our Nation generally would be ineligible for compensation. Additionally, the very poor would also be ineligible. This raises a profound reservation with respect to theory as the notion of middle-class welfare strikes this Senator as an anomaly.

My misgivings with respect to the basic rationale of S. 300 are heightened by the fact that the losses which are covered by the bill are all insurable risks.

The subject bill would cover medical expenses, loss of earnings, child care expenses, burial costs, and loss of support. All of these potential losses could, of course, be covered by private insurance coverage with life, medical, and income-protection policies.

It would be wise for the so-called average American citizens who would come within the purview of this proposal to consider whether they want to be taxed for the establishment of a program which would set up yet another Federal bureaucracy to provide coverage that is now available to them in the private sector. It is my belief that Government participation in this area is best kept to a minimum.

The subject bill is also regressive to the extent it moves toward the outdated notion of categorical grants. Moreover, this suggestion comes at a time when the President has just proposed another logical step toward a "new federalism"—special revenue sharing in the area of law enforcement—which would provide a new mechanism placing crime control at the State and local levels of government where results can be best achieved and where it will be most responsive to the needs of the people.

If S. 300 were enacted it would not even ensure the availability of compensation to the victims of distinctly Federal crimes in the future since this would depend upon whether all of the States enacted similar programs.

It would seem to me more appropriate for the Senate to first consider the advisability of providing compensation to the victims of crime which falls within the jurisdictional reach and responsibility of the Federal Government.

Finally, I believe that the $30 million cost estimate for S. 300 is totally unrealistic in view of one extremely significant feature in the bill.

Any compensation due to a victim of crime under this plan would be reduced by the proceeds of insurance which are recovered or recoverable by the victim. This provision all but invites insurance companies to amend their existing life, health and income protection policies so as to disclaim coverage in instances where protection would be afforded by S. 300. Should insurers amend their policies around S. 300, the total cost of the bill would increase by perhaps as much as 300 percent, thus requiring as much as $150 million per year in Federal outlays.

Furthermore, I do not believe it would be advisable to attempt to amend the bill to preclude this possibility. Such action would have the net effect of punishing those responsible individuals who have attempted to protect themselves and their families from financial disaster by purchasing insurance.

For these reasons, I am opposed to the measure. I shall cast my vote in opposition to its passage.

Mr. MANSFIELD. Mr. President, in early February, Senator JOHN MCCLELLAN introduced again the Victims of Crime Act of 1973. The proposal consists of sections dealing with compensation of victims of crime, a special insurance incentive program for public safety officers, the injury benefit plan for police officers, and the extra remedies provided for victims of racketeering. Senator MCCLELLAN responded promptly and the bill has been on the calendar since February 7.

On final passage this same measure passed by a vote of 74 to 0 on September 18, 1972—6 months ago. Every Senator is on record in favor of each provision of the bill.

Every feature of this proposal has undergone exhaustive Senate Committee investigation and consideration. On the calendar today it appears both as a single omnibus bill and as four separate proposals.

The hearing record consists of 1,112 pages of testimony, exhibits, and supporting documents, including cost projections.

Forty-three witnesses appeared in person or submitted statements in support of one or all of the various features of the bill. Not one individual appeared to testify or submitted a statement in direct opposition to the bill as a whole.

The merits of the bill now under consideration are compelling, indeed. Because of violent crime and its effects—and the most up-to-date figures show a sharp increase in crimes of violence, despite the fact that there has been an over-all decrease in crimes, on the basis of the report issued yesterday, for which we are thankful—there are many victims in society who simply cannot pay the bills.

The criminal is taken care of. The constitutional processes for the benefit of the criminal are in the forefront. But the person who is raped, the person who is mugged, the person who is robbed gets little or no consideration.

The legislation would see to it that no citizen is left financially destitute because of crime. Important, too, are the features in this measure that encourage individuals to take the risks law-enforcement officials are compelled to take. The law officer, or the bystander who intervenes to prevent crime, just as the victim, deserve special consideration in our system of justice; and while the victim would be compensated under this proposal, the intervener and the police officer would be singled out for particular attention. When it comes to injuries he receives in the line of duty and when it comes to obtaining insurance against such injuries, the police officer deserves and, under this measure, would obtain, special consideration.

In short, it appears to me that every reason exists to pass this bill as expeditiously as possible. The Committee on the Judiciary has considered it in great detail. The Senate already passed it unanimously.

In response to the points raised in the additional views filed on S. 300, the compensation program for victims of violence, I would only refer to an account of a victim of violence carried in last weekend's press. It tells the story of a young, 14-year-old boy, who was savagely beaten by a gang of roughnecks. He suffered severe injuries, including brain damage. So far his medical costs alone have totaled $25,000. The crime was committed in Maryland, however, and Maryland happens to be one of just nine States in this Nation that provides a compensation remedy to the criminal victim. This young boy and his parents are able to offset some of the enormous costs that stemmed from this vicious and senseless act of violence. Forty-one States would have provided no similar remedy. And there is no such remedy provided at the Federal level covering crimes committed in Federal criminal jurisdictions.

It is to fill this gap in this Nation's system of criminal justice that I introduced S. 300. It does the job. And it reflects what has already been done in so many other areas of the world—in England and Canada, for example, and in Scandinavia, Australia, and New Zealand.

In conclusion, I would like to comment briefly on procedural matters. While all of these crime victim proposals are to be considered separately and jointly as well, it is my firm conviction that when justice for the victim of crime is at long last provided as a part of this Nation's criminal system, every facet of the victims' rights ought to be covered. To do that, in my judgment will require the consideration, as a single proposal, of the omnibus approach as contained in S. 800. S. 800 provides for the victim of violence, the victim of racketeering, and, importantly, it gives special consideration to those who because of their occupations are most vulnerable to crime and lawlessness—the police and public safety officer. As a crime victim, the public safety officer suffers most. He risks his life daily so that others may be protected.

I am confident that the able chairman of the Subcommittee on Criminal Laws agrees with the proposition that if the victim is to be treated, then Congress should see to it that he is treated fully, effectively and adequately. The Omnibus Victims of Crime Act of 1973 does just that. For achieving such a comprehensive and outstanding work product, the Senate owes to Senator JOHN MCCLELLAN its deepest gratitude and appreciation, and the same goes also for the Senator from Nebraska (Mr. HRUSKA), even though we may disagree on items here and there. With their strong leadership, the victim of crime who is today's stepchild in the criminal arena will tomorrow obtain the degree of justice that is long past due.

Mr. THURMOND. Mr. President, I rise in opposition to S. 300. I am going to say only a few words, as the views of the distinguished Senator from Nebraska (Mr. HRUSKA), the distinguished Senator from North Carolina (Mr. ERVIN), and myself are set out in the report on this bill, beginning on page 23 and ending on page 27.

I simply want to say that this bill is injecting the Federal Government into another field of activity. The responsibility for law enforcement rests with the 50 States of the Union, and not with the Federal Government. We have passed some bills here. We have gone as far as we can. We have probably extended the Constitution in trying to enact legislation to stop crime. And crime has become rampant. A burglary is committed every 17 seconds in this Nation. There is a rape every 13 seconds. A murder is committed every 30 minutes. But the primary responsibility, I would remind my colleagues, for law enforcement rests with the States of the Nation. That is not a Federal responsibility, except for interstate crimes, and there we have laws pertaining to them.

I am convinced that this is a responsibility of the States of the Nation. The argument is made that only nine States have assumed this responsibility. Just because only nine States have assumed their responsibility is no excuse for injecting the Federal Government into a field where there is no legal responsibility under the Constitution. The other States may assume it. They probably will not now, if we pass the bill. If we do not pass the bill, the probability is the States will assume their responsibility.

There is no right to pass any piece of legislation on the ground that the States have not acted, and therefore, we at the Federal level must protect the public. What is the use of having a Constitution if we are not going to obey it? The Constitution has certain limits. Law enforcement, I repeat, is the responsibility of the States of the Nation, and that is where it should rest.

Mr. President, I am not going to make an extended talk on this subject, but I want to say that this Congress, for the 18 years I have been here, has been injecting the Federal Government into field after another. That is the reason why I came here with about three men and four secretaries. Now I have about 10 or 12 men and 20-odd secretaries and can hardly keep up with the work. Any Senator knows it is a rat race around here. Why? Because the Federal Government has gone into so many fields of activity. And where is the constitutional authority? I have not found it, and it is not in this field.

It is a nice thing to award compensation to victims of crime. Everybody feels sorry for a victim of crime. Who would not feel sorry for one who has been criminally assaulted or injured in some other way by a criminal? But that is no reason to say the Federal Government should do it. Let the State governments do it. It is a State responsibility.

I would simply point out that it has been estimated that the projected cost of this bill is $30 million. In my judgment, that is an unrealistic figure. I believe the figure will come nearer running $150 million, because crime has been increasing, it is on the rise, and it looks like it will continue to increase.

Also, I want to say this bill appears to be a general welfare bill. The very poor and the wealthy would be ineligible, because they could not show that financial stress was a result of the crime. That is what they would have to show—financial stress. Well, a wealthy man could not show financial stress. A poor man could not show it because he has no finances that are under strain. Therefore, it would

be a welfare bill only for the middle class.

I would remind my colleagues that the losses which are covered here are already insurable risks.

Mr. President, I would also remind my colleagues that the States presently on some of the programs spend up to 27 percent of their budget on administrative costs. Federal costs would probably be higher. And it seems always to cost the Federal Government more to do anything than it does the States.

I am pleased that President Nixon is trying to reverse the flow of power in this Nation and turn the power from the Federal Government back to the States and back to the people. This bill does just the opposite. It brings more power here. It assumes an additional responsibility, a new responsibility, which the Federal Government does not have now, and that is going in the opposite direction from that which the President has recommended and in a direction which I have felt for years had been the wrong direction.

I want to see the power turned back to the States and to the people. I want the States to assume some responsibility.

I want to say that the President has also proposed public revenue sharing in the area of law enforcement. The States will have some funds with which to take care of their responsibility. However, if they do not have any funds coming from the Federal Government to help take care of it, it is their responsibility. And they ought to meet that responsibility. We at the Federal level have enough to take care of already where we do have constitutional authority. And where we do not have constitutional authority, why should we go into another field?

In my judgment, it is a serious error. And I hope that the bill will be voted down.

Mr. McCLELLAN. Mr. President, I support the enactment of the Victims of Crime Act of 1973 I reject arguments advanced against it which would characterize it as "middle-class welfare," impute to it a rejection of individual responsibility, or read into it the assumption of social responsibility for crime.

Mr. President, crime knows no age, sex, or class barrier. All of us—old or young, male of female, rich or poor—may be or have been victims of crime.

This legislation does nothing more than alleviate some of the untoward consequences of such victimization.

It does not relieve the criminal of his legal responsibility to society or to the victim. His responsibility remains the same in both respects.

The bill merely recognizes that more often than not the perpetrator cannot be found, and when he can be found, he is judgment proof. Where that situation occurs, this legislation would help the victim in "financial stress" to meet his needs. Is that "middle-class welfare?" Do we call disaster relief for tornado victims "welfare?" Do we call flood relief "welfare?" Is society responsible for the damage done by wind or water?

I see no reason to use argumentative labels here, or to suggest that this program undermines concepts of individual responsibility any more than special programs of aid to victims of national disasters.

Mr. President, this legislation does not, in my judgment, rest on a "failure to protect" rationale. Society has a duty to provide police services, but this general duty does not give rise to individual liability.

This legislation rests solely on humanitarian considerations. All of us share together the risks of crime in our society. This proposal recognizes that we ought to share together some of its more serious financial consequences.

Mr. President, the resources our society today allocates to the criminal justice system are spent to see that individuals are not victimized by crime in the future. If society may rightfully use its resources to prevent crime from occurring in the future, I can see no reason why it ought not use its resources to repair the consequences of crime in the present.

Are we to look to the future victim, who must always remain nameless, and forget the present victim, who stands before us in need?

I urge the immediate passage of this legislation.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MONDALE. Mr. President, I strongly support speedy enactment of the legislation under consideration—S. 300, introduced by the distinguished Senator from Montana (Mr. MANSFIELD) and myself. I am privileged to have had the opportunity to help shape this vitally needed measure, which I view as a major step in meeting our obligations as a society to those victimized by criminal activity.

For over 2 years, the Senate has been grappling with the need for comprehensive legislation to meet the need for such compensation. In particular, I would note the leadership of the distinguished Senator from Montana (Mr. MANSFIELD), who since 1971 has played a vital role in leading the fight for compensation of crime victims, and the distinguished Senator from Arkansas (Mr. McCLELLAN), whose own comprehensive legislation has done much to expand the scope of coverage of crime victims legislation. In addition, I am pleased that many features of legislation which I originally introduced in late 1971, as S. 2817, are now embodied in S. 300.

This effort to provide compensation for crime victims has been undertaken by many Members of this body, because of our shared recognition of the need for Federal involvement in the area. In 1971, the FBI uniform crime statistics reported that over 800,000 crimes of violence—murder, rape, robbery, and aggravated assault—took place in the United States. This was almost three times the number of these crimes which occurred in 1960, and even these figures may be severely understated.

In fact, crime victimization studies now being undertaken by the Census Bureau, in cooperation with the Law Enforcement Assistance Administration, may show the American people for the first time the true extent of crime victimization in the United States. Whatever the final victimization figures, however, each of us knows the psychological and physical toll which crime takes on our society—and, most importantly, on the victims of crime.

Unfortunately, in modern times the victim has often become the forgotten person in the criminal triangle. Criminal cases pit the State against the accused suspect, with scarcely a mention of the victim. Yet, it is the victim who is often left to suffer a life of disability. And, all too often, it is the victim's family which is left to mourn a senseless death, which strikes without notice or purpose, and leaves no means for any type of recovery.

S. 300 does much to tangibly express society's concern with the victim of crime. This legislation would establish a direct Federal program designed to meet the financial needs of innocent victims of crime, if such crimes are committed within the District of Columbia, on an Indian reservation, or in Federal territorial or maritime jurisdiction.

Under this program, both victims and "intervenors"—the so-called good Samaritan—would be eligible for compensation. And, while "financial stress" would be a required condition for compensation in most instances, this concept as defined in this legislation is sufficiently broad to allow participation in benefits of all except those in upper-income brackets for whom such compensation would be a "windfall."

In addition, S. 300 establishes a grant program, which would compensate States for 75 percent of the costs of State compensation of crime victims programs which are "susbtantially comparable" to the Federal grant program. In this regard, I am particularly pleased that S. 300 includes a provision of mine to aid in the study of State plans to determine whether such plans are adequately providing the type of compensation designed to meet the real needs of crime victims.

It is estimated that total annual Federal costs of both the Federal direct program and the grant program to the States will stabilize at approximately $28 million per year. This is a modest amount, yet the benefits which this expenditure should provide will underscore our willingness to compensate in whatever tangible way possible for the results of criminal activity. These payments should enable thousands upon thousands of families to better bear the heavy burden which injury or death as a result of criminal activity may bring.

I am also pleased that other measures we are considering provide for a special

insurance incentive program for public safety officers, for additional remedies for victims of racketeering, and for provisions for payment of death benefits to dependent survivors of public safety officers.

This latter feature is particularly significant, in that it expresses our concern for the welfare of the families of policemen, firefighters, and corrections guards. Under this legislation these public safety officers would be provided a $50,000 Federal death benefit if they were killed in the line of duty as a result of a criminal act. This provision, similar to a section of S. 2817, which I introduced in 1971, provides one means of expressing national recognition of the hazards undertaken by those men and women who constantly risk their lives in protection of the lives and property of others.

Taken together, these measures are a highly significant step in our attempt to provide recognition by our society—through a program of public compensation—of its obligation toward the victims of criminal acts. This legislation does much to right the scales of criminal justice as it is now administered, not by removing rights which the Constitution provides to all citizens, but by recognizing the rights of victims of crime and by providing one tangible means of implementing these rights.

Mr. McCLELLAN. Mr. President, I know of no amendments to the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 300) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

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 "Victims of Crime Act of 1973".

COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 522, respectively, as sections 550 through 571;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new part:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eighteen years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, at a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board shall be eight years, except that (1) the terms of office of the members first taking office shall expire as designated by the President at the time of appointment, one at the end of four years, one at a the end of six years, and one at the end of eight years and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"SEC. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support of payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surviving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim, that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under this part and subsequently recovers damage from any other source based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in financial circumstances of a victim or one or more of his surviving dependents that eliminates financial stress.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net loss of $100 or an amount equal to a week's earnings or support, which ever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, or related series of such acts, omissions, or possessions, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may proportionately reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board, in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compensation.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compensation, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 455. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or

matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e)(1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f)(1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g)(1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"SEC. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code.

"(b) This part applies to the following acts, omissions, or posessions:

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkenness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

SEC. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"SEC. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"SEC. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"SEC. 460. The Board shall transmit to the Congress an annual report of its activities under this part. In its third annual report, the Board upon investigation and study shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part F of this title with respect to the adequacy of State programs receiving assistance under paragraph (10) of subsection (b) of section 301 of part C of this title."

COMPENSATION OF BOARD MEMBERS

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crime Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crime Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund.".

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

SEC. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking

the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

SEC. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate."

PART C—MISCELLANEOUS PROVISIONS

SEC. 108. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973, $5,000,000 for the purposes of part F."

SEC. 109. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement invalid, the provisions of the other parts and their application shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEC. 110. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any persons or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 111. This Act shall become effective upon the date of enactment.

Mr. MCCLELLAN. Mr. President, I move that the vote by which the bill passed be reconsidered.

Mr. TALMADGE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VICTIMS OF CRIME ACT OF 1973

Mr. MCCLELLAN. Mr. President, I ask unanimous consent for the immediate consideration of Calendar No. 25, S. 800.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 25, S. 800, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the compensation of innocent victims of violent crime in financial stress; to make grants to the States for the payment of such compensation; to authorize an insurance program and death benefits to dependent survivors of public safety officers; to strengthen the civil remedies available to victims of racketeering activity and theft; and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill.

Mr. MCCLELLAN. Mr. President, I ask unanimous consent that the name of the Senator from Rhode Island (Mr. PASTORE) be added as a cosponsor to the bill, S. 800.

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

Mr. MCCLELLAN. Mr. President, the Senate has once again passed each of the separate component parts of the "Victims of Crime Act of 1973." It now has before it S. 800, which integrates these separate bills into one comprehensive measure. Similar legislation was acted on last year. At that time, this comprehensive measure was cosponsored by the following 43 Senators:

Senators Allen, Bayh, Bentsen, Bible, Burdick, Cannon, Case, Chiles, Church, Cook, Cranston, and Eastland.

Senators Gravel, Griffith, Gurney, Harris, Hart, Hartke, Hollings, Hughes, Humphrey, Inouye, Jackson, Kennedy, Mansfield, Mathias, McClellan, McGovern, McIntyre, Metcalf, and Mondale.

Senators Moss, Muskie, Nelson, Pell, Percy, Randolph, Ribicoff, Roth, Schweiker, Stevenson, Tunney, and Williams.

It was drafted as an amendment to a House bill to give the House an opportunity to act on it as a package prior to adjournment. The amendment was accepted by the Senate by a record vote of 70 to 4—See CONGRESSIONAL RECORD, volume 118, part 24, page 31058. The amended House bill was then passed by a record vote of 74 to 0. No action, however, was taken on this comprehensive measure by the House prior to adjournment.

Mr. President, this legislation has the overwhelming support of the Senate and the Nation. Indeed, on January 31, 1973, the Democratic caucus unanimously called for the taking of immediate action to bring to the Senate this sorely needed legislation. Consequently, I am hopeful that it will be possible for the House to process it during this Congress and that a mutually satisfactory compromise can be sent to the President without delay. I urge its immediate passage.

Mr. President, I yield to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment be considered as having been read.

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

Mr. BAYH's amendment is as follows:

On page 51, after line 14, add the following new subsection:

"(e) In lieu of the benefit provided under subsection (a), any recipient eligible under section 527 may elect to receive compensation under the provision of Subchapter I of Chapter 81 of Title 5, United States Code, except section 8135(a) thereof, as if the public safety officer were a deceased employee as defined by section 8101(1) of such Title 5, whose death resulted from an injury sustained in the performance of duty."

Mr. BAYH. Mr. President, I salute the distinguished senior Senator from Arkansas for the excellent effort that has gone into this proposed legislation, as well as the rest of the package of bills which the Senate has been considering this afternoon.

The amendment I am proposing to S. 800 would permit the dependents of a public safety officer killed in the line of duty to choose to be compensated under the Federal Employees Compensation Act instead of receiving the $50,000 lump-sum payment provided by the bill now.

While in many cases the $50,000 lump-sum benefit is preferable for the survivors, there are situations in FECA benefits which would more adequately provide for a public safety officer's family. For example, a widow with three children would receive, under the relevant FECA provision (8133 U.S.C.), $7,500 a year, assuming her husband's salary was $10,000. This payment would continue until she remarried or died and until her children reached 18 or 23, if full-time students. On the other hand, the $50,000 lump-sum payment, invested at 6 percent, would provide just $5,000 a year for only 14 years, or $3,000 a year in interest indefinitely.

Indeed, I can imagine situations in which the widow and children would prefer the security of the FECA monthly payments, rather than having to maintain as an investment the $50,000 lump-sum payment—even if the resulting benefits were substantially the same. This is an option we ought to give to the families of public safety officers who give their lives in the line of duty.

Though the amendment I propose will ease the hardships of the families of public safety officers, its impact on the Federal budget will be minimal if not positive. I have asked the Library of Congress to review the cost implications of this amendment. Such projections, of course, are very difficult because the cost will turn on individual decisions of the survivors of public safety officers, who will have to consider their own financial situation, personal situation, and desire for security. But, as the Library points out, "to the extent that survivors did choose the option available under the amendment, the immediate budget impact would reflect a saving"; that is, the expenditure in that fiscal year would be 1 year's benefits instead of $50,000. This is important in view of the tightness of our present budget. The long-run costs might or might not be higher than the $50,000 lump-sum payment, depending on the size of the typical benefit under my amendment, the length of time it is paid, and the interest rate the Government pays when it borrows. Even if the cost might eventually be greater, the amount of money involved would not be significant to the Federal Government but would be vitally important to certain families.

Mr. President, title III of S. 800 is de-

signed to assure that the families of slain public safety officers receive a sufficient amount to continue to live in dignity after a tragic loss. We are doing this because of the moral obligation of the Nation to compensate adequately those who risk their lives to protect all of society, as the distinguished Senator from Arkansas (Mr. McCLELLAN) has eloquently pointed out before. And we are doing this because it will improve law enforcement by increasing the morale of those who are on the front lines, as professionals in this field have testified at our hearings. I believe that my amendment furthers these purposes and I hope that it will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

Mr. McCLELLAN. Mr. President, I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I am sure that the initiative and the concern of the Senator from Indiana in proposing the instant amendment to the bill now under consideration are very commendable. However, I feel that there are some things that should be said about it.

Title III of S. 800 is designed to provide a flat $50,000 gratuity to the dependent survivors of public safety officers killed in the line of duty as the result of a criminal act or an apparent criminal act. It will provide recipient survivors with a generous cash reserve to supplement annuity-type payments which would very likely be received from State and local government employers as the result of workmen's compensation plans and other survivor benefits paid on a monthly basis.

This cash reserve would allow a widow to meet large cash demands such as college costs or payoff of a mortgage, while annuity-type benefits would operate to satisfy day to day costs of operating a household in place of lost income.

The amendment now under consideration has not had the benefit of committee consideration to resolve technical problems.

There are very possible technical problems, because such problems would be inherent under the terms of the amendment which incorporates the myriad of benefits available under Federal workmen's compensation, and these should come under the scrutiny of the appropriate committee that deals with the Federal compensation system.

I am also wondering Mr. President, if there would not be a dangerous precedent set by this amendment. After all, the payments would be made under the provisions of the Federal Employees' Compensation Act, and it suggests that State and local public safety officers be treated as employees of the Federal Government, for the reason that only employees of the Federal Government come under the provisions of the Federal Workmen's Compensation Act.

It is for these reasons that I raise some apprehension—if for no other purpose than to send up a warning flag to indicate that when the time comes for consideration by the other body, these matters will be taken into consideration.

Again I say I think the Senator should be commended for his initiative and his concern, but I do think that the technical difficulties inherent in the amendment could come back to haunt us.

Mr. BAYH. Mr. President, I appreciate the concerns raised by the Senator from Nebraska. I am hopeful that the amendment will be accepted, and that the questions that the Senator raises would be addressed when we get to the conference stage. I do not share his concern about the technical matters, having studied the matter with great particularity, and realizing that these specific provisions are the same provisions that already apply to the millions of people who work for the Federal Government and who are already covered by the act.

What we are saying to the widow is not "You are forced to take advantage of the Federal Employment Compensation Act," but "If you would rather have the regular annuity payments that any Federal employee has, you may take advantage of that, or you may instead take a $50,000 lump sum."

Mr. McCLELLAN. Mr. President, I see no objection to this amendment on its face. The alternative proposed is, from my viewpoint, entirely satisfactory. If they prefer to choose compensation under the Workmen's Compensation Act, I see no serious objection.

However, it is bad practice to bring up an amendment to a bill on the floor, where the committee has had no opportunity for consideration, study, and the taking of testimony to support it, we ought to give the committee the opportunity to work out the technical issues that may be involved.

I am going to accept the amendment, however, with the hope at least that the House will hold hearings on it and give careful consideration to it. I believe that if it did that, there might be no serious objection.

I should like, however, to have the cooperation of my colleagues hereafter in getting these amendments to us when we consider bills, so that they can be given the proper committee consideration that such legislation as important as this deserves.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH).

The amendment was agreed to.

Mr. TALMADGE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 65, immediately preceding line 5, insert the following new titles:

"TITLE V—ADDITIONAL SENTENCES FOR COMMISSION OF A FELONY WITH USE OF A FIREARM

SEC. 501. Subsection (c) of section 924 of title 18 of the United States Code is amended to read as follows:

"'(c) (1) Whoever—

"'(A) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

"'(B) carries a firearm unlawfully during the commission of any felony for which he may be prosecuted in a court of the United States,

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years or more than fifteen years. The imposition or execution of such additional sentence shall not be suspended and probation shall not be granted.

"'(2) Whoever, after having been convicted of any such felony while so using or unlawfully carrying a firearm as provided in paragraph (1) of this subsection and sentenced to an additional term in connection therewith under paragraph (1), is again convicted of a second or subsequent offense involving the commission of a felony for which he may be prosecuted in a court of the United States while so using or unlawfully carrying a firearm shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than ten or more than thirty years. The imposition or execution of such additional sentence shall not be suspended, probation shall not be granted, and section 4202 and chapter 309 of title 18, United States Code, and the Act of July 15, 1932 (D.C Code, secs 24–203–24–207), shall not be applicable.

"'(3) In no case shall any additional term of imprisonment imposed pursuant to this subsection run concurrently with any term of imprisonment imposed for the commission of any such felony.

"'(4) A conviction shown on direct or collateral review to be invalid, or for which the defendant has been pardoned on the ground of innocence shall be disregarded for purposes of paragraph (2) of this subsection.'

"TITLE VI—CONTROLLED SUBSTANCES ACT AMENDMENTS

"SEC. 601. The Controlled Substances Act, approved October 27, 1970 (84 Stat. 1242), is amended by adding immediately after section 405 thereof the following new section:

"'PUBLIC MENACE

"'SEC. 405A. (a) Notwithstanding any other provision of this Act or of any other law, any person who violates section 401(a) by distributing any controlled substance classified in Schedule I or II which is a narcotic drug shall, if such person is a public menace, be sentenced, in addition to the punishment provided for such violation, to a term of imprisonment for not less than ten years or more than thirty years; except that if such person has previously been convicted of such a violation and sentenced as a public menace, such person shall be sentenced, in addition to the punishment provided for such violation, to life imprisonment. The imposition or execution of any such additional sentence shall not be suspended, probation shall not be granted, and section 4202 and chapter 309 of title 18, United States Code, and the Act of July 15, 1932 (D.C Code, secs 24–203–24–207), shall not be applicable; except that any person so sentenced to life imprisonment may be released on parole after serving not less than thirty years of his life sentence (but in no event shall any period of imprisonment served by him in connection with his punishment for such violation be included within or considered as a part of the thirty-year period which he is required to serve prior to his eligibility for consideration for parole). In no case shall any such additional term of imprisonment (including life imprisonment) imposed pursuant to this section run concurrently with any term of imprisonment imposed for such violation.

"'(b) For purposes of this section, the term "public menace" means any person convicted on or after the effective date of this section of a violation of section 401(a) of this Act by distributing, in an amount in excess of four ounces, any controlled substance or any mixture containing any controlled substance classified in Schedule I or II which is a narcotic drug and, who, at

the time he committed such violation, was not an addict.

"'(c) A conviction shown on direct or collateral review to be invalid, or for which the defendant has been pardoned on the ground of innocence shall be disregarded for purposes of this section.'"

On page 65, line 5, strike "TITLE V" and insert in lieu thereof "TITLE VII".

On page 65, line 7, strike "SEC. 501." and insert in lieu thereof "SEC. 701."

On page 66, lines 2, 10, 17, strike "SEC. 502", "SEC. 503" and "SEC. 504" respectively and insert in lieu thereof "SEC. 702", "SEC. 703" and "SEC. 703".

On page 66, line 17, strike "and IV" and insert in lieu thereof ", IV, V and VI".

Mr. TALMADGE. Mr. President, the amendment which I offer would add two new titles to the pending bill, S. 800, the Omnibus Crime Control and Safe Streets Act Amendments of 1973.

Most major crimes involve one of two implements—firearms or drugs—and, thus, there has been an increasing tendency at the Federal level to attack the implements of crime. I question this approach since, in my view, it serves no useful purpose to legislate against inanimate objects. We need to get at the man who sells the dope and the man who wields the gun. Accordingly, one aspect of my amendment represents a clear and preferable alternative to Federal efforts to require licensing, registration, and confiscation of firearms. These are efforts which I have never supported.

In this regard, the first part of my amendment would require that severe and mandatory penalties be imposed on individuals who use or unlawfully carry a firearm in the commission of a Federal felony. Its operation is simple. When a person is arrested for and convicted of committing a Federal felony, the court must make only one finding in order for this provision to be applicable—that the defendant used or unlawfully carried a firearm in the commission of that underlying felony. If the court makes such a finding, then it must impose the additional punishment required by my amendment. This punishment would be added to the penalty imposed for the underlying felony, and the two sentences could not be served concurrently.

In the case of first offenses under this provision, the additional penalty would be a term of imprisonment for not less than 5 or more than 15 years. The court could not suspend this sentence or grant probation. In the case of second or subsequent offenses under this provision, the additional penalty would be a term of imprisonment for not less than 10 or more than 30 years. The court could not suspend this sentence or grant probation and, furthermore, parole and good time allowance would be prohibited.

The second part of my amendment is aimed at dope peddlers, and specifically the drug pusher who is not himself an addict. His is not a crime of passion. He does not need money to feed his habit. His is a crime of cold, calculated greed. His is a crime which breeds more crime and more suffering. This man is a vulture who preys on the vitals of our society.

My amendment brands the nonaddicted pusher for what he is—a "public menace"—and imposes additional penalties on him.

When an individual is arrested for selling hard drugs, the court must make two findings in order for the "public menace" provisions of my amendment to be applicable. First, the courst must find whether or not the defendant is an "addict," as defined by the Hazardous Substances Act. If he is not an addict and if the court finds that the mixture he sold weighed four ounces or more, then the court must hold that he is a "public menace."

In the case of first offenders under the "public menace" provisions of my amendment, a term of imprisonment for not less than 10 or more than 30 years would be imposed. This sentence would be added to and may not be served concurrently with whatever punishment the defendant received for the underlying crime of selling hard drugs. The court could not suspend this additional sentence or grant probation and, furthermore, parole and good time allowance would be prohibited.

In the case of second or subsequent offenses under the "public menace" provisions of my amendment, the additional penalty would be life imprisonment with no eligibility for parole until 30 years of that life sentence has been served. The court could not suspend this additional sentence or grant probation.

Mr. President, I have drafted the provisions of my amendment for the sole purpose of imposing punishment for certain actions which took place or certain circumstances which existed during the commission of the underlying Federal felony. My intention is not to create a separate and independent crime.

In my judgment, we do not need a multiplicity of new laws defining Federal crimes. Rather, we need to vigorously enforce and, when necessary, strengthen laws already on the books. There is no greater deterrent to crime than the realizations that justice will be swift, stern and impartial, and that criminals will be prosecuted to the full extent of the law.

Virtually every American lives in the shadow of crime. No one is completely safe from the ravages of the lawless elements. For too long, innocent, law-abiding citizens have been defiled and terrorized by crimes involving guns and drugs. We need to scourge the gunmen and the drug pushers from our society like mad dogs.

This is the purpose of my amendment, and I urge its adoption.

I have conferred with the distinguished and able manager of the bill. I hope that he is agreeable to accepting the amendment. I hope the Senate will do likewise.

Mr. McCLELLAN. Mr. President, I regret that the committee has not had an opportunity, as I said about the other amendment, to study and consider the provisions of this amendment. However, the objectives of the amendment have a strong appeal to me, because I favor a strengthening of our laws.

We often pass a law with the idea that it will be a deterrent to crime. I have said, and I repeat again, that it is not the enactment of a law—it is not the fact that there is a law on the statute books—that serves as a deterrent to crime. It is the enforcement of our laws and the penalties that serve as a deterrent; it is not the law itself.

This amendment deals exclusively with punishment for crimes that are already on the books. My judgment is that the present penalties for the crimes are not adequate. So the enactment of this amendment may strengthen those penalties. If it is enforced, it will serve as a deterrent to the commission of the crimes.

I am perfectly willing now to accept the amendment, but I hope the House will hold hearings on these particular features of the bill and make a record of them.

The Senate will have another opportunity to consider these amendments in conference and to vote on the conference report, I will reserve my final judgment on their merit until then.

As I say, I have no objection to the amendment now. But I do not want my acceptance of this amendment or the previous one to be taken as a precedent that the Subcommittee on Criminal Laws and Procedures is going to accept all possibly worthy amendments that may be offered to the bills we report.

I hope Senators having legislation in mind in this field will introduce bills and give the committee an opportunity to consider them.

Mr. President, we have pretty strong laws now which prohibit the carrying of concealed weapons in most States. There is such a law in my State. We have them throughout the country. It is not the law that deters. The reason it does not deter is that the law is not enforced.

I am not persuaded that the enactment of so-called gun laws, to which the Senator from Georgia referred a few moments ago, is a solution to the problem. If we cannot enforce laws against carrying a gun, against hoodlums and thugs who carry them today as weapons, I do not know how we are going to enforce the law against them with respect to the registration of weapons.

So I have been apprehensive that the enactment of laws such as the bills we have considered here in the gun field would simply disarm the law abiding citizens of this country, and the thugs and others who carry these weapons and use them to commit crime would remain armed.

This increased penalty may have some wholesome effect on strengthening the deterrence of the laws we have today.

So I have no objection to the amendment, and unless there is objection to the amendment, I am willing to accept it.

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

Mr. McCLELLAN. I yield.

Mr. BAYH. Mr. President, I do not want to be discourteous to my friend, the distinguished Senator from Georgia, but I, for one, feel, as a member of the Committee on the Judiciary, looking for the first time at the content of this amendment, and remembering that within the last week we have had a message from

the President addressing itself to this matter, that I am not prepared to accept this amendment without serious study. I am not in the position of accepting it or not accepting it. I am in the position, and I feel I have the responsibility, of bringing this particular issue to the awareness of enough Senators so that we actually know what we are doing. Not one person in this body is for crime. Let us look at some of the wording here. It refers to a person who violates section 401(a) by distributing any controlled substance classified under schedules 1 or 2, which is a narcotic drug. That is a violation of the law now. If that person is a public menace—would the Senator from Georgia care to describe what a public menace is?

Mr. TALMADGE. Yes. It is one who peddles drugs; and he is not, himself, an addict. This drug pusher would receive a mandatory sentence, as a public menace, under the provisions of my amendment.

The amendment is aimed at two people: One is the nonaddict, the drug peddler who goes around selling drugs and leads people into lives of degradation and crime. The other is a person who uses or unlawfully carries a gun in the commission of a felony. And the amendment tightens up and stiffens the sentences in both instances.

The only way I know to stop these criminals is to make the penalty more severe, and that is what the amendment would do.

Mr. BAYH. I do not know of anybody on the floor of the Senate who has had any more chance to study gun control. The Senator from Georgia and I do not agree, perhaps, on the final conclusion; but, if he studied these records as carefully as I have, he would find that one of the major problems we have with firearm control is that you cannot get the law providing for strict penalties enforced now. We have people on the streets of Washington carrying firearms. They are brought before the judge and are turned loose, and 48 hours later they have another firearm. That is part of the problem. We also, of course, need laws which prevent criminals from getting a hold of cheap handguns useless for other purposes.

Mr. TALMADGE. My amendment is aimed at the criminal, not the gun. If someone commits a felony and possesses a firearm in the commission of that felony, he will receive a mandatory, separate sentence of at least 5 years for the first offense and a mandatory, separate sentence of at least 10 years with no eligibility for parole for the second offense.

Mr. BAYH. I have talked about the mandatory sentence business, particularly so far as drugs and juvenile activities are concerned, at great length with the Senator from North Carolina (Mr. ERVIN). He has grave reservations about mandatory sentences for a number of reasons.

This amendment does not distinguish between adult three-time felons and a first-time loser who may be 16, 17, 18, or even younger.

I would like us to have enough humanitarianism that we try to have a system that really puts the hard-nut characters where they belong and gives us enough flexibility so that we can recoup some of these lives. I am afraid we are going to make that impossible with this amendment. That is why it should be studied further. let us put these pushers and killers in prison, of course, but let us help those who can again become useful taxpaying citizens to do so.

Mr. TALMADGE. If the Senator really wants to stop crime and drug peddling, this amendment is the surest way to do it. It declares a man who sells drugs and is not addicted to drugs himself, to be a public menace, if the mixture which is sold is at least partially composed of hard drugs and weighs 4 ounces or more. The 4 ounces is generally determined to be more than an addict would need for his own use and thus, he could only be described as a pusher or peddler.

Mr. BAYH. Does the Senator from Georgia really believe that this is a measure that ought to slip through here at a little after 5 in the afternoon, without having the opportunity to examine it at any length.

Mr. TALMADGE. I had some doubts about the wisdom of the Senator's amendment that was put through in a little less than two minutes. His related to taking money out of the Treasury. Mine relates to getting at hard criminals who commit crimes and are the scourge of this country today.

I do not see how anyone who is a member of the Judiciary Committee can stand on the floor of the Senate and oppose a proposal aimed against a peddler of drugs who is not himself an addict. That is what the amendment is designed to get at.

Mr. BAYH. Since the Senator from Georgia raised this matter—I was not going to—I did mention to the distinguished committee chairman, the Senator from Arkansas, that the amendment of the Senator from Indiana was submitted last year and again this year. It is not something that for the first time saw the light of day at a quarter after five.

Mr. TALMADGE. I have no abiding objection to the Senator's amendment. I voted for it.

Mr. BAYH. What I am suggesting is that we are talking about mandatory sentences, and I want to know exactly what we mean. I would like to have the testimony of some people who are involved on the street in catching these criminals, to see what impact a mandatory sentence is going to have.

I am not at all clear on what we really mean by "public menace."

Mr. TALMADGE. I have explained it twice for the Senator. I will explain it again.

This amendment attempts to get at the pusher of hard narcotics who is not an addict himself. It says that in all cases where a man has been arrested for selling drugs, the court must determine whether or not he is a public menace. A public menace is one who is not addicted to drugs and who has sold a mixture which at least is partially composed of hard drugs and which weighs 4 ounces or more.

Mr. BAYH. What is a mixture composed partially of hard drugs? How much is it? How much is the mixture? Is it 1 percent, is it 0.1 percent? Could it be an accidental adulteration?

I am not saying I am opposed to the amendment, but I am opposed to it being considered now until we have an opportunity to study it further. If people are going to be put in jail under a mandatory sentence for life, I want to know exactly under what circumstances and according to what standards—and with what prospect of reaching the goals we all share—this punishment will be applicable.

Mr. TALMADGE. Any amount would be covered which weighs 4 ounces or more, and is at least partially composed of a "narcotic drug" as defined in schedule II of the Hazardous Substances Act. This amendment provides a mandatory sentence for anyone who sells 4 ounces or more of such a mixture, and is not an addict himself.

Mr. BAYH. I am advised by my staff, in reading the language, that the 1970 act already provides that for this type of continuing criminal enterprise, if you have someone who is a pusher, someone who is in the business, that for the first prosecution he mandatorily gets 10 years to life, and a $100,000 fine; for the second offense, he mandatorily gets 20 years to life and a $200,000 fine.

I would hope that the Senator would withhold his amendment. The measures that are going to come down from the President will be referred to the Committee on the Judiciary. I may be for it. I will support any sound, effective measure which combats crime. I want to give these matters careful consideration. These people who stick up stores with firearms and who push drugs must be dealt with. At the same time I want to make sure our laws do not make it impossible to rehabilitate the juvenile offender that we may have a chance to make a member of society instead of making them wards of the state.

Mr. TALMADGE. This is not aimed at addicts, or children, but at the hard, cold-blooded pushers. The first conviction would carry an additional, independently served sentence of 10 to 30 years, with no parole; the second conviction would carry an additional, independently served life sentence with no parole until 3 years of the life sentence has been served .

I think the worst criminal problem we have in the United States is the spread of narcotics by cold-blooded knaves anxious to make money. They peddle drugs and get people hooked on them. Once they are hooked on drugs there are only two ways for them to go. If the person is a female they usually resort to prostitution and if he is a male they resort to burglary and holdups to support their habits. This is aimed at getting pushers of drugs off the street and putting them in the penitentiary where they belong.

That is the best way I know of to stop this drug problem.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. BAYH. Yes; the Senator from In-

diana will have to object to the amendment at this time.

The Senator from Rhode Island addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, I realize what the doubts of the Senator from Indiana may be, but I think we have reached a critical point in our society when something drastic needs to be done.

As I understand the amendment being proposed by the Senator from Georgia, he is not out to get that addict, the person who in order to satisfy his own addiction might be persuaded to possibly sell the drug to someone else; he is dealing with the individual who is doing this commercially, the hardened criminal, the man who has no conscience at all, the man who is engaged in the most nefarious sort of crime.

When we realize that a person becomes addicted, as the Senator from Georgia said, there are only two outlets: He either gets himself involved in crime to satisfy the habit or he ends up giving himself an overdose and committing suicide.

I say the only way to stop this is to be drastic and severe. I have no compassion for any individual who for the sake of money, who is not an addict himself, and in many instances may be a member of organized crime, will approach this drug and victimize the young of this country to the point where there is no return.

I tell Senators frankly I am going to support the amendment.

Mr. TALMADGE. I thank the Senator.

Mr. BAYH. Mr. President, I have been sitting in my subcommittee all afternoon trying to get the Food and Drug Administration to reclassify barbiturates and methaqualine, which are the next step before heroin, so it is clear on the record that I am no less concerned about jailing pushers than others in our society.

I do not think however we have given careful enough consideration to this particular legislation. I have not had a chance to weigh it and the effect it will have on other legislation. The Senator is talking about putting someone away for life. I want to be sure this is the kind of person we really ought to put away for that period of time.

I just finished reading the Controlled Substances Act to the FDA people. After studying the matter for a year they admit they do not have the expertise to deal with sleeping pills. It is a complicated area.

Mr. PASTORE. I made no disparaging remarks about the Senator from Indiana. I gave the Senator credit for his point of view. I said I understood the reasons for his position. I am only giving my own feelings. Maybe the Senator from Indiana wants to study the matter further. That is all right with me. I am saying I agree with the Senator from Georgia.

The time has come when we have to become severe if we are going to bring any kind of restraint in this nefarious activity.

Since the amendment of the Senator from Georgia deals with addicts, I assume the Senator from Georgia has made a study as to whether this is a drug which relates to addicts.

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

Mr. BAYH. The Senator from Indiana is going to discuss it for a while.

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

Mr. BAYH. If I might make one observation. I have been in executive sessions of the Committee on the Judiciary with a man whom I have as much respect for as any other Member of this body in this area and that is the senior Senator from North Carolina. For us to go ahead here and proceed right now without any advance notice would not be appropriate. I do not say this in any disparaging way at all to the Senator from Georgia. He feels very strongly about this matter, and I share his concern about this problem, but it is fair to say that few Members of the Senate have been put on notice that this kind of amendment was going to be discussed.

If we could have over the weekend to study this matter I might come down on the side of the Senator from Georgia as far as pushers are concerned. But I want to make sure that we are putting away the kind of people that ought to be put away.

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly so that I can suggest the absence of a quorum, without his losing his right to the floor?

Mr. BAYH. Yes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMPENSATION FOR ELDERLY VICTIMS OF VIOLENT CRIME

Mr. DOLE. Mr. President, I fully support the purpose of the Victims of Crime Act of 1973. The day is long past when our society should start providing means of restoring those who, through no fault of their own, suffer at the hands of violent criminals.

Over the past several decades, court decisions and developing publicity of the various news media have seemed to demonstrate a greater concern and compassion for the criminal in America than for the victims who frequently suffer much more in terms of monetary loss, injury, suffering, and even death, than the criminal himself. A few years in prison, a light sentence or acquittal have frequently been the criminal's lot while permanent crippling injury, ruined financial resources, or loss of a provider or loved one have befallen the victim and his family.

PRIORITY TO VICTIMS

It is time that our system give priority to the innocent victim who bears the harshest burden of the law's violation, and I believe the Victims of Crime Act is a long overdue measure, and I support it again this year as I did when it was considered in the 92d Congress.

By establishing a compensation system, based on the theories of damages which govern our civil tort law, the act presents a reasonable, fair, and manageable means of measuring injury and loss and setting the level of compensation for this injury.

By setting realistic minimum and maximum limitations on damage claims, the act assures, first, that inconsequential and frivolous claims will not clog the compensation board's docket; and, second, that the act's aid will go to the greatest number of those in greatest need of aid.

PROTECTION FOR AVERAGE CITIZEN

There is, however, one point of the act's application which concerns me as possibly working against the intent behind it. Wisely, the act establishes a standard of financial stress for determining eligibility for receipt of compensation. As set forth the term means, "the undue financial strain experienced by a victim or his surviving dependents as the result of pecuniary loss" from something giving rise to a claim. And in an effort to assure that the ordinary property and possessions of an average American do not disqualify an individual from receiving compensation, a number of factors are specified which should not be taken into account in computing financial stress. Thus a person's residence, his normal household items and personal effects, his automobile, the tools of his trade, would not be counted in. And other "liquid assets"—such as stocks and bonds, bank accounts, and other similar personal property—up to the amount of 1 year's income or $10,000—whichever is less—would also be excluded from consideration.

The effect of this latter provision would assure eligibility for compensation under the act for the overwhelming majority of American wage earners who have accumulated a modest savings or a few stocks. It would exclude those who were fortunate enough to have saved or acquired these types of assets in excess of $10,000, but these individuals are not really the ones this bill is designed to reach. This bill is designed for the average citizen who owns his home, has a car, and who perhaps has managed to build up a savings account or purchase a few stocks. And this is as it should be, for these are the people who suffer the harshest and most serious loss at the hands of the violent criminal.

CONCERN FOR ELDERLY

But, as I mentioned earlier, this provision might serve to exclude a great number of individuals who should be major beneficiaries of the act.

The elderly in America are among the violent criminal's most pitiful victims. They are often forced by illness, infirmities, and economic circumstances to give up their automobiles and must walk to the grocery store, to visit friends and family, to obtain the exercise they need to remain alert and involved in life. Being on the streets, particularly in the cities, they are easy prey for the mugger, the strong arm bandit, and the purse snatcher. Frequently in these crimes, elderly victims are assaulted—often

senselessly. They may be hospitalized for long periods as a consequence. Their losses may be catastrophic, both in monetary terms and in physical harm.

But many of these people could possibly be excluded from compensation under the Victims of Crime Act because of the liquid assets provision of the financial stress definition.

As it presently reads, the definition provides ample eligibility for those who could be classified as having "high incomes" but "low assets," that is without "liquid assets" not in excess of the lesser of a year's salary or $10,000—in effect savings or stocks up to $10,000 in value.

SPECIAL SITUATION OF THE ELDERLY

However, the great majority of retired, elderly people could be considered to have "low incomes" but relatively "high assets" in comparison. They live on fixed payments from social security or other pensions which may be a fraction of the income of an employed wage earner and far below $10,000. But they may also have a part-time job or a few stocks or other investments which yield a modest supplementary income. I believe the vast majority of retired people fall into this profile. But by the terms of the act's "financial stress" definition of "liquid assets" any property of this type of a value in excess of the lesser of their "annual income"—which might be extremely low—or $10,000 it seems possible could make them ineligible for compensation if they were the victim of a violent crime. In effect their yearly income—even if from a part-time job or a few stock dividends—would eliminate them from the act's coverage.

Thus I am concerned about the possible construction of this language and would hope that when this act is considered by the house and taken up subsequently in conference that assurances can be provided that such an effect is not intended and would not result.

Perhaps a simple additional provision would be sufficient. It could merely provide that the "financial stress" test for anyone over 65 years of age take into account liquid assets in excess of either a year's income or $10,000, whichever is greater. Thus even if an elderly person did earn an income—up to $10,000 yearly and owned a few liquid assets, he or she would still be covered by the act.

I do not believe anyone supporting this act has any intention to deny compensation to elderly citizens who are fortunate enough to have small additional incomes to supplement their basic social security or pension benefits. I would hope we might clarify this possible oversight and provide the meaningful coverage and benefits which our older citizens so richly deserve.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business, S. 800, be laid aside temporarily; that the Senate return to the consideration of the Talmadge amendment at the conclusion of the vote on the veto of the vocational rehabilitation bill on Tuesday next; that there be a time limitation of 1 hour, the time to be equally divided between the distinguished Senator from Georgia (Mr. TALMADGE) and the distinguished Senator from Indiana (Mr. BAYH); and that there be a time limitation of 30 minutes for other amendments, to be equally divided, under the usual rule.

Mr. McCLELLAN. Mr. President, will the Senator amend his request to allow 10 minutes under the control of the manager of the bill, so that I may have something to say about it if I so desire?

Mr. MANSFIELD. Mr. President, I will make that a part of the request for this amendment and any other amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Provided, That, effective on Tuesday, April 3, 1973, at the conclusion of the vote on the reconsideration of S. 7, the Senate return to S. 800, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, with the pending amendment by the Senator from Georgia (Mr. Talmadge) limited to 1 hour, to be divided 10 minutes to the Senator from Arkansas (Mr. McClellan) and the remaining time (50 minutes) to be equally divided and controlled by the Senator from Georgia (Mr. Talmadge) and the Senator from Indiana (Mr. Bayh), with time on any other amendment to S. 800 to be limited to 30 minutes, to be divided 10 minutes to the Senator from Arkansas (Mr. McClellan) and the remaining time (20 minutes) to be equally divided and controlled by the mover of the amendment and the manager of the bill.

Mr. MANSFIELD. Mr. President, the four bills which have been passed this afternoon will be sent to the House. Is that correct?

The PRESIDING OFFICER. That is correct?

What is the will of the Senate?

Mr. HOLLINGS. Mr. President, the crime control legislation passed by the Senate today is one of the most comprehensive approaches to fighting crime and it could not come at a better time.

One of the most vital features of this bill is what it does for the law enforcement officer and his family. All safety officers—police, firemen, prison guards, are covered in this bill which grants up to $50,000 to the family of an officer killed in the line of duty. It provides needed insurance incentives for people involved in these high-risk occupations. We have to do more to provide for those who daily risk life and limb for the protection of society.

The people of America are tired of living in fear. No one in America feels safe except the criminal element. Over the past few years, we have witnessed the fact that crime does pay. It has been the criminal whose rights are protected not the law-abiding citizen. Murder and violence have become a way of life in America. Drugs are available everywhere—even in our grammar schools.

I feel the legislation passed today gets to the heart of our judicial system—the individual will be directly accountable for the results of his own actions. Criminals will be made to contribute to the fund for his victim. Crime will no longer be free.

The time has come for tough, direct legislation that proves America is a land of law and order. Fear should be taken from the hearts of our law-abiding citizens and placed in the minds of the criminal element. We have been too soft for too long.

I think the drugpusher is going to think a long time before he goes back into our schools.

People who use guns in criminal acts have no regard for property and human life and should be put away for a long time.

I predict this legislation will be a most important step in bringing an end to the era of permissiveness in America.

ORDER FOR RECOGNITION OF SENATORS ON MONDAY, APRIL 2, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. HELMS, Mr. STAFFORD, Mr. GRIFFIN, and Mr. ROBERT C. BYRD.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following recognition of Senators on Monday for 15 minute orders, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes each.

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

ORDER FOR RECOGNITION OF SENATORS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. Presdent, I ask unanimous consent that on Tuesday, after the two leaders have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. RIBICOFF, Mr. DOMENICI, Mr. GRIFFIN, Mr. ROBERT C. BYRD.

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

ORDER FOR ADJOURNMENT UNTIL MONDAY, APRIL 2, 1973

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.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT OF THE PAR VALUE MODIFICATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return now to the consideration of S. 929, the unfinished business, a bill to amend the Par Value Modification Act, with the understanding that there be no action thereon and that no time under the agreement be charged today.

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

The clerk will state the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 929) to amend the Par Value Modification Act.

THE PANAMA CANAL

Mr. HARRY F. BYRD, JR. Mr. President, the U.S. Ambassador to the United Nations, John Scali, told a meeting of the United Nations Security Council in Panama last week that the United States supports the Panamanian Government's demand for an end to the 1903 treaty under which the United States was granted the Panama Canal Zone in perpetuity.

It was the Johnson administration, in 1967, which put a head of steam behind Panama's resolve to wrest the canal away from undisputed American control. The draft treaties of 1967 made concessions to Panama which many Members of Congress felt were unwise and were, indeed, a submission to Panamanian political blackmail.

I spoke out against the Johnson administration proposals on November 11, 1967. I talked with many of my colleagues in the Congress, who agreed that the United States should not give up its control of the Panama Canal. So great was the opposition that President Johnson never put the proposed treaty changes to a test.

Now we come to 1973—and the same political blackmail is being attempted again. And our State Department is again showing its timidity.

By refusing to show firmness at a January meeting of the United Nations Security Council in New York, it set the stage for a propaganda coup by Panama and her allies. Panama proposed that a special meeting of the Security Council be held in Panama in March of 1973 so that Panama could dramatize to the world the issue between Panama and the United States. The previous American Ambassador to the United Nations spoke against such a proposal, characterizing it as an attempt to pressure the United States into renegotiating the Panama Canal Treaty while bilateral negotiations are still underway between the United States and Panama. But he did not exercise his veto power.

So the meeting was held last week in Panama. A resolution was presented to the Security Council, demanding that the United States conclude "without delay" a new Canal Zone treaty. The American Ambassador, using the third American veto in United Nations history, killed the resolution. The vote was 13 to 1, with only the United States dissenting.

As one who has consistently supported the United Nations, I resent this attempt on the part of the United Nations to inject itself into this matter of a treaty between the United States and Panama.

While I applaud the use of the veto by Ambassador Scali, I feel the United States would be in a much stronger position had the State Department made known its determination in advance that it would not submit to United Nations dictation in a bilateral issue between Washington and Panama. We gained nothing—and perhaps lost much—by not exercising the veto in New York.

The State Department seeks to appease Panama by giving in to part of her demands. It is completely obvious, I feel, that the more we seek to appease, the more appeasing Panama will demand.

There can be no compromise of the basic issue: will the United States voluntarily forfeit its sovereignty over the canal—sovereignty which has been recognized as a part of international law for 70 years?

The United States, by treaty, obtained the right to hold in perpetuity the Panama Canal; as a part of the treaty, the United States paid Panama an initial sum of $10 million; we indemnified neighboring Columbia to the tune of $25 million, and we agreed to pay Panama substantial annual rent, which figure has since been increased several times.

The total cost to the United States for 647 square miles of the Canal Zone far exceeds the price of many other American territorial acquisitions, including the Louisiana Purchase—that vast area stretching from the Mississippi River to the Rocky Mountains, and from the Gulf of Mexico to Canada—and such notable additions as Alaska and Florida.

I have visited the Canal Zone and have looked into this matter first-hand. I see no justification for submission to threats by Panamanian political leaders.

The Congress was told in 1967 that there would be a series of anti-American riots in Panama if the American Government does not give the Panamanians what they want. We are being told the same thing today.

It is vitally important that the United States maintain its position of strength in Latin America, and the pivotal point in those defense arrangements is the Panama Canal and the Canal Zone.

I feel that a canal somewhere in Central America, linking the Atlantic and the Pacific, is vitally important to the United States and to Latin America.

But until a new sea-level canal is constructed, I think it would be unwise for the United States to forfeit voluntarily its sovereignty over the present canal.

I am persuaded that new treaties compromising our rights in the Canal Zone would weaken this country's defense posture in the Western Hemisphere. Could anyone seriously contend that Panama, with a population of 1,500,000—less than a third of Virginia's—could defend the Canal by itself? Could the uninterrupted movement of commercial or military ships be guaranteed under any Panamanian regime of the moment? Is there assurance against some Castro-type government taking control of Panama?

Panama has been notoriously susceptible to political upheaval, with 44 Presidents having come and gone in 70 years.

It was only a few years ago that the President of Panama was assassinated; his First Vice President then assumed office, but was shortly deposed as having been involved in the assassination; the Second Vice President then became President; and he was thrown out the next year.

The Nixon administration should ignore the threats of Panamanian politicians. It should ignore the hypocritical howls from the United Nations.

But if it does not, the Senate of the United States will have the final word.

The United States obtained the Canal Zone in perpetuity as a result of the Hay-Varilla Treaty of 1903. That Treaty cannot be abrogated except by a two-thirds vote of the U.S. Senate.

As to the attitude of my Senate colleagues, I do not know.

But so far as the senior Senator from Virginia is concerned, I shall fight long and hard—until such time as a sea-level canal is built—against any change in the present Treaty which would have the affect of giving up permanent U.S. control over the Panama Canal.

Through the years, the American taxpayers have invested millions of dollars in maintaining and improving the canal. The Panamanian economy has greatly benefited from all this and, as a result, has one of the highest per capita incomes in Latin America.

I have not objected to increasing the annual payments to Panama. This has been done several times.

In addition, the foreign aid we give Panama is substantial—$30 million for 1972, up sharply from $22 million the year before. In fact, U.S. dollars last year made up $167 million of Panama's $363 million in foreign exchange earnings.

I do not want to see our country give up its sovereignty—nor do I regard such action as being in the best interests of Panama or other Latin American countries.

I deplore the American Ambassador's assertion that the State Department supports the Panamanian demand for an end to the 1903 Treaty under which the United States was given sovereignty over the canal.

If the U.S. public becomes aroused, I believe we can defeat the appeasement policies of the State Department and thus protect our vital interests in Latin America.

OUR MONETARY PROBLEMS

Mr. HARRY F. BYRD, JR. Mr. President, the Wall Street Journal of Wednes-

day, March 28, published an excellent commentary by Vermont Royster.

This is one of the most commonsense pieces of writing that I have read in regard to our monetary problems, problems which the Senate has been debating today in regard to the devaluation of the dollar.

Vermont Royster was at one time editor of the Wall Street Journal. He is one of the ablest men in the newspaper business and one of the clearest and ablest writers in the business.

Mr. President, the article has so much good commonsense in it that I ask unanimous consent that the article be printed at this point in the RECORD.

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

MONEY, MONEY, MONEY

(By Vermont Royster)

If you recall that introductory economics course of your college days, you'll remember that money must perform three basic functions. It is a medium of exchange. A measure of value. And, finally, a storehouse of value.

All of these functions can be performed, and in times past have been, without money. If you need a suit of clothes you can obtain it by making shoes for the tailor; you and the tailor have exchanged goods without the intervention of money.

The value of clothes can also be established without the use of money; in competition with other shoemakers you bargain over how many pairs of shoes equal one suit of clothes, and gradually it is established in the market place that so many pairs of shoes are worth one suit.

Any commodity can also be a storehouse of value. You can make shoes and instead of exchanging them right away you may store them on the shelf so that at some future time you can exchange them for what you need.

Some goods, of course, make a better storehouse than others. Shoes vary widely in quality and also deteriorate. So in practice the more useful commodities in terms of the storehouse of value are those in which quality can be readily measured and which can be stored for a long time without deterioration.

There is another important quality in making a commodity a storehouse of value. That is that the supply of it not be subject to rapid changes. If you tried to store the fruits of your labor for future exchange use in shoes, clothes, or wheat, you might find the market glutted from a sudden increase in production so that in terms of their exchange value they would be less tomorrow than they were yesterday.

Hence the universality, from historic times until the present, of the metals and such precious stones as diamonds in performing the three functions as a medium of exchange, a measure of value and a storehouse of value.

Their quality is readily measured by both buyer and seller, and they do not deteriorate with time. Of these gold has been the most widely used, not because it is both useful and pretty, for so are diamonds and silver, but because the supply of it is less subject to wide fluctuations.

So much for the basics of Economics I. The principles may seem simplistic. But they are not unrelated to our present problems of inflation at home and the sagging value of the dollar abroad. They help explain not only our present monetary troubles but also offer some clues as to what to do about them.

For when money first came into use, the monetary unit was substantially nothing more than a warehouse receipt for one of these metals, mainly gold. A dollar was a receipt for so many ounces of gold held in the Treasury warehouse.

Hence the possessor of a dollar bill knew that he could, if he wanted to, exchange the bill for actual gold. In practice, though, it was more convenient to have the bills since they were much more easily handled and—so long as others trusted their value as warehouse receipts—you could exchange them for any number of other commodities. Prices could be measured in terms of dollar bills. Moreover, the receiver could, if he wished, use the bills as a storehouse of value, believing he could spend them tomorrow with reasonable assurance that their value would not have greatly altered.

But here enters another simple principle, that of supply and demand. If a bumper crop of wheat multiplies the supply, wheat will decrease in value relative to money. Any sophomore can understand this. Also, though, if the supply of money multiplies, then money will decrease in value relative to wheat—or shoes, or clothes, or what-have-you. And hardly anybody seems to understand this.

Yet it is the root of all our monetary troubles. In the past quarter century the supply of dollars has multiplied astronomically relative to the supply of wheat, clothes and everything else. You can say, as most people do, that the price of goods has risen and curse the farmer, butcher and automaker. It is more accurate to say that the price of money has decreased, and curse those who have carelessly multiplied the supply of money.

They have been able to do this by divorcing money from any commodity whatever. You can't take a dollar to the Treasury warehouse and get anything for it but another piece of paper. Therefore the monetary authorities could, and have, been free to print up as many dollars as they wished.

There have been several results from this inexorable working of the principle of supply and demand. One, of course, is that it takes more dollars to buy a pound of meat here at home.

Another is that it takes more dollars abroad to buy a Japanese yen or German mark. The latter has happened because we have poured out dollars abroad; that is, multiplied the supply of them floating around the world. To argue about the "intrinsic" value of the mark relative to the dollar is to talk nonsense. The Eurodollar market being flooded with dollars, that law of supply and demand does its work. The dollar falls in value—i.e., is devalued.

This hasn't yet destroyed two of the functions of money. You can still exchange dollars for meat or German marks if you have enough of them. We still use dollars to measure the relative value of a pound of meat and a pound of fish.

What has been destroyed is money as a storehouse of value. People no longer believe that a dollar saved is a value saved, for tomorrow that dollar will buy less.

The consequences of this can already be glimpsed. The laborer seeks a wage increase not only for today's needs but to offset the lesser value of that wage tomorrow. Interest rates rise to cover not only the hire of money today but to protect against future deterioration. The pressure on prices intensifies as anyone receiving a dollar rushes as fast as possible to exchange it for something—anything—that may retain future value.

So destroying this basic function of money, we approach the point where all faith in the dollar is lost, with results terrible to contemplate.

It all happened because clever, sophisticated men thought they could do magic tricks with your money. And the only cure is to learn again the simple lessons of Economics I.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AUTHORITY FOR THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE A REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare have permission, up until midnight tomorrow, March 30, to file a report pursuant to the Legislative Reorganization Act of 1970.

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

AUTHORITY FOR COMMITTEES TO FILE REPORTS DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. I ask unanimous consent that during the adjournment of the Senate over until Monday next, all committees be authorized to file reports.

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

AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment over until Monday next, the Secretary of the Senate be authorized to receive messages from the House of Representatives and the President of the United States, and that those messages may be appropriately referred.

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

AUTHORITY FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate until Monday next, the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at 12 o'clock meridian.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, in the order stated, each for not to exceed 15 minutes:

Mr. HELMS, Mr. STAFFORD, Mr. GRIFFIN, and Mr. ROBERT C. BYRD.

At the conclusion of the orders for recognition of Senators on Monday, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

The Senate on Monday will take up S. 1021, a bill having to do with the costs of any cooperative meat or poultry inspection program, and S. 1235, a bill which would authorize an additional appropriation for an International Center for Foreign Chanceries, but not necessarily in that order. Yea-and-nay votes could occur on Monday.

ADJOURNMENT UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock meridian on Monday next.

The motion was agreed to, and at 5:51 p.m., the Senate adjourned until Monday, April 2, 1973, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate March 29, 1973:

DEPARTMENT OF STATE

Marshall Wright, of Arkansas, a Foreign Service officer of class 2, to be an Assistant Secretary of State.

EXTENSIONS OF REMARKS

REMARKS ON THE PASSING OF SENATOR WILLIAM BENTON

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1973

Mr. STEELE. Mr. Speaker, I would like to take this opportunity to express great sorrow at the passing of former U.S. Senator William B. Benton on March 18, 1973, and pay tribute to this devoted educator and statesman.

In 1929, Mr. Benton launched his advertising agency with his close friend, former Gov. Chester B. Bowles. When he sold his interest 9 years later, the agency had grown into the sixth largest in the world.

When Mr. Bowles was Governor of Connecticut in 1949, he appointed Mr. Benton to fill a Senate vacancy created by the resignation of Senator Raymond E. Baldwin, who became chief justice of the State supreme court. In 1950, Mr. Benton defeated Republican Prescott S. Bush by 1,100 votes in a special election which enabled him to retain his seat in the Senate until 1953.

Senator Benton was a vigorous supporter of the United Nations, NATO, and the administration's foreign aid program. Despite the silence of most of his colleagues, he introduced a Senate resolution denouncing Senator Joseph McCarthy at the height of the latter's popularity.

Appointed Assistant Secretary of State in 1945, Mr. Benton organized the first peacetime program of international information, including Voice of America broadcasts, U.S. Information Offices overseas and student exchanges.

President John F. Kennedy appointed Mr. Benton as the first U.S. Ambassador to UNESCO in 1961, a post which he held for 3 years.

Earlier in his career of public service, Mr. Benton served as vice president of the University of Chicago. While at the university, he helped launch two network radio programs, "The University of Chicago Radio Round Table," a seminar on political, economic and social issues, and The Human Adventure," which dealt with university research.

In 1945, he was named assistant to the chancellor at Chicago and consequently was named a university trustee, a post he held to his death. He also was a trustee at Carleton College, the University of Bridgeport, the University of Connecticut, Hampton Institute, and Brandeis University.

Additionally, Mr. Speaker, I submit the following editorial published in the Hartford Times on March 20, 1973, for the RECORD:

[From the Hartford Times, Mar. 20, 1973]

It was a happy coincidence that Chester Bowles and Bill Benton were students at Yale University at the same time. Their friendship produced two statemen whose services were significant to Connecticut and the nation.

Their partnership in an advertising agency made them financially independent while they were still young. In the many offices, both elective and appointive, they held during their public lives, they were free of the responsibilities of earning a living and providing for their families. When a call to service came along, each of them could consider it on its merits.

Early in his career of public service, Bill Benton associated himself with education. His connection with the University of Chicago, among others in higher education, made him known in national affairs and enabled him to attract offers from government.

Except in Connecticut, Mr. Benton's name probably is not widely recognized outside business circles. Yet he exerted significant influence on the nation and the world.

He was the first United States senator to call for the resignation or censure of the demagogic Joe McCarthy of Wisconsin. He was an assistant secretary of state, and in that post he organized the Voice of America and helped establish UNESCO—two accomplishments whose effects will outlive his generation.

As a citizen of Connecticut, he was an able United States Senator and was generous with his time and talents in behalf of the University of Connecticut and the University of Bridgeport, among other institutions. His art benefactions are remembered in the art museum of the University of Connecticut, which last year was named for Mr. Benton.

Bill Benton's story is not the Horatio Alger cliche. Though he achieved financial success early in life and thereafter was not primarily interested in making money, he had a kind of Midas touch, a feeling for a good investment at the right time.

He has been praised for his political courage—in attacking McCarthy at the high tide of the other senator's popularity, for instance. His courage also displayed itself in decisions affecting his personal life. It took courage to refuse a Rhodes scholarship in favor of going into the advertising business, and it took courage to buy Encyclopedia Britannica when encyclopedia salesmen were joked about as pests.

It is safe to predict that his obituaries are not the last word on Bill Benton. His stature and reputation will surely attract biographers, and posterity may know him even better than do we, his contemporaries.

NATURAL RESOURCES AND NATIONAL PRIORITIES

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, March 29, 1973

Mr. METCALF. Mr. President, for 4 days last week, Washington was the host for an important Conference on the Environment that was attended by 1,400 representatives from across the United States, Canada, Mexico, and Europe—the 38th North American Wildlife and Natural Resources Conference, sponsored by the Wildlife Management Institute.

In his remarks at the opening session of the conference on March 19, 1973, Mr. Daniel A. Poole, president of the Wildlife Management Institute, has directed our attention to the important topic of natural resources and national priorities, the theme of the conference.

Though the theme was chosen months ago, its timing could not have been better, so Mr. Poole's remarks concerning natural resources should be of considerable interest, especially at a time when the Nixon administration, in conflict with the role of the Congress, claims the sole prerogative of determining national priorities.

His remarks should also be notable because of President Nixon's budget proposals for fiscal year 1974, the category of natural resources and environment is among the lowest ranking of the 14 major budget classifications by function. Only two other categories receive a smaller share of the Federal budget.

I ask unanimous consent that Mr. Poole's speech be printed in the RECORD.

There being no objection, the speech